

**Council**

**Minutes of the meeting of the Health and Care Professions Council held in public as follows:**

**Date:** Thursday 23 May 2024

**Time:** 1.45pm

**Venue:** Videoconference (Zoom)

**Present:** Christine Elliott (Chair)  
Rebekah Eglinton  
Sue Gallone  
Helen Gough  
Geraldine Kinkead-Richards\*  
John McEvoy  
Jordan McKenna\*  
Lianne Patterson  
David Stirling  
Kathryn Thirlaway  
Steven Vaughan  
Valerie Webster

**Apologies:** None

**In attendance:**

Fatma Ali, Head of HR and OD  
Zoe Allan, Business Manager, Chair and Chief Executive Office  
Claire Baker, Head of Adjudication Performance  
Francesca Bramley, Governance Manager  
Alastair Bridges, Executive Director of Resources  
Laura Coffey, Executive Director of Fitness to Practise and Tribunal Services  
Madeleine Connor, Senior Policy Officer  
Brendon Edmonds, Head of Regulatory Development & Performance (for item 7)  
Karen Flaherty, Head of Governance  
Rachael Gledhill, Head of Policy and Standards  
Colette Higham, Professional Standards Authority  
Jamie Hunt, Head of Education  
Alan Keshtmand, Head of Finance and Commercial  
Geoff Kirk, Head of IT and Digital Transformation  
Tom Miller, Policy Manager

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\* Council Apprentice

James Penry-Davey, Capsticks LLP  
Bernie O'Reilly, Chief Executive and Registrar  
Matthew Peck, Head of Communications, Engagement and Public Affairs  
Andrew Smith, Executive Director of Education, Registration and Regulatory  
Standards and Deputy Chief Executive

Unconfirmed

## Public meeting

### **1 Chair's welcome and introduction**

1.1 The Chair welcomed those present to the meeting of Council, including a number of observers who were individually welcomed by the Chair.

#### **1(a) Apologies for absence**

1.2 There were no apologies.

#### **1(b) Approval of agenda**

1.3 The Council approved the agenda.

#### **1(c) Declaration of members' interests in relation to agenda items**

1.4 There were no interests to declare from Council members.

#### **1(d) Minutes of the Council meeting on 20 March 2024**

1.5 The Council approved the minutes as an accurate record of its meeting held in public on 20 March 2024.

#### **1(e) Matters arising**

1.6 The Council noted the updates on the matters arising from previous meetings held in public.

### **2 Chair's Report**

2.1 The Council noted the Chair's report.

## Performance reports

### **3 Chief Executive's Performance Report**

3.1 The report from the Chief Executive highlighted key areas of development in the reporting period since the Council's last meeting in March 2024 and included the key performance indicators, the strategic risk register and an update on progress against the corporate plan for 2023-24.

3.2 The Council noted the report and the following points.

- the appointment of an interim Head of Case Progression and the additional workload for the Executive Director of Fitness to Practise and Tribunal Services while this role had been vacant;
- the second Professional Body Forum, which had included a presentation about the English language proficiency consultation and discussions around the data available from the HCPC;
- a forthcoming visit with the Chair to St George's University Hospitals NHS Foundation Trust to learn more about a virtual reality trial in its physiotherapy services and to meet with allied health professionals;
- the development of the communications strategy, with the Head of Communications, Engagement and Public Affairs looking to engage with Council members before presenting the strategy to the Council at its meeting in July;
- the entry into a formal partnership arrangement with The Patients Association to support better engagement with service users directly and utilise their experience to support the work of the HCPC;
- no change to the risk ratings for strategic risks since these were last reviewed by the Council in February 2024 and subsequently by the Audit and Risk Assurance Committee (ARAC), although the risk rating for the strategic risk relating to financial sustainability was being closely monitored in light of the current consultation about fees and the transition to a more regular review of fees;
- three deliverables in the corporate plan for 2023-24 that had not been completed in full, although each of these were continuing to progress;
- the [blog](#) by the Head of Policy and Standards setting out the HCPC's position around advanced practice, which Council members were encouraged to read;
- the publication of the Education annual report 2021-23 and a document setting out the key areas for education providers to consider when responding to developments in artificial intelligence (AI) and related technology following requests for guidance in this area;
- a recent increase in international applications and ensuring that the resources were available in Registration to respond to this increase;
- the proof of concept work in Registration using AI to respond to email queries and in Fitness to Practice (FTP) to assist with the redaction of documents;
- the first phase of the review of the standards of education and training involving stakeholder engagement and research;

- ongoing engagement with employees, with continuing good attendance at the monthly all employee briefing and improvements in employee engagement in the responses to the latest quarterly employee pulse survey, although the response rate for the surveys remained an area identified for improvement; and
- employee retention remained good with lower rates of attrition and there were also high levels of interest when recruiting for roles.

3.3 The Council considered the increase in international applications to understand the reasons for this given the impact this had on resources and the financial position of the HCPC. The reasons for the fluctuations were not entirely clear, with different approaches to international recruitment across the NHS in the four nations of the United Kingdom, although it was likely that some of this was linked to NHS England recruitment campaigns. The Council members who chaired registration appeals panels also highlighted that it would be helpful to know what percentage of international applications were approved following the initial assessment and how learning from unsuccessful applications was shared in order to prevent future applications reaching the appeal stage.

**Action:** The Executive Director of Education, Registration and Regulatory Standards would review and respond to the query regarding the number and percentage of appeals upheld and how any learning from appeals was collated and shared.

3.4 The Council discussed the significant reduction in the number of conditions set through assessments of education providers during 2021-23, as described in the Education annual report 2021-23. This was viewed as a positive indicator of a more mature approach to regulation, with any issues addressed earlier in the process, allowing time for education providers to make improvements or to withdraw the application until the provider was in a better position to seek approval.

3.5 The implications of the UK parliamentary elections were considered, in particular the potential impact on the progress of any fee increase through the parliamentary process following consultation and the timetable for regulatory reform. The fees consultation and the analysis of responses would be able to continue while the election process was underway and an earlier election was less likely to impact the parliamentary approval process.

3.6 The Council noted that Andrea Sutcliffe CBE was to step down as Chief Executive and Registrar of the Nursing and Midwifery Council due to ill health and the Chief Executive would pass on the Council's good wishes for her recovery.

## 4 Finance Report

4.1 The Council noted the report from the Head of Finance and Commercial outlining the HCPC's financial position for the financial year ended 31 March 2024. It was highlighted that the report presented the unaudited position for

the 2023-24 financial year and the Finance team was working with the external auditors to finalise the year-end position.

- 4.2 The financial results showed an improved position to the budget set at the beginning of the 2023-24, with a reported surplus of £2.1 million compared to the budget of £123,000, which was a favourable variance of £2 million. This was mainly attributable to the additional net income from international applications (with 13,576 applications received compared to the budgeted number of 8,000) and additional income for renewal fees related to international applicants from the prior year (2022-23). This was partially offset by an increase in expenditure for FTP, which was largely due to an increase in legal costs resulting from higher transfer costs for cases between external legal providers. Without the higher level of international applications, the HCPC would have ended the financial year in a deficit position, which would also have affected its reserves position. Reserves at the end of the 2023-24 financial year were narrowly within policy, with positive realisable net assets of less than a week's operating expenditure.
- 4.3 The Head of Finance explained the process of financial management for FTP and Registration to improve the frequency of review and accuracy of budgeting and forecasting.
- 4.4 The Council discussed the alternative options available to the HCPC if it was unable to implement the proposed fee increase on which it was currently consulting. Longer term, regulatory reform would allow the HCPC to implement fee increases without parliamentary approval and facilitate the move to more regular fee increases already proposed. More dynamic budgeting to prioritise and review the pace of delivery of improvements and identifying other funding opportunities were part of the current mitigation and budgeting and forecasting and overall financial management were monitored by the People and Resources Committee and the ARAC.
- 4.5 The Council supported the cautious and conscientious approach to budgeting and financial management given the uncertainty surrounding the reasons for the increase in international applications and the likely success of the current and planned mitigations.

## **5 Fitness to Practise Performance Report**

- 5.1 The Council noted the update on the progress of the FTP improvement programme against the targets set to improve the quality and timeliness of case management and the next phase of the FTP improvement programme set out in the report.
- 5.2 The Council noted the following points:
- the time taken to progress a matter to interim order hearing once the need for an interim order had been identified was slightly above the three week target at under five weeks in April 2024 due to a hearing being adjourned;

- performance against the 12 week target for progressing a matter to interim order hearing from receipt of a concern had recovered and was now within the target at ten weeks in April 2024;
- in April the HCPC became aware of a case where an interim order was not applied for as early as it should have been (when a registrant was charged with a criminal offence) and this was promptly investigated to understand how processes were not followed by the external legal provider involved and to identify any learning from what proved to be an isolated incident, with an explanation provided to key parties to the case;
- monitoring of the quality and timeliness of risk assessments continued and these were meeting the 80% adherence target and just below the 90% stretch target, at 89%, in February, March and April 2024;
- performance for the quality and timeliness of case plans had met the target every month since December 2023 following focused action in response to a slight dip in performance after the introduction of a new question to case plan front-line checks in November 2023;
- the timeliness of case investigation was monitored through a number of measures, including the median age of cases closed at the threshold and Investigating Committee Panel (ICP) stage, which was within the key performance indicator (KPI) of 33 weeks;
- the median age of cases closed at final hearing, was above the KPI of 39 weeks, at 93 weeks, which was expected as a number of older cases continued to move through the process, however, the shortest case concluded at 39 weeks reflecting the positive impact of frontloading in progressing cases to final hearing more quickly;
- the increase in the number of FTP concerns received each month continued with an average of 179 new FTP concerns received between April 2023 and March 2024, which was a 16% increase on the same period in the previous year and no themes had been identified in the source of referrals that might be driving the increase;
- the increase in referrals was reflected in the volume of cases at the threshold stage, which had been above 700 cases since January 2024, although it was expected that this caseload would decrease as new case managers started in role;
- the number of cases at the post-ICP stage remained stable and was 472 at the end of April 2024;
- the number of cases under active investigation remained high and was being targeted with specific work led by the recently appointed interim Head of Case Progression and Quality;

- the median age of the open pre-ICP caseload was 36 weeks, which was slightly higher than the KPI of 33 weeks for this stage of the process, and at the post-ICP stage was 37 weeks, which was within the KPI of 39 weeks from the ICP decision;
- the launch of the first phase of the new protection of title process focused on low risk cases, and concluded phase 2 of the improvement programme; and
- the key improvement activities and initiatives in 2024-25, which included changes to the operating model to support frontloaded investigations and supporting registrants to engage earlier in the FTP process.

5.3 The Council recognised the work on the improvement programme and the positive impact that this continued to have. The Council discussed whether there was greater opportunity to close more cases at the threshold stage or resolve less serious concerns more quickly. There was confidence that the current threshold policy did allow cases to be closed at an appropriate level. The data in the report relating to the cases closed at the threshold stage demonstrated that these decisions were being made at a consistently high volume and the quality of investigation at the early stages of the investigation process. It was acknowledged that the decision whether there was a case to answer at the ICP stage set a relatively low bar and regulatory reform would permit other cases to be closed at an earlier stage than was possible currently.

### Items for discussion/decision

## 6 Review of Tribunal Services

6.1 The Head of Adjudication Performance provided an overview of the role and work of the Health and Care Professions Tribunal Service (HCPTS). This included:

- the structuring of the HCPTS into three teams;
- hearings activity during 2023-24;
- the continuous improvement as part of the FTP improvement programme and ongoing quality assurance, which helped to monitor the outcome of changes and incorporated the work of the Decision Review Group (DRG) and feedback from the Professional Standards Authority; and
- the priorities for the HCPTS in 2024-25, which were aligned with those in the FTP improvement programme and focused on timeliness, enhancing the support provided to participants at the hearing stage and continuing to monitor and embed changes delivered in the earlier phases of the improvement programme.



6.2 The Council would continue to receive regular updates about the progress improvement activities within the HCPTS as part of the FTP performance report to Council. In addition, the Council would receive an annual review of the activities of HCPTS and its contribution to FTP performance and priorities. The next report would also include further information about adjournments and part-heard cases and the percentage of cases reviewed by the DRG and the timeliness of these reviews.

6.3 The Council considered the feedback that the HCPTS received from registrants and their legal representatives, which included frustrations relating to the timeliness of the listing of cases for hearing and the support provided for unrepresented registrants to enable them to participate in hearings.

6.4 The Council discussed the transparency of its decision-making, in particular, the ability to search for cases using a wider range of criteria in order to gain a broader understanding of the themes and areas considered in decisions. Although this search functionality was not currently available, practice notes were published and these were regularly updated to reflect decisions.

**Action:** The Head of Adjudication Performance and the Head of IT and Digital Transformation would investigate whether it was possible to improve the search functionality available for hearings on the HCPTS website.

6.5 The Council also encouraged the HCPTS to review the name of the Scheduling team so that this better reflected the scope and complexity of the team's role.

## 7 English language proficiency consultation responses

7.1 The Council noted the report and the overview provided by the Policy Manager and Senior Policy Manager at the meeting setting out:

- the analysis of the consultation responses;
- the recommendations on each of the four proposals covered by the consultation; and
- the consultation outcomes document.

7.2 The early findings had been considered by the Education and Training Committee (ETC) and committee members were thanked for their contribution to developing the response to the proposals.

7.3 The Council noted the following points.

- the rationale and context for the proposals including the increase in the number of registrants using the international registration route and relying on self-declaration of English as a first language to evidence

proficiency, the review of English language requirements by other regulators and pre-consultation engagement with stakeholders;

- the scope of engagement activity, which built on the approach used when consulting on the standards of conduct, performance and ethics to ensure the breadth and relevance of responses and commissioning The Patients Association to speak directly to service users and carers in focus groups, which resulted in over 500 responses, double the number of responses received for the consultation on the standards;
- the broadly supportive nature of responses to the consultation, although there were some questions where there had been a wider range of feedback, and the insightful qualitative feedback, much of which would be used to shape the development of the proposals; and
- the responses to the consultation aligned with the work already done to complete the equality impact assessment (EIA), which would inform the further development of proposals, however, monitoring of the protected characteristics of those people applying to join the HCPC register using the international route would continue to identify emerging trends and enable early action.

7.4 The Council thanked the members of the policy team leading the consultation for the presentation and the sensitivity, care and commitment with which they had approached this work. The Council discussed the risks and benefits of using the Home Office qualifying countries list or those of other regulators. The reasons for the HCPC creating its own list included demonstrating its independence from government, its application across all four nations of the United Kingdom and being able to reflect the wider range of public policy considerations applicable to it as a regulator of health and care professions.

7.5 The Council approved the recommendations on each of the four proposals as follows:

- To stop accepting self-declaration of English as a first language as acceptable evidence of English language proficiency, with the aim to carry out this change by the end of 2024.
- To introduce a 'qualifying countries list', with applicants who passed their primary qualifications in one of the listed countries able to use this as evidence of their English language proficiency. The list would initially be drawn up on the basis of 75% of residents within a country using English as their first language in order for it to be listed. This would be independently assessed on the basis of expert analysis and input. Approval and maintenance of the list would be determined by the ETC. The aim was to carry out this change by the end of the 2024, subject to implementation planning and the actions identified in the EIA.
- To pause the proposal to accept work experience in the UK which is supervised by a registered health or care professional, or registered

work experience in a qualifying country as evidence of proficiency to allow for more detailed investigation to take place, with a view to a later decision on whether to proceed and, if so, when and how. Updates would be provided to the ETC as work in this area progressed.

- To introduce an expanded list of approved English test providers, with no change to the required levels of attainment, so newly approved tests would need to demonstrate comparability of results. The ETC would be responsible for setting a list of wider criteria for inclusion on the list, and the considerations would include security and prevention of fraud, equality, access and support, appropriateness of content and any other criteria agreed by the ETC. The aim was to carry out this change by the end of 2024, subject to implementation planning and the actions identified in the EIA.

## **8 Business Central implementation**

- 8.1 The Executive Director of Resources summarised the benefits of the move from the three separate systems for expenses, income and procurement previously used by the Finance team to the Business Central system, which provided a single view of all areas and a greater level of financial control.
- 8.2 The system had been implemented without any customisation to align with existing processes and would be easier to update and maintain over time as a result. While Business Central was now in operation, a second phase of development would make further improvements to reporting, increase the efficiency in the processing of invoices and include further service offerings such as allowing more frequent direct debits for fees.
- 8.3 The successful implementation of Business Central had been the result of a number of teams working together effectively to achieve a common purpose. While implementation took longer than originally planned, this had helped reduce the associated risks relating to data migration, training and testing and minimised the impact on registrants renewing their registration with the HCPC.

### Items for noting

## **9 Chair's report and draft minutes of the meeting of the Audit and Risk Assurance Committee held in public on 13 March 2024**

- 9.1 The Council noted this item.

## **10 Council reflection**

- 10.1 James Penry-Davey, a Partner at Capsticks LLP who was attending the meeting, reflected how attending and listening to the discussions at the meeting provided valuable insight into the strategic objectives and priorities

for the HCPC. There was a good balance of information and a range of interesting subjects and the challenge from Council members was both effective and delivered in a constructive and collaborative manner.

## 11 Resolution

11.1 The Council resolved that the remainder of the meeting would be held in private, because the matters being discussed related 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
12	H
13	H
14	H
15	G and H
16	C and H
17	H
18	H

The meeting was adjourned at 3.45pm.

Chair: .....

Date: .....