

Council

**Public minutes of the 136th meeting of the Health and Care Professions
Council as follows:-**

Date: Thursday 27 May 2021

Time: 10am

Venue: Videoconference

Present: Christine Elliott (Chair)
Stephen Cohen
Maureen Drake
Kathryn Foreman
Sue Gallone
Helen Gough
Nicola Hunt*
Sonya Lam
Pameleta Ricketts*
David Stirling
Kathryn Thirlaway
Stephen Wordsworth

In attendance:

Claire Amor, Secretary to Council
John Barwick, Chief Executive and Registrar
Laura Coffey, Head of Fitness to Practice
Tom Hampshire, PWC (items 1-4)
Colette Higham, Professional Standards Authority
Jo Moore, Executive Director of Corporate Services
Naomi Nicholson, Executive Director of Professional Practice and Insight
Lilly Ofori, Hearings Officer
James Penry-Davey, Capsticks
Andrew Smith, Executive Director of Regulation

*Council Apprentice

Public Agenda

Item 1. 21/60 Chair's welcome and introduction

- 1.1 The Chair welcomed Council members and the Executive to the 136th meeting of Council.
- 1.2 The Chair extended a special welcome to Naomi Nicolson, Executive Director of Professional Practice and Insight, as this was her first meeting of Council.

Item 1.i. 21/61 Apologies for absence

- 1.i.1 Apologies were received from Eileen Mullan for the public session of the meeting. She would attend the afternoon private session.

Item 1.ii. 21/62 Approval of Agenda

- 1.ii.1 The Council approved the agenda.

Item 1.iii. 21/63 Declaration of Members' interests

- 1.iii.1 Council member Kathryn Foreman declared an interest in item 7, as she was the Council member eligible for reappointment as referenced in the paper. The Council agreed Kathryn would not take part in the decision point on the reappointment panel.

Item 1.iv. 21/64 Minutes of the Council meetings of 23 March and 12 April 2021

- 1.iv.1 The Council approved the minutes of its meetings of 23 March and 12 April 2021.

Item 1.v. 21/65 Matters arising

- 1.v.1 The Council noted those matters arising from previous meetings.

Standing reports

Item 2. 21/66 Chair's report

- 2.1 The Council agreed the report reflected the positive contributions of the new Committee structure and the contributions of the Council Apprentices.
- 2.2 The Council welcomed the extensive engagement undertaken by the Chair in support of the HCPC's strategic aims.
- 2.3 The Council noted the report.

Item 3. 21/67 Chief Executive's performance report

3.1 The Council received a paper from the Chief Executive.

3.2 The Council noted the following points:-

- the report included the corporate plan deliverables, these were subject to prioritisation in line with the developing full year budget therefore deliverable targets were not confirmed and would be provided within the July 2021 Chief Executive report;
- the HCPC's proposed fee rise had been approved both by Westminster and the Scottish Parliament and would come into effect on 1 July. Work was underway on stakeholder communication and the required internal system changes;
- the HCPC was closely monitoring the passage of the Professional Qualifications Bill, the aim of which was to create a new framework to recognise professional qualifications across all sectors. The HCPC had worked with the NMC and GMC to raise joint concerns that the wording of the bill had too narrow a focus on assessing qualifications, and did not reflect the fact that regulators used other, evidence-based means of assessing competence to practice in the UK, it was important to ensure the Regulators powers were not fettered by the new legislation as this was an important component to ensuring public safety. The HCPC had engaged with Baroness Fraser who had highlighted these concerns during the second reading of the Bill; and
- Naomi Nicholson joined the HCPC in May as the Executive Director of Professional Practice and Insight. This was the final appointment to the new permanent SMT structure. As a result of the appointment, the Executive Director of Policy and External Relations would be leaving the HCPC, formal recognition of the post holder's considerable contribution would be made closer to that time. The Interim Directors of HR and Digital Transformation would also be leaving the HCPC at the end of June, the Chief Executive thanked them for their considerable contribution to the HCPC over the past year.

3.3 The Council noted that the HCPC had signed a memorandum of understanding (MOU) with Health Care Improvement Scotland. The Council asked if a MOU with NHS Education Scotland would be pursued. The Chief Executive advised that, while the HCPC had regular engagement with NHS Education Scotland, an MOU was not being pursued. This was because the HCPC had a policy statement in place which set out the basis on which an MOU would be sought, this focused on cooperation and data sharing with other bodies who had a regulatory remit relevant to HCPC professions.

3.4 The Council noted that the HCPC was actively pursuing an MOU with Health Education Improvement Wales who had an inspection remit for AHP education quality in Wales, alongside their workforce planning remit.

Additionally, the HCPC's MOU with the Northern Ireland Regulatory Body Improvement Agency was being relaunched and the HCPC had joined the Northern Ireland Regulators Forum alongside the NMC and GMC, this would be another valuable forum for sharing intelligence.

- 3.5 The Council welcomed the passing of the HCPC's fee rise. Asked what lessons the HCPC could learn from the difficulty the HCPC encountered in achieving the fee rise, the Chief Executive noted that key learning was around early stakeholder engagement and demonstrating the value of a proposed fee rise. He added that the Executive was developing a future fees strategy to ensure any future required rises were anticipated in good time to enable sufficient engagement.
- 3.6 The Council asked for more detail on the issues in maintaining customer service levels in registration due to remote working as referenced on page 4 of the report. The Executive Director of Regulation explained that this challenge was due to remote telephony provision issues, which limited the volumes that could be handled at any one time and also the challenges of quickly redeploying employees at speed remotely to meet call peaks. He noted that there were at that time approximately 25 members of the registration team working in the HCPC offices at any one time, with the aim of increasing this number to return to normal service levels.
- 3.7 The Council discussed the equality impacts of requiring home working as the new normal, noting that not all employees would have comfortable working spaces at home. The Executive confirmed that this was under consideration in new normal planning and that office space would remain available for those employees who could not work from home due to the task, or due to a lack of appropriate working space at home.
- 3.8 The Council discussed the Executive's plans to recruit a specialist EDI role given the financial pressures the HCPC was facing. The Council agreed with the Executive's view that this resource was needed to drive forward actions across the organisation and to provide expertise and challenge back into the business to drive good practice and real improvements where needed.
- 3.9 The Council noted the error detailed in page 11 of the report relating to incorrect communications being issued to a group of Practitioner Psychologists impacted by the direct debit issues. The Council asked if this had been a system or human error. The Executive explained this was due to issues with the system's migration of direct debits and had since been resolved.
- 3.19 The Council noted that the permanent structure of the HCPC senior management team was in place and asked what the development plans were for the team. The Chief Executive responded that development was focused on a SMT behaviour charter and individual coaching. The team would meet in person in the HCPC office on 8 June to discuss how best to work together; a key part of this would be empowering the heads of service management level.
- 3.11 The Council thanked the Chief Executive for his comprehensive report.

Item 4. 21/68 Fitness to Practice Improvement Plan – progress report

4.1 The Council received a paper from the Executive Director of Regulation.

4.2 The Council noted the following points:-

- overall, the programme was progressing well with 7 projects completed on time or entering the benefits realisation phase. 4 projects were due to be completed in early June and a further 4 due to be complete in July;
- the main area of concern was a delay to the go-live of the new case management system. This delay was due to issues identified during testing requiring resolution before launch. The new go-live date was the 7 June. A small number of projects had been delayed due to reliance on this system being in place;
- the project to review the HCPC's tone of voice had been paused and would recommence in July 2021, however the FtP charter setting out what parties to FtP process could expect from the HCPC's communication and the FtP process had been developed by the FtP and had been shared with some members of Council for feedback;;
- the forecast for the number of outsourced cases expected to meet the threshold had been reduced following feedback from the legal firms managing the cases. It was expected that 41% would be closed at threshold stage as opposed to the original estimate of 30%
- legally qualified ICP Chairs began hearing cases from the end of April 2021. Quality was being closely monitored with positive indications of improvement;
- recruitment of a new cohort of Case Managers was successful with 15 appointments. The first group would join the HCPC in June and undertake a 2-week induction, focusing on culture alongside standards of working, before starting work on cases; and
- the PWC Perform Plus programme had been extended by two weeks to provide support for the implementation of the new CMS. The programme had resulted in uplifts in productivity of around 10-15% across all teams. A dip in productivity was anticipated once the new CMS went live as the teams became familiar with the system.

4.3 The Council noted the significant amount of development work ongoing within the FtP function. The Council agreed that a dip in productivity was to be expected with a launch of a new IT system as it embedded.

4.4 The Council asked how the Executive was assuring itself of the quality of the work undertaken by the law firms on outsourced cases. The Executive Director of Regulation responded that, along with regular contract quality meetings, every case was reviewed by the HCPC's own Senior Decision Makers before it was closed or progressed to ICP. The HCPC's Quality

Assurance team had undertaken a review of the quality of the Senior Decision Makers decisions and the results had been positive.

- 4.5 The Executive Director of Regulation noted that the FtP teams were meeting with the legal providers to identify any learning from their approaches that could be implemented internally.
- 4.6 The Council welcomed the benefits trajectory table relating to the perform plus work on page 9 of the report. The Council requested that a forward trajectory be provided for the full programme to map out the next six months of the programme. The Executive Director of Regulation noted that this was in development and would be shared once available. **Action – Executive Director of Regulation**
- 4.7 The Council discussed Interim Order (IO) performance. It was noted that the length of time from receipt of a case to consideration by an IO panel had increased over the previous year. However, the time taken to obtain an IO once the case had passed the risk threshold had halved in that same time. The Executive Director of Regulation explained that the project to introduce a new risk assessment tool and enhanced guidance would support the FtP teams to recognize and prioritise information gathering on potential interim order cases where possible. Operational Manager oversight and bi-monthly action tracking had been introduced for such cases.
- 4.8 The Council noted that FtP employee turnover remained high, with significant use of agency staff. Concern was raised that this turnover could reduce the benefits of the perform plus programme as participants left the HCPC. Tom Hampshire, PWC agreed to provide more detail on how the mitigations in place to minimise the impact of this risk. **Action – Tom Hampshire PWC**
- 4.9 The Council welcomed the beginnings of benefits of the Improvement Programme being realised and thanked the Executive Director of Regulation, the Head of FtP and the wider FtP team for the impressive work on the Programme.

Items for discussion / decision

Item 5. 21/69 Provisional 2020-21 financial result

- 5.1 The Council received a paper from the Executive Director of Corporate Services.
- 5.2 The Council noted the following points:-
- overall, the outturn was lower than budgeted. This was mainly due to reduced non-pay expenditure directly related to property, partners and human resources costs because of the impact of lockdown due to Covid;
 - at the end of March 2021, the provisional outturn deficit was £1.361m, a favourable variance of £1.703m when compared to the budgeted

variance but an unfavourable movement of £669k when compared to the 6&6 forecast position;

- the 6&6 reforecast did not anticipate a second national lockdown or the accelerated investment in the FtP Improvement Programme;
- the outturn included a year-end accounting adjustment of £230k for annual leave carried forward as a result of the interim policy of allowing staff to carry over 20 days annual leave as a result of the pandemic. As an accounting adjustment, this would result in a temporary reduction in reserves; and
- the outturn position of £3.369m net assets was within the parameters of the HCPC Reserves Policy.

5.3 The Council asked if the Executive had an estimate of the potential costs to the HCPC should the legal challenge on Partner worker rights be successful. The Executive Director of Corporate Services advised that the HCPC would need to examine the actual circumstances of the legal challenge case and how that applied to the HCPC. The legal case was not due to be heard until 2022 and so an estimated cost would not be helpful at that time. The HCPC's external auditors were aware of the case and the People and Resources and Audit and Risk Assurance Committees would remain briefed on any developments.

5.4 The Council noted the report.

Item 6. 21/70 Key Performance Indicators

6.1 The Council received a paper from the Chief Executive. The paper proposed a new set of Key Performance Indications (KPIs) for Council adoption.

6.2 The Council noted the following points:-

- the Council took part in a workshop to discuss future KPI needs in April 2021. This feedback had been incorporated into the proposal;
- the breadth of performance reporting to Committees was recognised by the Council and it was agreed that the Council should not duplicate assurance sought by Committees. The Council requested a smaller set of measures linked to the Corporate Strategy as well as statutory objectives; and
- the Executive proposed that the KPIs should be reviewed annually to ensure they remained the key measures of importance to the Council.

6.3 The Council welcomed the proposed KPI suite noting that it was significant step from the HCPC's previous approach to KPIs. The Council noted its ambition for future reviews to include more output measures, though these could be more difficult to quantify. **Action – Chief Executive (longer term)**

- 6.4 The Council discussed the proposed KPI relating to registration communication responsiveness. It was noted that processing times, for UK and International applications was monitored on a quarterly basis by the Education and Training Committee (ETC). The Chair of the ETC noted that the Committee were redefining their reporting needs to ensure clear oversight of a wide range of registration and education performance and quality metrics.
- 6.5 A member of Council noted that international registrant recruitment was likely to be a key focus with the lifting of restrictions. The Executive Director of Regulation agreed, noting that the HCPC would continue, proactively, to engage with services undertaking large scale international recruitment; as it had done previously. Ensuring that applicants understood the HCPC's requirements for supporting information and evidence was key to ensuring the application process was not unduly delayed.
- 6.6 The Council discussed the risk outlined in paragraph 8.3 of the paper that manual processes are widely relied on for reporting and could be subject to error. The Chief Executive confirmed that a key aim of the HCPC's future IT system improvements was a move away from manual reporting. The new FtP CMS had data reporting at its heart as part of the design.
- 6.7 The Council agreed to adopt the KPIs as set out in section six of the paper. The Council agreed to receive KPI reporting on a quarterly basis and review the KPI suite for suitability after one year's operation.

Item 7. 21/71 Council appointments, reappointments, and appraisals 2021

- 7.1 The Council received a paper from the Head of Governance. The paper sought the Council's agreement to a number of aspects of the HCPC's appointments and reappointments processes in 2021.
- 7.2 The Council noted that:-
- Council members Sonya Lam and Stephen Wordsworth, both, registrant members, would demit office on 31 December 2021 having served the full 8-year maximum appointment term. The proposed appointment campaign would seek to fill these vacancies as well as the current lay Council member vacancy;
 - in advance of seeking new members, the HCPC's appointment process had been revised in response to learning from the last campaign;
 - additionally the Council's competencies had been updated to provide more clarity to applicants on what each competency asked for and the Council's skills matrix had been updated to identify any skills gaps on the Council;
 - HCPC's communication partner, Luther Pendragon, would assist in the design and promotion of the advertisements to increase the appeal across a broad spectrum of online and social media; and

- in addition to the appointment and reappointment processes, the paper contained an updated Council member annual review process and form for approval. This aimed to place more focus on the HCPC's values and the contribution of the Council member in the review year.
- 7.3 The Council noted that the proposed appointment and reappointment panel consisted of:-
- Christine Elliott – Chair of Council and Chair of the Panel;
 - Sonya Lam – Council member; and
 - Alistair Gray – Independent Panel Member. Alistair has significant public appointments experience, and regularly works with the judicial appointments committee among other organisations. He took part in a Council member reappointment panel in 2020.
- 7.4 The Council welcomed the updated competencies as being helpful in illustrating to candidates what each competency required.
- 7.5 The Council agreed that the outcome of competency E should be amended to: 'Council Member forms positive working relationships and values and seeks out the views of others.' **Action – Head of Governance**
- 7.6 The Council approved:-
- the revised competencies and the addition of data and intelligence expertise or education sector background as a desirable criteria (appendix A of the paper with the amendment agreed in paragraph 7.5 above);
 - the revised HCPC appointment process for Council members and other associated processes (appendix B of the paper);
 - the Council member appointment and reappointment panel (paragraph 7.3 above);
 - the Remuneration Committee independent member appointment panel (paragraph 4.2 of the paper); and
 - the revised Council and Committee member appraisal process (appendix C of the paper).

Items to note

The Council noted the following items:

Item 8. 21/72 Any other business

8.1 There was no further business.

Item 9. 21/73 Date and time of next meeting:

9.1 Thursday 01 July, 10am

Item 10. 21/74 Resolution

The Council adopted 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;

- (a) information relating to a registrant, former registrant or application for registration;
- (b) information relating to an employee or office holder, former employee or applicant for any post or office;
- (c) 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;
- (d) negotiations or consultation concerning labour relations between the Council and its employees;
- (e) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (f) action being taken to prevent or detect crime to prosecute offenders;
- (g) the source of information given to the Council in confidence; or
- (h) 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.

Item	Reason for Exclusion
11	H
12	H
13	H
14	H
15	C

Chair:

Date: