

**Council**

**Public minutes of the 59<sup>th</sup> meeting of the Health Professions Council held as follows:-**

**Date:** Thursday 11<sup>th</sup> February 2010

**Time:** 10:30am

**Venue:** The Council Chamber, Health Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

**Present:**

Anna van der Gaag (Chair)

Patricia Blackburn

Mary Clark-Glass

John Donaghy

Julia Drown

John Harper

Richard Kennett

Jeff Lucas

Morag Mackellar

Arun Midha (from Item 9 onwards)

Penelope Renwick

Keith Ross

Deep Sagar

Annie Turner

Joy Tweed

Diane Waller

Neil Willis (from Item 10 onwards)

Mr O Ammar, Acting Director of Education

Mr G Butler, Director of Finance

Ms A Dittmer, Policy Officer

Ms C Evans, PA to Operations Director

Mr G Gaskins, Director of Information Technology

Mrs A Gorringe, Director of Education

Mr M Guthrie, Director of Policy and Standards

Ms L Hart, Secretary to Council

Ms K Johnson, Director of Fitness to Practise

Mr J Jones, Publications Manager

Ms K Neuschafer, Partner Manager

Mrs J Ladds, Director of Communications

Mr S Rayner, Secretary to Committees  
Mr G Ross-Sampson, Director of Operations  
Mr M Seale, Chief Executive and Registrar  
Ms C Urwin, Policy Manager

**Item 1.10/01 Chair's welcome and introduction**

- 1.1 The Chair welcomed all members to the meeting.
- 1.2 The Chair highlighted some important housekeeping issues to ensure the safety of Council members and all attending in the gallery.
- 1.3 The Chair informed Council that the February meeting of Council had been added some years ago into the Council and Committee calendar in order to provide for an additional strategy day. As a result, the Council meeting was shorter than usual and only time critical papers were considered since it was important to ensure sufficient time was made available for the strategy part of the day.

**Item 2.10/02 Apologies for absence**

- 2.1 Apologies for absence were received from Sheila Drayton and Eileen Thornton.
- 2.2 The Council noted that two members of Council from Wales were experiencing transport difficulties and so would be arriving late.

**Item 3.10/03 Approval of agenda**

- 3.1 The Council approved the agenda, subject to the inclusion of additional papers under items 12 (Partner reappointments and agreement extensions) and 13 (The Health Professions Council (Registration and Fees) (Amendment) Rules 2010, and an additional paper under item 18, any other business, entitled "Policy on Council Communications with Stakeholders."

**Item 4.10/04 Declaration of Members' Interest**

- 4.1 There were no interests declared.

**Item 5.10/05 Minutes of the Council meeting of 10 December 2009 (report ref:- HPC01/10)**

- 5.1 The Secretary to Council referred to some omissions with regards to attendees and undertook to ensure this was rectified in the formal record.

- 5.2 There was discussion on paragraph 8.3 as it was felt that this minute did not properly reflect the full discussion. It was agreed that the minute would be corrected to read, "The Council discussed the number of Fitness to Practise allegations received and agreed that the Fitness to Practise Committee would look at what could be done to decrease the number of pending cases."
- 5.3 It was agreed that, subject to the amendments detailed above, the minutes of the 58th meeting of the Health Professions Council be confirmed as a correct record and signed by the Chair.

**Item 6.10/06 Matters arising (report ref:- HPC02/10)**

- 6.1 The Council noted the action list as agreed at the last meeting.

**Strategy and Policy**

**Item 7.10/07 Welsh Language Scheme (report ref:- HPC03/10)**

The Council agreed that this item should be deferred to allow those members from Wales who were experiencing transport difficulties the opportunity to contribute to the discussion on this paper once they had arrived.

**Item 8.10/08 Prosecutions Policy (report ref:- HPC04/10)**

- 8.1 The Council received a paper for discussion/approval from the Executive.
- 8.2 The Council noted that as a result of provisions in Article 39A of the Health Professions (Hearing Aid Dispensers) Order 2009, changes to the Councils prosecution policy were required to ensure that it remained fit for purpose.
- 8.3 The Council noted that this was the first time that the HPC would be protecting a function as opposed to a title and the implications of this were explained in more detail.
- 8.4 During the course of discussion, the following points were made:-
- That public awareness was an important issue with regards to the protection of function;
  - That there needed to be a clear communications campaign to educate registrants regarding the protection of function;

Although the HPC were protecting the function with regard to hearing aid dispensers, this would not result in HPC regulating businesses or institutions. Its work would continue to be focused on the regulation of individuals on the register.

- 8.5 The Council agreed the changes to the Council's Prosecutions Policy, to come into force on 1 April 2010.

**Item 9.10/09 Standards of proficiency and threshold level for entry to the Register for hearing aid dispensers (report ref:- HPC05/10)**

- 9.1 The Council received a paper for discussion/approval from the Executive.
- 9.2 The Council noted that a joint consultation between the Hearing Aid Council and Health Professions Council was carried out from 15 July 2008 until 15 October 2008 on the draft standards of proficiency and the threshold level of qualification for entry to the Register. The results of this consultation were considered at Council in December 2008 and the standards agreed at that time.
- 9.3 The Council noted that a paper would be submitted to the Education and Training Committee seeking approval for the education programmes and visits to the education providers would then be carried out.
- 9.4 There was discussion on the issue of the threshold level of qualification for entry to the hearing aid dispensers part of the register in the standards of education and training. The Council noted that this was a normative level and any programme that was not at the Foundation degree level but still met the standards would be approved.
- 9.5 The Council agreed that it would be helpful to develop some "frequently asked questions (FAQ's)" around the issue of threshold levels for this part of the register.
- 9.6 The Council agreed that:-
- (i) it is not necessary to consult again on the standards of proficiency and threshold level of qualification for hearing aid dispensers;
  - (ii) the standards identified in the paper and agreed by Council on 11 December 2008 should be published, subject to minor editing amendments; and
  - (iii) the threshold level of qualification for entry to the hearing aid dispensers part of the Register in the standards of education and training should be set at a foundation degree and read:

‘Foundation degree for hearing aid dispensers.’

- (iv) some FAQ’s would be developed on the threshold level of qualification for entry to the hearing aid dispensers part of the Register in the standards of education and training.

**Item 10.10/10 Hearing Aid Council (HAC) case transfer (report ref:- HPC06/10)**

- 10.1 The Council received a paper for discussion/approval from the Executive.
- 10.2 The Council noted that a similar process to that used with the practitioner psychologists would be applied to the hearing aid dispenser case transfer. However, a notable difference is that the hearing aid transfer involved a statutory regulator transferring their register to another statutory regulator whereas in the case of practitioner psychologists, voluntary registers were being transferred.
- 10.3 The Council noted that the hearing aid council’s investigating Committee were due to meet in March and so the HPC would have a clearer idea at that stage as to the number of cases to be transferred over. It was further noted that there were no current high court appeal cases to be transferred.
- 10.4 In response to a question about capturing the expertise of the Hearing Aid Council, members were informed that some of its partners would be seeking appointment as a partner at HPC. In addition, the Hearing Aid Council had been involved in training some members of the Fitness to Practise department.
- 10.5 In response to a question about the HAC staff, members noted that TUPE did not apply and members of staff at the HAC were welcome to apply for jobs at the HPC in the usual way.
- 10.4 The Council agreed the following:-
  - 1. In the case of a person whose registration was suspended or subject to conditions of practice by the HAC (whether temporarily or permanently), the matter shall be referred to the appropriate Practice Committee which shall review the decision and the circumstances which led to it in accordance with Article 30 of the Health Professions Order 2001.
  - 2. In the case of a person who was the subject of proceedings which could have led to the imposition of a penalty:
    - (i) If no “case to answer” decision has been made by the HAC, the matter shall be referred to the Investigating

Committee; and if it determines that there is a case to answer, it shall refer the matter to the appropriate Practice Committee for disposal as if it was an allegation made under Part V of the Health Profession Order 2001; and

- (ii) If a “case to answer” decision has been made by the HAC, the matter shall be referred to the appropriate Practice Committee, which shall dispose of the matter as if it was an allegation made under Part V of the Health Profession Order 2001.
3. In dealing with any matter put before it in accordance with these resolutions, a Committee shall act as if the matter was an allegation made under Part V of the Health Profession Order 2001 but making such modifications to the procedures as it considers to be necessary.

The Council also resolved that:

4. The Director of Fitness to Practise be given delegated authority to exercise the powers of the Council under Article 6(7) of the Health Professions (Hearing Aid Dispensers) Order 2010.

**Item 11.10/11 Partner Recruitment (report ref:- HPC07/10)**

- 11.1 The Council received a paper for discussion/approval from the Executive.
- 11.2 The Council noted that work was underway to change the partner recruitment approval process and a paper would be submitted to Council for approval.
- 11.3 The Council approved the recommendations set out in appendix 1 to approve those named as partners.

**Item 12.10/12 Partner reappointment and agreement renewal (report ref:- HPC08/10)**

- 12.1 The Council received a paper for discussion/approval from the Executive. Additional papers setting out the self assessment form and reappointment scoring sheet for both panel members and chairs was tabled.
- 12.2 The Council noted that the paper proposed that a different approach should be taken for specific partner roles to suit the particular requirements and legislation pertaining to each type of role. It was also noted that the reappointment of panel members and panel chairs was subject to a satisfactory performance appraisal.

12.3 The Council noted some changes to the recommendations which had been agreed by the Finance and Resources Committee held the previous day, namely an addition to recommendation (ii) that the reappointment process be evaluated after its operation and, in addition, the Council were also asked to agree the scoring sheets and matrix for use in the reappointment of panel members and chairs.

12.4 During discussion the following points were made:-

- That it was important for the Council to assure itself that the self-assessment method was robust enough by carrying out a thorough evaluation;
- That the panel members and chairs were subject to an eight year term limit;
- That the need to ensure diversity of partners was important during the recruitment process although it was noted that Equality and Diversity profiles had to be removed from applications as part of the shortlisting process;
- Reports are completed annually on the Equality and Diversity of candidates for partner roles and partners themselves.

12.5 The Council agreed:-

- (i) that 288 agreements for Registration Assessors, CPD Assessors and Visitors which are due to expire on 31 July 2010 be renewed for a period of 4 years;
- (ii) that 185 Panel Members and 13 Panel Chairs with agreements that are due to expire on 31 July 2010 be subject to the reappointment process set out in the attached paper, with the reappointment process to be evaluated after one year;
- (iii) that Panel Members and Panel Chairs be reappointed on agreements of varying length between 2 and 4 years to enable a phased process to be carried out for replacement of the Practice Committee;
- (iv) that the 88 contracts for Registration Assessors, CPD Assessors and Visitors expiring between 1<sup>st</sup> August 2010 to 30 July 2012 be renewed for a period of four years;
- (v) that the 39 contracts for Panel Members and Panel Chairs expiring between 1<sup>st</sup> August 2010 to 30 July 2012 be reappointed on agreements of varying length between 2 and 4

years to enable a phased process to be carried out for replacement of the Practice Committee; and

- (vi) that the scoring sheets and matrix for use in the reappointment of panel members and chairs be approved.

**Item 7.10/07 Welsh Language Scheme (report ref:- HPC03/10)**

- 7.1 The Council received a paper for discussion/approval from the Executive.
- 7.2 The Council noted that the Welsh Language Scheme was a requirement under the Welsh Language Act 1993 and that the Scheme explained how the HPC intended to adopt the principle that in the conduct of public business in Wales, it will treat the English and Welsh languages on the basis of equality.
- 7.3 There was discussion on the paper and the following points were made:-
- That once the Scheme had been implemented, the HPC would need to look into the implications for example for publication of papers in Welsh for listening events in Wales;
  - Emphasis was placed on being proportionate and applying the Scheme in a pragmatic way. For example, should the offer of an interpreter for an event not be taken up then no interpreter should be present on the off chance that they may be required;
  - That the HPC needed to make sure that any undertaking in the Scheme, such as responding to those stakeholders in Welsh within the same service levels as correspondence English, could be achieved;
  - That the Welsh Language Board was due to be disbanded and a Commissioner would be introduced in its place. The HPC therefore needed to ensure that too much resource was not invested in implementing a scheme which could soon be subject to change;
  - That further work needed to be done with regards to the website as the current proposal was not sufficient. It was noted that this point may be addressed through the forthcoming consultation;
  - That caution needed to be exercised to ensure that the obligation to provide information in other languages did not escalate;



- Council noted that other professional regulators were approached when the Scheme was drafted.

Some suggestions were made with regards to amendments to the document and it was agreed that the decision would be delegated to the Executive to decide which of the suggestions should be incorporated prior to the consultation exercise.

7.4 The Council agreed:-

- (i) the Welsh Language Scheme;
- (ii) the text of the consultation document, subject to minor editing and production of a bilingual consultation document; and
- (iii) that the Executive should work with the Welsh Language Board to agree a consultation programme.

## Corporate Governance

### **Item 13.10/13 The Health Professions Council (Registration and Fees) (Amendment) Rules 2010 (report ref:- HPC09/10)**

- 13.1 The Council received a paper for discussion/approval from the Executive. A revised version of the Rules was tabled and the Council noted the amendment to the preamble.
- 13.2 The Council noted that a draft of these Rules had been approved by Council in December and it was agreed at that time to obtain approval of the Rules in their final form by electronic resolution once the legislation had been passed. However, since the Section 60 Order was not made by the Queen in Council until 10 February, this approval mechanism was not necessary.
- 13.3 The Council agreed that the Health Professions Council (Registration and Fees (Amendment) Rules 2010 be approved and signed and sealed by the Chair and the Chief Executive and Registrar on behalf of the Council.

### **Item 14.10/14 Public and private minutes of the Audit Committee held on 9 December 2009 (report ref:- HPC10/10)**

- 14.1 The Council received a paper for discussion/approval from the Executive.
- 14.2 The Chair of the Audit Committee drew Council's attention to the following points:-

- that the Audit Committee would consider other organisation's risk register to see if any lessons could be learnt; and
- that there were some contingency days remaining in the audit plan and so the Committee would consider how to put these to use at their next meeting.

14.2 The Council approved the recommendations therein.

The Council noted the following papers:

**Item 15.10/15 October 2009 Council Away Day Summary of Workshops (report ref:- HPC11/10)**

**Item 16.10/16 Reports from Council representatives at external meetings (report ref:- HPC12/10)**

**Item 17.10/17 Public minutes of the Education and Training Committee held on 17 November 2009 (report ref:- HPC13/10)**

**Item 18.10/18 Any other business**

**Policy on Council Communications with Stakeholders**

- 18.1 The Council received a tabled paper for discussion/approval from the Executive.
- 18.2 The Council noted that the policy was drafted to ensure a consistent approach to communications with stakeholders. It was further noted that the policy was not intended to preclude the continued dialogue Council members may have with professional bodies and other stakeholders although if members were unclear as to how to respond to communications received, guidance should be sought from the Executive.
- 18.3 During the discussion, various suggestions were made in terms of the content of the policy. For example, the Council agreed that it would be more appropriate to forward any correspondence to the Chair who would then direct it accordingly rather than the Secretary to Council as stated in the tabled paper. The Executive undertook to make the suggested amendments to the policy and circulate to Council.
- 18.4 The Council agreed the policy on Council Communications with Stakeholders subject to the incorporation of the amendments made during the course of discussion.

## **Item 19.10/19 Date and time of next meeting**

19.1 Thursday 25 March 2010 at Park House, SE11 4BU.

Subsequent meetings on:

Thursday 20 May 2010

Wednesday 7 July 2010

## **20. Resolution**

The Council agreed to adopt the following resolution:-

“The Council hereby resolves that the remainder of the meeting shall be held in private, because the matters being discussed relate to the following;

- (i) information relating to a registrant, former registrant or application for registration;
- (ii) information relating to an employee or office holder, former employee or applicant for any post or office;
- (iii) the terms of, or expenditure under, a tender or contract for the purchase or supply of goods or services or the acquisition or disposal of property;
- (iv) negotiations or consultation concerning labour relations between the Council and its employees;
- (v) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (vi) action being taken to prevent or detect crime to prosecute offenders;
- (vii) the source of information given to the Council in confidence; or
- (viii) any other matter which, in the opinion of the Chair, is confidential or the public disclosure of which would prejudice the effective discharge of the Council's functions.

<b>Item</b>	<b>Reason for Exclusion</b>
21	v
22	v
23	v

## **Summary of those matters considered whilst the public were excluded**

**Item 21.10/21 Minutes of the Private part of the Council meeting held on 10 December 2009 (report ref:-HPC14/10)**

21.1 The Council considered and approved the minutes of the private part of the Council meeting held on 10 December 2009.

**Item 22.10/22 Matters arising (report ref:- HPC15/10)**

22.1 The Council noted that the matters arising from the private part of the Council minutes of 10 December 2009.

**Item 23.10/23 Policy approval (report ref:-HPC16/10)**

23.1 The Council agreed to move this item to the public agenda.

**Item 24.10/24 Any other business for consideration in private**

24.1 The Council noted the oral update in relation to a Fitness to Practise issue.

Chair: .....

Date: .....

Unconfirmed