

Fitness to Practise Forum – 24 April 2009

New Practice Notes

Executive summary and recommendations

Introduction

A number of practice notes exist to provide guidance to panels and those involved in fitness to practise proceedings. As part of the fitness to practise department work plan, the executive produced a number of new practice notes to aid panels and those appearing before them

The Forum is asked to review and consider the new practice notes listed below:

- Concurrent Court Proceedings
- Disclosure
- Finding that Fitness to Practise is “Impaired”
- Hearings in Private
- Joinder
- Postponement and Adjournment
- Proceeding in Absence
- Unrepresented Parties

A brief précis of those practice notes is provided to assist the Forum.

Concurrent Court Proceedings

This practice note provides guidance on proceeding with regulatory cases when there are other civil or criminal proceedings ongoing against the same registrant

Disclosure

This practice note provides guidance to those appearing before Fitness to Practise panels on the disclosure of material that is obtained by HPC or those acting for them and which is not relied upon in the presentation of the case before a final hearing panel.

Finding that Fitness to Practise is “Impaired”

This practice note provides guidance on determining whether a registrants’ fitness to practise is impaired and the different tasks which Panel’s undertake in each step of the adjudicative process. The practice note encourages panels to consider each element leading to finding impairment sequentially and separately.

Hearings in Private

This practice note sets out factors panels must consider in determining whether all a part of a hearing should be held in private and when the press or public should be excluded from all or part of the hearing.

Joinder

This practice note sets out the procedure by which two or more allegations against the same registrant or allegations against two or more registrants' can be joined

Postponement and Adjournment

A practice note previously existed detailing the facts panels should consider when determining whether to grant an adjournment. This updated practice note provides a distinction between postponements and adjournments and sets out the procedure panels and the Executive must consider in deciding to grant any such request

Proceeding in Absence

This practice note sets out the balance panels must strike and the factors they must consider when deciding to proceed with a hearing with the absence of the registrant concerned

Unrepresented Parties

This practice note provides guidance to panels on how to manage a hearing when the registrant concerned is representing themselves.

Decision

The forum is asked to discuss the practice notes and recommend that:

1. The Investigating Committee approve the Practice Note – **Concurrent Proceedings.**
2. The Investigating, Health and Conduct and Competence Committee approve the Practice Note – **Disclosure.**
3. The Health and Conduct and Competence Committee approve the Practice Note – **Finding that Fitness to Practise is “Impaired”.**
4. The Investigating, Health and Conduct and Competence Committee approve the Practice Note – **Hearings in Private.**
5. The Investigating Committee approve the Practice Note – **Joinder.**
6. The Investigating, Health and Conduct and Competence Committee approve the Practice Note – **Postponement and Adjournment** and also to agree that ‘discretionary authority to postpone the hearing of any allegation by the Committee be delegated to the Hearings Manager (or a person nominated by the Hearings Manager) provided that any application for such a postponement is made by one of the parties not less than 14 days before the date on which the hearing of the allegation is due to first commence.’

7. The Investigating, Health and Conduct and Competence Committee approve the Practice Note – **Proceeding in Absence**.
8. The Investigating, Health and Conduct and Competence Committee approve the Practice Note – **Unrepresented Parties**.

Background information

All practice notes are placed on the HPC website and provided to stakeholders where required. Reference to the appropriate practice notes is provided in standard correspondence.

The governments' current proposals for reform of the constitution of HPC mean that, in future, the practice committees will solely be responsible for adjudicating individual cases and will have no strategic or policy role. If those changes are implemented then the issue of practice notes will become a responsibility for Council.

Resource implications

None

Financial implications

None

Appendices

- Concurrent Court Proceedings
- Disclosure
- Finding that Fitness to Practise is "Impaired"
- Hearings in Private
- Joinder
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Date of paper

9 April 2009