

**Health Professions Council
Council – 29th March 2007**

Website Information

Executive Summary and Recommendations

Introduction

In January 2007 the three fitness to practise committees considered a paper from the Executive regarding the scope and nature of the information that is provided in relation to Fitness to Practise cases on the HPC website. This paper is attached for the Council's information. The Committees were asked to make a recommendation to Council regarding the information that was included on the website. The Committee were provided with three options which were as follows:

1. No change
2. No Information
3. Middle Ground

All three committees felt that it was not appropriate to provide no information on the website.

The Health Committee was the first fitness to practise committee to meet in January 2007 and they felt that it was important to ensure consistency in approach across all healthcare regulators. The Director of Fitness to Practise was asked to raise this at the FTP manager's forum operated by the Council for Healthcare Regulatory Excellence (CHRE). The forum discussed this issue and the policy of the other healthcare regulators is to publish information relating to hearings (including the allegations) 28 days (maximum) in advance of the date of the hearing.

The Health Committee felt unable to make a recommendation between option one and three until the other practice committees had met and discussed the issue.

The Investigating Committee also discussed the matter in full and could not reach a consensus on the most appropriate option and agreed to wait for the decision reached by the Conduct and Competence Committee.

The Conduct and Competence agreed that option three (as detailed in the attached paper) was the best balance between public protection, openness and transparency, and respecting the rights of individual registrants who were subject to an allegation. The Committee recommended that details of hearings be placed on line 28 days in advance of the date fixed for hearing. The Committee also felt that the Council's powers in respect of interim orders ensured that the public would be adequately protected before the date of a hearing was placed on line.

The Executive was asked to collate this information and ask Council to make a decision in relation to the information included on the HPC website.

The Council is therefore asked to approve the recommendation made by the Conduct and Competence Committee in relation to the level of information that is included on the HPC website.

Transcripts

The Committees were also asked to consider a recommendation from the Executive regarding transcripts.

All three Committees agreed with the recommendation that transcripts should not be placed on the HPC website and that all historic transcripts should be removed from the website. The Conduct and Competence Committee agreed that a message should be placed on the website stating that if a member of the public required a copy of the transcript they should contact the fitness to practise department directly. This is line with ensuring that information is publicly available.

Decision

Post Case to Answer Information and Hearing Dates

1. The Council is asked to approve the recommendation of the Conduct and Competence Committee and agree that:
 - a) Hearing dates and the notice of allegation should be placed on the HPC website four weeks in advance of the date of the hearing; and
 - b) Remove all cases which do not comply with the recommendation set out above from the HPC website until four weeks before the date of the hearing.

Transcripts

1. The Council is asked to approve the recommendation of the three fitness to practise committees to remove historic transcripts from the website and cease with the practice of placing transcripts on-line.

Background Information

If the Council does approve the recommendation set out above, the Executive will place information on the website informing the public and other stakeholders of this decision.

Resource implications

None

Financial implications

None

Appendices

Website Information paper presented to the three fitness to practise committees in January 2007.

Date of paper

13th March 2007

Website Information

Executive Summary and Recommendations

Introduction

The Committee is asked to consider the scope and nature of the information that is provided in relation to Fitness to Practise cases on the HPC website. The Committee is asked to discuss a number of options and proposals in relation to the information that is provided there.

When HPC was first established, the view taken was that the organisation should depart from past behaviour and adopt open and transparent processes, including publishing virtually all information relating to fitness to practise cases. This open and transparent approach was broadly welcomed by many stakeholders. However, some concerns have been identified regarding the extent of the information that is published, so now is an appropriate time to undertake a review.

A common theme in all of the comments regarding the HPC's current approach is that it is disproportionate and fails to strike the right balance between public access to information and the registrant's rights to privacy. It has been pointed out on several occasions that publicly available information should not always be regarded as synonymous with publication of information.

Decision

The Committee is asked to consider the options below and, if it sees fit, to recommend an option to the Council.

- 1. No change** – Currently the name of the registrant, their registration number and the particulars of the allegation are placed on the HPC website as soon as the Investigating Panel has made a case to answer decision. The date of the hearing is placed on line as soon as it is fixed. When an allegation is well founded the notice of decision and order and a redacted copy of the transcript (the removal of address details and patient identifiable information) is placed online. All cases where an interim order has been imposed are also placed on line

This means that information relating to, as yet unproven, allegations are placed on line for a period of up to a year (in some cases) before a hearing is fixed.

Article 29 (1) of the Health Professions Order 2001 (the 2001 Order) provided that 'If, having considered an allegation, the Health Committee or the

Conduct and Competence Committee, as the case may be , concludes that it is not well founded –

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons;
- (b) in any other case and with the consent of the person concerned may make such a declaration.

Article 29(2) goes on to say that ‘for the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.’ Articles 32(2)(k) and (l) provide that the Committee must notify the person concerned and the person who made the complaint of its decision and its reasons for making that decision.

If a person does not provide their consent for such a declaration to be made (the usual place for such a declaration is on the HPC website in the complaints section), all details relating to them are removed immediately. In some instances, this means that information is removed after being online for a year or more.

However, as the hearing is held in public, if a copy of the notice of decision and order is requested by any individual, HPC is obliged to provide a copy.

2. **No information on line** – remove all information relating to cases from the website and only provide it on request or on publication of the HPC Fitness to Practise Annual report.

In the age of electronic communication, it is doubtful that this would be a defensible position. This is particularly so given HPC’s obligations under Article 3 (13) of the Order which states that ‘The Council shall inform and educate registrants, and shall inform the public, about its work.’ One of the key media that HPC has chosen to use to undertake this duty is through the HPC website.

3. **Middle ground** - All decisions and orders where the allegation has been well founded would continue to be placed on line and hearing dates would be placed on line either four weeks before the hearing or as soon as the hearing date is fixed. Interims orders decisions would be posted on line as at present.

Hearing dates

If the middle ground is chosen, the Committee and subsequently the Council is asked to advise the Executive whether all information relating to cases where a hearing has not been fixed and consider the position with regards to when the dates of hearings should be placed on line.

Decision

- (a) **Remove all cases where a hearing has not been fixed from the website,**

(b) All cases where a hearing date has been fixed placed on line as soon as the date is for hearing is fixed; or

(c) Hearing dates to be placed on line four weeks in advance of the date fixed for hearing.

Transcripts

The Committee is also asked to consider the position in relation to transcripts.

The Executive recommend that transcripts (redacted if appropriate) should be made available on request. Transcripts of hearings were originally placed on line to help explain the decision reached by the panel. However, decisions are now much more detailed so the Executive does not see the need to continue with this practice. Furthermore, this is a practice which is undertaken by only one other UK Healthcare regulator and is not followed by other tribunals or courts.

Decision

However, the Committee/Council may wish to continue with the position of placing transcripts online and if the Committee/Council does recommend option three, it is also asked to consider whether:

- (a) transcripts should continue to be placed on line; or
- (b) transcripts should not be placed on the website and all historic transcripts should be removed.

Background information

Article 32(j) of the 2001 Order provides that ‘hearing before a Committee to be held in public except in so far as may be provided by the rules’.

Article 22(9) provides that ‘The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article 26(7) or (12), 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 and of its reasons for them and of any decision given on appeal.’

Article 32 (2)(h) of the 2001 Order states that ‘where an allegation is referred by the Council, Screeners or the Investigating Committee to the Health Committee or the Conduct and Competence Committee, for the Council to give notice of that referral to specified persons who shall include the Secretary of State, the Scottish Ministers, the National Assembly for Wales and the Department of Health, Social Services and Public Safety in Northern Ireland, and where they are known, to any person referred to in article 25 paragraph (2)(a) or (b).

We also issue an “alerts” list of all cases where a sanction or interim order has been imposed, where a hearing date has been fixed or when a case to answer decision has been reached. This is distributed to selected organisations and to those who request it every two months.

HPC provide the notices of decision and order, copies of the exhibits and a copy of the transcript in all Conduct and Competence Committee cases to CHRE. CHRE consider all Conduct and Competence Committee cases in line with their Section 29 powers.

The Communications department send a media schedule of upcoming hearings on a weekly basis for the following weeks hearings to our media contact list.

The Executive has also undertaken a scoping exercise in relation to the practice of the nine United Kingdom Healthcare Regulators and can provide the committee with the following information:

General Medical Council

The GMC list hearings that are taking place in the current month. There is a calendar of hearings. The GMC also publish the notice of decision and order of its cases online. Transcripts are not available on line. However, to search historic fitness to practise decisions a person needs to know the name of the registrant. There is also a search engine for interim order decisions. Interim order decisions can also be searched by month.

General Chiropractic Council

No information on line at present.

General Dental Council

The GDC list current, upcoming and recent hearings. Two weeks in advance of each block of hearing dates, the names of the cases are placed on line. Interim order information is also available on line. No transcripts are published on the website.

Nursing and Midwifery Council

The NMC provide a list of cases listed for hearing before their FTP committees and cases that have already been heard. They provide the notices of decision and order. There are no transcripts on line. There is also a separate section for interim order decisions.

General Optical Council

GOC hearings take place over one week in every month (except December and August). The Notice of Inquiry is placed on line four weeks before the date of the

hearing. There is also a list of recent hearings with a copy of the decision and a copy of the transcript.

General Osteopathic Council

Hearing dates are placed on the website 28 days in advance of the hearing. Notices of decision and order are placed on line as are interim order decisions. There are no transcripts.

Pharmaceutical Society of Northern Ireland

No information on line at present.

Royal Pharmaceutical Society of Great Britain

Details of decisions are on line. There are no transcripts.

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

10th January 2007