

Council

Public minutes of the 120th meeting of the Health and Care Professions Council as follows:-

- Date:** Wednesday 19 September 2018
- Time:** 10.30am (preceded by the private part of the Council meeting at 9.30am)
- Venue:** Room K, Health and Care Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU
- Present:** Stephen Cohen (Deputy Chair)
Maureen Drake
Kathryn Foreman
Sue Gallone
Sonya Lam
Eileen Mullan
Gavin Scott
Robert Templeton
Stephen Wordsworth (from item 13)

In attendance:

- Claire Amor, Secretary to Council
John Barwick, Executive Director of Regulation (not item 18)
Siobhan Carson, Lead Case Manager (until item 15)
Laura Coffey, Service Development Manager FTP (until item 15)
Guy Gaskins, Executive Director of Operations and IT (not item 18)
Eva Hales, Assurance and Development Manager (until item 15)
Michael Humphreys, Professional Standards Authority
Brian James, Head of Fitness to Practise (until item 18)
Jacqueline Ladds, Executive Director of Policy and External Relations (not item 18)
Zoe Maguire, Head of Tribunal Services (until item 18)
Sarah Ritchie, Policy Officer (until item 18)
Marc Seale, Chief Executive and Registrar (not item 18)
Matthew Smith, Bircham Dyson Bell (until item 18)
Kate Steele, Capsticks (until item 18)
Tian Tian, Director of Finance (until item 18)

Public Agenda

Item 1.18/144 Chair's welcome and introduction

- 1.1. Stephen Cohen, the Deputy Chair, welcomed Council members and those seated in the public gallery to the 120th meeting of Council.

Item 2.18/145 Apologies for absence

- 2.1 Apologies were received from Joanna Mussen. The Council noted that Stephen Wordsworth would join the meeting at approximately 12pm.

Item 3.18/146 Approval of Agenda

- 3.1 The Council approved the agenda.

Item 4.18/147 Declaration of Members' interests

- 4.1 No interests were declared.

Item 5.18/148 Minutes of the Council meeting of 5 July 2018

- 5.1 The Council agreed the minutes of the 119th meeting of the Health and Care Professions Council.

Item 6.18/149 Matters arising

- 6.1 The Council noted those matters arising from the meeting held on 5 July 2018.
- 6.2 The Director of IT and Resources provided a verbal update on the credit card limit matter arising. The Council agreed that no future updates were required as the matter was operational.

Item 7.18/150 Chair's report

- 7.1 The Council received a paper from the Chair.
- 7.2 The Council noted that key messages from external stakeholders through engagement meetings is the need for the regulators to cooperate and share information effectively and that regulators should engage more with the prevention agenda.
- 7.3 The Council noted that recent engagement meetings in Scotland were positive, the proposed fees consultation was discussed.

Item 8.i.18/151 Chief Executive's report

- 8.i.1 The Council received a report from the Chief Executive.

8.i.2 The Council noted the following points:-

- on 18 September, the HCPC hosted a meeting called by the Department of Health and Social Care (DHSC) with the other health profession regulators. DHSC indicated that they are planning to move forward with Section 60 based regulatory reform. Initial discussions indicate that rule making may be in the gift of the regulators under modernisation of legislation. More information is expected at a meeting towards the end of October 2018;
- the Chief Executive has been invited to join the DHSC gross negligence manslaughter working group to implement the recommendations made by Professor Sir Norman Williams following his review;
- a meeting is due to be held on 20 September between the PSA, HCPC, Social Work England (SWE) and the Department of Education (DofE) and DoHSC. The meeting will discuss the risks of the regulatory transfer of social workers in England; and
- along with other key stakeholders, the HCPC has written to the Secretary of State for Health and Social Care to highlight the continued need for statutory regulation of this Sonographers. This follows the recommendation the Council made in 2010.

Item 8.ii.18/152 Performance report

8.ii.1 The Council received a paper from the Chief Executive.

8.ii.2 The Council noted the following points:-

- the presentation of the report will developed for its next iteration;
- a positive trend can be seen from the number and age of FTP pre ICP cases, indicating that the extra investment in this area is impacting;
- the cases per case manager KPI does not capture the varying resource intensity of difference types of cases; and
- KPIs are indicators of performance and not definite targets.

8.ii.3 The Council requested that KPI data be colour coded for emphasis on the areas where measures are not met. It was also agreed that timeframes over which a KPI is measured should differ according to what is more suitable for the KPI.

8.ii.4 The Council noted that social worker renewal rates are favourable to those during the same period during the last renewal. This indicates that the

proactive communications plan has had an impact. The Council suggested that social worker employers be specifically targeted through renewal communications to ensure they audit their employees' registration status.

- 8.ii.5 In response to a question it was noted that the deliverables of the corporate plan are expected to be delivered to target. The Council requested an update on progress on these objectives as part of the December 2018 performance report.
- 8.ii.6 The Council discussed procurement. It was noted that cross departmental procurement for common services is undertaken.

Item 9.18/153 Transfer of Social Workers to Social Work England

- 9.1 The Council received a paper from the Executive Director of Regulation.
- 9.2 The Council noted the following points:-
- meetings with the Chief Executive of SWE have taken place to begin discussions on transition arrangements, these will continue;
 - a governance process has been agreed with DfE for managing the call-off against the grant;
 - a SWE business analyst has been on site to evaluate the data the HCPC holds in order to inform SWE's data needs; and
 - suppliers of the key HCPC IT systems for FTP, Registration and Education have been contacted and briefed on the upcoming requirement for data transfer.
- 9.3 The Council discussed the ongoing role of DHSC in the transfer project. The Council noted that the Deputy Chair and Chief Executive would provide a briefing on the outcomes of the PSA hosted meeting due to be held on 20 September.
- 9.4 The Council restated that business as usual operations and the quality of regulation of the remaining 15 professions should not be negatively impacted by the transfer project.

Item 10.18/154 Fees consultation paper

- 10.1 The Council received a paper from the Executive Director of Policy and External Relations.
- 10.2 The Council noted that the draft consultation document had been considered at the Council's July 2018 meeting and that members had been able to provide feedback on its development over the summer months.

- 10.3 The Council welcomed the focus on the prevention agenda within the consultation document.
- 10.4 The Council discussed the possibility of charging education providers for approval activity. It was noted that this had been discussed by the Education and Training Committee, and that a strategic review of the HCPC's quality assurance approach in education has been agreed. The question of charging for approval activity remains open for exploration following the results of this review.
- 10.5 The Council noted that the figure of £106 stated in paragraph 2(2) of the draft Health and Care Professions Council (Registration and Fees) (Amendment) Rules 2019, should instead be £212 as it is based on the two year renewal cycle.
- 10.6 The Council approved the timetable and consultation document subject to minor amendments and legal review.

Item 11.18/155 5 year plan

- 11.1 The Council received a paper from the Executive Director of IT and Resources.
- 11.2 The Council noted that it had discussed the 5 year plan in private session at its meeting of 5 July 2018 and had agreed that option 3 'invest' would be pursued.

Item 12.18/156 Budget timetable 2019-2020

- 12.1 The Council received a paper from the Director of Finance.
- 12.2 The Council noted that the budget setting timetable has been reviewed on the recommendation of the internal auditors, who considered that too many iterations of the budget were produced during the 2018-19 budget setting process.
- 12.3 The Council noted that the Audit Committee considered the revised timetable at its meeting on 4 September 2018 and agreed to recommend the revised timetable to the Council for approval
- 12.4 The Council approved the budget setting timetable as set out in the paper.

Item 13.18/157 Fitness to Practise case progression strategy

- 13.1 The Council received a report from the Executive Director of Regulation and the Head of Fitness to Practise.

13.2 The Council noted the following points:-

- the Case Progression Strategy is a key deliverable of the FTP improvement project. It sets out the ambitions for case progression, and the proposed milestones towards meeting the KPI measures;
- the improvement project includes an FTP recruitment plan. This is informed by an analysis of cases per case manager, with a view to enabling flexibility for future case load fluctuations;
- during the summer the Executive identified the need for additional investment in FTP resources in the immediate term. The Council approved these extra funds by correspondence;
- the focus of this additional resource has been on receiving and managing new concerns and running a pilot whereby targeted cases are outsourced to a legal services provider for management; and
- to date, progress appears promising, more than a third of the open caseload has progressed through one or more steps in the FTP case lifecycle in the period April to June 2018. This has rate has continued through the summer;

13.3 The Council thanked the Executive for the report, agreeing that it provided assurance that the issues identified with FTP case progression are understood, accepted and being addressed.

13.4 The Council discussed trends in case reception levels. It was noted that trends do not emerge from the data and that when taking a long term view of case levels the peaks and troughs level out to a more constant level.

13.5 The Council noted that the use of technology in case management will be explored as part of the scoping for the next case management system.

13.6 The Council noted that a Council workshop will take place on 10 October 2018, exploring FTP data and case progression to further member's understanding of this area.

13.7 In response to a question the Council noted that while it is not possible to provide assurance that the PSA standards will all be met following the next performance report, the Executive hopes that the HCPC's efforts to improve and the progress made will be recognised.

13.8 The Council welcomed the aims of HCPC's Case Progression Strategy, and the proposed approach to prioritising and monitoring case throughput.

13.9 The Council formally approved the additional FTP improvement funding of £500k previously agreed by correspondence.

- 13.10 The Council agreed to receive an update on the Case Progression Strategy at its December 2018 meeting.

Item 14.18/158 Threshold Policy for Fitness to Practise Investigations

- 14.1 The Council received a report from the Head of Fitness to Practice and the Senior Development Manager.
- 14.2 The Council noted that, at its meeting on 5 July 2018, it endorsed the proposed approach to a revised threshold policy. The new policy has been produced on this basis and is presented to the Council for approval.
- 14.3 The Council noted that a plan is in place for the implementation of the new policy, including case manager support in applying the policy.
- 14.4 The Council noted that the FTP Quality Assurance Framework includes audits of threshold decisions.
- 14.5 The Council agreed that the revised policy's main benefit, while addressing the PSA's concerns in this area, would be to public protection and the experiences of registrants and complainants in the ftp process.
- 14.6 The Council approved the Threshold Policy for Fitness to Practise Investigations.

Item 15.18/159 Fitness to Practise annual report 2017-18

- 15.1 The Council received a paper from the Executive Director of Regulation.
- 15.2 It was noted that page views can be tracked to provide an indication of the content considered by stakeholders to be most useful.
- 15.3 The Council noted that the FTP annual report is submitted to the PSA as part of the annual review process.
- 15.4 The Council agreed that the purpose of the FTP annual report needed to be reviewed holistically with other HCPC publications.
- 15.5 The Council approved the text for the 2017-18 Fitness to Practise Annual Report, subject to any necessary editorial or stylistic amendments.

Item 16.18/160 Professional Standards Authority's Lessons Learned Review

- 16.1 The Council received the paper from the Executive Director of Regulation.
- 16.2 The Council noted the following points:-

- in May 2018, the PSA published its Lessons Learned Review of the Nursing and Midwifery Council's (NMC) handling of concerns about midwives' fitness to practise at the University Hospitals of Morecambe Bay NHS Foundation Trust;
 - the report has been reviewed by the Executive to identify any learning and any opportunities for improvement for the HCPC; and
 - the Executive has also engaged with the Tribunal Advisory Committee on relevant issues raised in the report.
- 16.3 The Council agreed that the report contained clear messages for the prevention agenda to take forward.
- 16.4 The Council noted that the Chief Executive met with James Titcombe OBE, patient safety campaigner, to discuss the themes of the report. It was tentatively agreed that Mr Titcombe will take part in Case Manager seminars about the impact of culture.
- 16.5 The Council noted that Case Managers receive training in how to communicate effectively with vulnerable complainants and witnesses. Counselling support is also available for Case Managers handling distressing cases.
- 16.6 In response to a question, it was noted that the HCPC's MOUs have been reviewed in light of the report. A paper on this review follows later in the agenda.

Item 17.i.18/161 Williams review - Gross negligence manslaughter in healthcare

- 17.i.1 The Council received a report from the Head of Policy.
- 17.i.2 The Council noted that the report of the rapid policy review on Gross negligence manslaughter in healthcare has been published and reviewed by the Executive for opportunities for HCPC learning and improvement.
- 17.i.3 The Council noted that the majority of the report's recommendations are focused on the medical profession and do not apply directly to HCPC registrants. However it was noted that as the role of paramedics expands their risk exposure will also increase.

Item 17.ii.18/162 HCPC approach to MOUs

- 17.ii.1 The Council received a report from the Head of Policy
- 17.ii.2 The Council noted the following points:-
- the HCPC currently has 11 MoUs with 15 different organisations;

- MoUs support the HCPC's regulatory functions by facilitating the exchange of public protection intelligence information;
- MoU's are entered into where they would enhance public protection, boost public confidence in the parties and registered professions or to access information the HCPC would otherwise not be aware of;
- MoUs are not the HCPC's only means of information sharing with other organisations; and
- the Health and Social Work Professions Order 2001 requires that the HCPC 'cooperate, in so far as is appropriate and reasonably practicable, with public bodies or other persons.

17.ii.3 The Council noted the summary of existing MOU's and their purpose.

17.ii.4 The Council noted that a meeting will soon take place with Health Improvement Scotland (HIS), the Council has previously requested the Executive pursue an MOU with HIS.

17.ii.5 The Council noted that the Executive aims to improve how MoUs are used in practice, and to identify training gaps with employees on their purpose and importance.

Item 17.iii.18/163 HCPC PSA performance report

17.iii.1 The Council received a report from the Head of Policy

17.iii.2 The Council noted that the PSA published its annual performance review of the HCPC In July 2018. The PSA concluded that the HCPC met all of the standards relating to guidance and standards, education and training and registration. Of the ten fitness to practise standards, six were not met.

17.iii.3 The Council agreed that members would benefit from a better understanding of the role of the PSA. It was agreed that the PSA should be invited to discuss its remit and aims with the Council at a future meeting.

Item 18.i.18/164 Council Chair Appointment Process

18.i.1 The Council received a paper from the Secretary to Council

18.i.2 Stephen Cohen declared an interest in this item and the subsequent item relating to the Chair's remuneration. The Council agreed that Robert Templeton would act as meeting Chair for this item and the item on the Chair's Remuneration.

18.i.3 The Council agreed the following points:-

- two separate campaigns should be run for Chair of Council and then Council Member(s);
- the role should be open to both Lay and Registrant external candidates;
- the Chair's competencies should be amended to require 'proven ability to lead...'; and
- the advertising strategy should be amended to clarify that the Chief Allied Health Officer relates to the Officers for all four counties.

18.i.4 The Council approved:-

- the revised HCPC Council Appointment Process document;
- the revised competencies for Council members and Chair (subject to the amendment set out in paragraph 18.i.3); and
- the proposed membership of the appointments panel.

Item 18.ii.18/165 Council Chair Remuneration

18.ii.1 The Council received a paper from the Secretary to Council.

18.ii.2 The Council discussed with Stephen Cohen, his experience of the time requirement of his current role of Deputy Chair. Stephen advised that the role has required approximately 2 days a week of his time.

18.ii.3 Stephen Cohen requested that the Council consider his remuneration in the interim period as Deputy Chair when considering the remuneration of the Chair of Council. Stephen then withdrew from the meeting for the rest of the item.

18.ii.4 The Council discussed the required time commitment from the future Chair of Council. The following points were made:-

- the two previous Chairs of Council undertook the role on a three day a week basis;
- the current Deputy Chair's experience will differ from that of an appointed Chair of Council;
- the HCPC is facing considerable change and challenge;
- the Chair has a key role in external stakeholder engagement, engagement is key to the prevention agenda;

- the HCPC's 16 professions increase stakeholder engagement requirements compared to single profession regulators;
- indicating a requirement of 3 days a week emphasises that the role should be the individuals primary non-executive role; and
- the time commitment required can be revisited if and when reappointment is considered.

18.ii.5 The Council agreed that the role should require approximately three days a week time commitment.

18.ii.6 The Council discussed the remuneration of the future Chair of Council. The following points were noted:-

- due to member availability the Remuneration Committee were unable to provide a recommendation, however an independent market assessment report was commissioned and is presented to Council to support its decision;
- as the outgoing Chair was remunerated through reimbursement of her employer, her remuneration as Chair was not determined by the HCPC; and
- the former chair was remunerated on a daily rate basis, her equivalent annual remuneration was approximately £63-68k.

18.ii.7 The Council agreed that the independent report's remuneration recommendation for the Chair was not appropriate for the HCPC's profile. The Council agreed that an annual remuneration of £65k would be in keeping with previous Chair remuneration levels and wider benchmarking.

18.ii.8 The Council discussed the Deputy Chair's remuneration. It was agreed that this would continue on a day rate basis at current levels.

18.ii.9 Stephen Cohen re-joined the meeting and resumed chairship of the meeting.

Item 18.iii.18/166 Committee allocations and Senior Council Member role

18.iii.1 The Council received a paper from the Secretary to Council.

18.iii.2 The Council confirmed the Remuneration and Audit Committee memberships.

18.iii.3 The Council ratified the reappointment of Julie Parker as the Independent Member of the Audit Committee.

- 18.iii.4 The Council approved the Senior Council Member role brief subject to 'concerns about the relationship between the Chair and a Committee Chair' being amended to the Chair and any Council member.
- 18.iii.5 The Council agreed that Robert Templeton would be appointed as Senior Council Member for the remainder of his term as Council member.

Item 18.iv.18/167 Minutes of the Tribunal Advisory Committee meeting of 5 September 2018

- 18.iv.1 The Council noted the minutes of the Tribunal Advisory Committee held on 5 September 2018
- 18.iv.2 The Council requested the Executive provide information on when Partner remuneration will next be reviewed.

Item 19.i.18/168 Minutes of the Audit Committee of 4 September 2018

- 19.i.1 The Council noted the minutes of the Audit Committee held on 4 September 2018
- 19.i.2 The Council noted that the NAO advised the Committee in its pre meeting that the Comptroller is reviewing the differing oversight arrangements of non-departmental public bodies.

Item 19.ii.18/169 Strategic Risk Register

- 19.ii.1 The Council received a paper from the Chair of the Audit Committee.
- 19.ii.2 The Council noted that the Audit Committee considered the strategic risks at their meeting on 4 September 2018. The Committee agreed to recommend the strategic risk register to the Council for adoption.
- 19.ii.3 The Council noted that the strategic risk register will continue to develop as it is used. The Executive are currently implementing a number of presentational changes requested by the Audit Committee.
- 19.ii.4 The Council agreed that strategic risk reporting should be built into the performance report for each Council meeting. An in depth Council review of the strategic risks will take place annually.
- 19.ii.5 The Council discussed the strategic risk 5 'failure of leadership, governance or culture', where responsibility for organisational culture lies and how the Council gains assurance that the culture is appropriate. The Council agreed that risk 5 required more detail on SMT mitigation and responsibility.
- 19.ii.6 The Council noted that organisational vision and values will be explored at the strategy day on 11 October 2018. In December a paper reviewing the

results of the all employee survey and employee input into strategy workshops will be presented to Council.

- 19.ii.7 A member suggested that a working protocol between the Executive and Council could be a mitigation for risk 5. The Executive agreed to look into producing an Executive and Council working protocol.
- 19.ii.8 The Council noted that the Audit Committee considered that the Council should review the HCPC's risk appetite. The Committee will hold a workshop on risk appetite facilitated by the HCPC's Internal Auditors Grant Thornton in January 2019.
- 19.ii.9 The Council discussed the HCPC's risk appetite. It was noted that the HCPC currently has a blanket risk appetite of low or averse. In future, the Council may wish to set individual levels for the different strategic risks.
- 19.ii.10 The Council agreed that amending the HCPC's risk appetite would be a collective decision with the Executive as they have operational responsibility for the HCPC.
- 19.ii.11 The Council agreed to adopt the Strategic Risk Register.

Item 20.i.18/170 Minutes of the Education and Training Committee meeting of 6 September 2018

- 20.i.1 The Council noted the minutes of the Education and Training Committee held on 6 September 2018.

Item 20.ii.18/171 Education and Training Committee Rules change

- 20.ii.1 The Council received a paper from the Chair of the Education and Training Committee.
- 20.ii.2 The Council noted that It is proposed that the Education and Training Panel consider education provider concern investigation reports as part of their regular business. This change would enable quicker resolution and assurance for all parties involved as the Panel meets more frequently than the Committee.
- 20.ii.3 The Council noted that though the Education and Training Committee is a statutory Committee, its rules are within the gift of Council to make. The Committee agreed to recommend the change to its rules to the Council at its meeting on 6 September 2018.
- 20.ii.4 The Council approved the revised Health and Care Professions Council (Education and Training Committee) (Constitution) Rules 2018.

Item 21.18/172 Any other business

- 21.1 The Council agreed that annual committee agenda plans should be circulated to members for reference.

Item 22.18/173 Future agenda items

- 22.1 The Council noted that the following items would be considered at its December 2018 meeting:-

- Draft Corporate Strategy
- 5 year plan business cases
- University of Surrey research action plan
- Estates plan
- Council member remuneration

Item 23.18/174 Meeting evaluation

- 23.1 Members discussed the effectiveness of the meeting. The following points were made:

- The pace of the meeting was at times too brisk, with some items requiring more time for debate.
- Breaks need to be built into the agenda.
- One day meetings remove the scope to hold workshops and seminars.
- To note items should be separated in the agenda.
- The agenda was long in part due to the papers previously requested by the Council. Members agreed that more business should be agreed without papers needing to return with amendments.

Item 24.18/175 Date and time of next meeting:

- 24.1 Thursday 6 December 2018 at Park House, 184 Kennington Park Road, London SE11 4BU.

Chair: Stephen Cohen

Date: 06/12/2018