

**Council**

**Public minutes of the 65<sup>th</sup> meeting of the Health Professions Council held as follows:-**

**Date:** Thursday 9 December 2010

**Time:** 10:30am

**Venue:** The Council Chamber, Health Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

**Present:**

Anna van der Gaag (Chair)

Malcolm Cross

John Donaghy

Sheila Drayton

Julia Drown

Richard Kennett

Jeff Lucas

Morag Mackellar

Arun Midha (for items 1-16)

Penelope Renwick

Deep Sagar

Eileen Thornton

Annie Turner

Joy Tweed

Diane Waller

Neil Willis

**In attendance**

Jonathan Bracken, Solicitor to Council (item 9 onwards)

Gary Butler, Director of Finance

Siobhan Carson, Case Support Officer

Alison Dittmer, Policy Officer

Guy Gaskins, Director of Information Technology

Abigail Gorringe, Director of Education

Claire Harkin, Customer Services Manager

Louise Hart, Secretary to Council

Teresa Haskins, Director of HR

Kelly Johnson, Director of Fitness to Practise

Jacqueline Ladds, Director of Communications

Steve Rayner, Secretary to Committees  
Greg Ross-Sampson, Director of Operations  
Tracey Samuel-Smith, Acting Head of Education  
Marc Seale, Chief Executive and Registrar  
Charlotte Urwin, Policy Manager

**Item 1.10/189 Chair's welcome and introduction**

- 1.1 The Chair welcomed all members to the meeting. The Chair gave particular welcome to Professor Maggie Pearson and Patricia Saunders from the Department of Health and Christine Docchar from BACP.

**Item 2.10/190 Apologies for absence**

- 2.1 Apologies for absence were received from Mary Clark-Glass, John Harper and Keith Ross.

**Item 3.10/191 Approval of agenda**

- 3.1 The Council approved the agenda.

**Item 4.10/192 Declaration of Members' Interest**

- 4.1 Jeff Lucas declared an interest under 9 since he is Vice-Chancellor of Bradford University which is currently hosting one of the pilot BSc programmes.

**Item 5.10/193 Minutes of the Council meeting of 14 October 2010 (report ref:-HPC139/10)**

- 5.1 It was agreed that the minutes of the 64th meeting of the Health Professions Council be confirmed as a correct record and signed by the Chair.

**Item 6.10/194 Matters arising (report ref:-HPC140/10)**

- 6.1 The Council noted the action list as agreed at the last meeting.

**Item 7.10/195 Chair's report (report ref:-HPC141/10)**

- 7.1 The Council received a paper from the Chair.

- 7.2 The Council noted that the Chair had attended many meetings in relation to the Social Work agenda and these had been constructive. It was noted that the Chair and the Chief Executive, were working to build relationships and understanding of the Social Work arena.
- 7.3 The Council noted that the stakeholder meeting held in Glasgow on 7<sup>th</sup> October with Psychotherapists and Counsellors had been positive and there appeared to be an appetite for statutory regulation amongst the attendees.
- 7.4 The Council further noted that the Joint Regulators Patient and Public Involvement Group's Mental Health Seminar, attended by both service users and advocates, had been a successful day of engagement and it was hoped to build on this with further events of this kind in the future.
- 7.5 The Chair wished to place on record her thanks to the Communications Team for their hard work in delivering the Mental Health Seminar and the ongoing programme of listening events.
- 7.6 The Council noted the report.

**Item 8.10/196 Chief Executive's report (report ref:-HPC142/10)**

- 8.1 The Council received a paper from the Chief Executive.
- 8.2 The Council noted the following:-
- That the Department of Health had responded to the consultation regarding the future of the Office of the Health Professions Adjudicator and, as a result, Government announced that they would be taking steps to abolish this programme;
  - That the White Paper entitled: - "Review of the regulation of public health professionals" had recommended the regulation of public health professionals by the HPC. A subsequent a press release issued after the White Paper stated that Government would only consider statutory regulation for further professions as a last resort;
  - That the future role of CHRE would be contained within the legislation due to be published in mid January;
  - That the application for permission to apply for Judicial Review regarding the proposed statutory regulation of Psychotherapists and Counsellors would be heard at a preliminary hearing on 10 December 2010;

- That, in addition to the ongoing work detailed within the circulated paper, a number of large projects were being undertaken; namely, the CHRE performance review, the CHRE Fitness to Practise audit, the Fitness to Practise case management system, the ongoing work in relation to the regulation of social workers in England and the work relating to the initiation of a pilot on alternative dispute resolution.

### 8.3 During the course of discussion, the following points were made:-

- Concern was expressed that dance movement therapists (DMT) continue to be sidelined in terms of statutory regulation and are often referred to alongside psychotherapists and counsellors although they belong to the arts therapists' family. However, as a profession, they are keen to be regulated having made an application firstly to the CPSM and then to the HPC, who made a recommendation to the Department of Health that the profession be regulated. The Council noted the frustration of the profession in terms of this lack of progression;
- In response, the Council noted that Executive had always stated to the Department of Health that the DMT should be regulated at the same time as the psychotherapists and counsellors, although it was recognised they were distinct groups. In addition, there were ongoing issues to be resolved in terms of the statutory regulation of psychotherapists and counsellors. The Council noted that it was anticipated that the White Paper due to be published in January 2011 would provide some clarity in terms of the coalition government's view on the future of statutory regulation. However, should this not be forthcoming, the Chair and Chief Executive would actively seek a decision on the regulation of these professions since it had both financial and operational impacts on the HPC;
- That whilst it was pleasing to see the reduction in time taken for fitness to practise cases to be heard, consideration needed to be given to dealing with complaints using a different mechanism since the current system seemed to be a very expensive and bureaucratic way of dealing with complaints given the small percentage of people struck off from the Register each year;
- That whilst the Fitness to Practise department should be congratulated for reducing the time taken for a case to be heard, this achievement was also a result of the stakeholder work carried out by the Communications and Education departments;
- In response to a question, the Council noted that the figures showed a reduction in the forecasted figure for fitness to

practise cases and this was as a result of stakeholder work with employers and the continual improvement in HPC's processes.

8.4 The Council noted the report.

## Strategy and Policy

### **Item 9.10/197 Presentation on Modernising Scientific Careers by Professor Maggie Pearson and Patricia Saunders and Q&A**

9.1 The Council received a presentation on Modernising Scientific Careers from Professor Maggie Pearson and Patricia Saunders.

9.2 Professor Maggie Pearson began the presentation and covered the Training and Career Pathways for the Healthcare Science (HCS) Workforce. Patricia Saunders updated Council with regard to the regulation element of the project, noting that she was currently working on the cost benefit risk analysis and this will be submitted to the Minister who will make a decision as to the appropriate model for regulation.

9.3 During discussion the following points were raised:-

- That there was a high risk to the public if these professionals were not regulated;
- That it was likely that voluntary registers would be introduced for those cohorts currently undertaking the pilot BSc programmes;
- That currently the BSc curriculum was approved by Medical Education England (MEE);
- That the modernising scientific careers project, although DH led, was working on behalf of England, Northern Ireland, Wales and Scotland
- That the Education and Training Board would work on behalf of England, Northern Ireland, Wales and Scotland;
- That any proposal to regulate the healthcare science workforce would be subject to consultation in the usual way;
- That it was important to ensure that any regulation was proportionate to risk;
- That with regards to the Education and Training Board, it was important to learn from the lessons of the PMETB merger with the GMC after four years of operation;

- Concern was expressed regarding the ongoing funding of the pilot programmes and in addition, the regulatory position once the students had completed the programmes. In response, the Council noted that the courses were subject to HEFCE funding and with regards to the regulatory position, this would be done by means of a voluntary register until such time as Government's position on regulation was known;
- The Council noted that it was not the intention to move the statutory regulation of the Biomedical and Clinical scientists away from the HPC and with regards to the regulation of other parts of the healthcare science workforce, the Department of Health had only entered into dialogue with the HPC;
- The Chair concluded by stating that the Council's perspective was, as always, one of public protection. The concern was around the lack of progress with regards to the statutory regulation of the various healthcare scientist groups such as the clinical professionists. These groups had been recommended for regulation a number of years ago. The Chair also noted that the Council would welcome the publication of a draft document which would form the basis for discussion on the standards of proficiency for the new professional groups.

9.4 The Council thanked Professor Maggie Pearson and Patricia Saunders for taking the time to come to HPC to present on this topic and looked forward to receiving an update in Spring 2011.

**Item 10.10/198 Transfer of regulatory functions from General Social Care Council to HPC (report ref:- HPC143/10)**

10.1 In accordance with the decision of Council to be kept informed of ongoing work relating to the transfer of regulatory functions from the GSCC to the HPC, a verbal update was provided.

10.2 During the course of the update, the following points were made:-

- That the current indication was that the legislation would be published in mid January;
- That the Social Work Oversight Group had recommended to Government that HPC be renamed the 'Health and Care Profession Council';
- There would be a further meeting in January to decide whether the Social Work Oversight Group should continue beyond the publication of the Legislation;

- That the Executive were progressing well with the transition project, details of which had been provided through the weekly update;
- The College of Social Work had secured substantial funding which was very important in terms of taking the Reform Board agenda forward; and
- That the Social Work Oversight Group had recommended to Government that there should be no change to the existing governance arrangements of HPC.

10.3 The Council noted the update.

**Item 11.10/199 Application for the regulation of Physicians' Assistants (Anaesthesia) by the Association of Physicians' Assistants (Anaesthesia) (report ref:- HPC144/10)**

11.1 The Council received a paper for discussion/approval from the Executive.

11.2 The Council noted that this application had been made in accordance with the new professions application and the Executive had assessed their application against the criteria set out in the process.

11.3 During the course of discussion, the following points were made:-

- That this group shared their title with the physicians assistants (general medicine) and so consideration needed to be given as to whether their scope of practise was significantly different;
- That the group had fully met the criteria in eight areas and partly met the criteria in two areas;
- That there were currently 120 professionals practising under this title although the size of the profession did not form part of the criteria;
- There was concern over whether these professionals had a "defined" body of knowledge as opposed to a "discrete" body of knowledge;
- That they did not appear to be autonomous as they were indirectly supervised although it was noted that they were responsible for administering anaesthetics;

- That 60% were currently regulated by another healthcare regulator although it was noted that they would not have to maintain their Registration in order to undertake their role as a physicians assistant;
  - That consideration should be given to an application from physicians assistants as a profession to include both those working in general medicine and those working in anaesthesia. The Council noted that the Executive had met with those working in general medicine and they had not expressed any desire to submit a joint application;
  - Concern was expressed that given the radical reforms about to be introduced in healthcare, the future of this profession was uncertain;
  - The Council noted that this group had also met with the GMC;
  - In response to a query, the Council noted that no other applications from “assistants” had previously been considered.
- 11.4 The Council felt that further information was required around the discrete areas of practise of the profession, the ongoing viability of the profession and the links to the Physicians Assistants (general medicine) and their scope of practise.
- 11.5 The Council requested that the Executive provide further information on this aspirant profession before an invitation would be extended to the Association of Physicians’ Assistants (Anaesthesia) to present on their application.

**Item 12.10/200 Exploring options for Voluntary Registers (report ref:- HPC145/10)**

- 12.1 The Council received a paper for discussion/approval from the Executive.
- 12.2 The Council noted that when considering the regulation of a new profession both Government and regulators must take into account not only of increased public protection but also the cost of introducing the new regulatory regime.
- 12.3 The Council noted the advantages and disadvantages of the two options set out in the paper, namely a system of voluntary regulation without legislation and secondly, a system of “voluntary” statutory regulation as previously pursued by the CPSM.
- 12.4 During the course of discussion, the following points were raised:-



- That under the voluntary system, there were no standards of proficiency;
- Concern was expressed that this would only cause confusion amongst the public and the professions and this would be a retrograde step;
- That we were currently operating in a difficult economic climate and so it was possible that Government may choose a more economic alternative to statutory regulation;
- That it was important to understand more about the Regulatory Impact Assessment tool;
- One option would be for the professional bodies to oversee a voluntary register to avoid the reputational risk of a regulatory body undertaking this role;
- That it was possible that licensing would be an alternative to statutory regulation;
- That, in addition to this option, the HPC should be looking at the alternatives to the voluntary register route.

12.5 The Council agreed that they would discuss the issue in more detail at the February 2011 strategy day before deciding whether they wished the Executive to undertake further work in this regard.

**Item 13.10/201 Welsh Language Scheme (report ref:- HPC146/10)**

- 13.1 The Council received a paper for discussion/approval from the Executive.
- 13.2 The Council noted that the HPC must produce a Welsh language Scheme under the Welsh Language Act 1993.
- 13.3 The Council noted the results of the consultation carried out between 1 June and 1 September 2010 and the updated Scheme detailed within the papers.
- 13.4 The Council noted that this was a balanced, proportionate scheme.
- 13.5 The Council agreed:-
- (i) the Welsh language scheme;
  - (ii) the text of the consultation responses document, (subject to minor editing) for publication on the HPC website; and

- (iii) that the Executive should work with the Welsh Language Board to gain final approval of the scheme.

**Item 14.10/202 Appointment of Medical Assessors (report ref:- HPC147/10)**

- 14.1 The Council received a paper for discussion/approval from the Executive.
- 14.2 The Council noted that Article 35 of the Health Professions Order 2001 (“the Order”) enables the Council to appoint suitably qualified registered medical practitioners as “medical assessors” to give advice to Practice Committees on “matters within their professional competence in connection with any matter” which the Panel is considering. The power to appoint medical assessors is delegated to the Chief Executive under the scheme of delegation, subject to “any appointments process established by the Council.”
- 14.3 The Council approved the policy for the appointment of medical assessors.

**Item 15.10/203 Practise Notes (report ref:- HPC148/10)**

- 15.1 The Council received a paper for discussion/approval from the Executive.
- 15.2 The Council noted that the practice notes were kept under regular review and updated to take into account relevant case law, legislation and good practise.
- 15.3 The Council noted that in order to use the collective mark, permission was sought by Registrants using an application form and this was then checked against their registration.
- 15.4 The Council approved two revised practise notes, namely “Discontinuance” and “Misuse of the HPC collective mark” and a new practise note on “Assessors and Expert Witnesses.”

**Item 16.10/204 Draft Report– An exploration of quality assurance programs in professional regulators in Ontario, Canada (Report ref:-HPC149/10)**

- 16.1 The Council received a paper for discussion/approval from the Executive.

16.2 The Council noted that the paper set out the information gathered during a four-day fact-finding visit to regulatory colleges in Ontario to gain an in-depth understanding of the 'quality assurance programmes' in place in each of these. The quality assurance programmes are similar in many respects to the models explored in the ongoing debate about revalidation and are of particular interest as they are focused on supporting registrants to improve the quality of their practice rather than on detecting poorly performing practitioners.

16.3 During the course of discussion, the following points were made:-

- The Council noted the cost implications for running these programmes as outlined on page 28;
- That there was little evidence of the impact of these programmes on public protection;
- That the Colleges appeared to be approaching the programmes differently in part as a result of the original legislation.. However, this legislation has now been amended and is more specific about what the programmes should include;
- That it was felt that these programmes were directed more towards practitioners than academics working in the field;
- That the multi-source feedback was a constructive mechanism in the revalidation process.

16.4 The Council noted that once further research findings from the revalidation project had been completed, the Council would have the opportunity to discuss the wider implications of this report before making a decision on how to progress.

16.5 The Council approved the text of the document for publication on the website.

**Item 17.10/205 Review of the Health Professions Council (HPC) admission forms (report ref:-HPC150/10)**

17.1 The Council received a paper for discussion/approval from the Executive together with a tabled appendix illustrating how the revised admission forms would look.

17.2 The Council noted that the admission forms had been updated following Council's approval to remove the health reference requirement for entry to the Register.

17.3 The Council agreed:-

- (i) that HPC admission forms are amended to remove the requirement for applicants to provide a health reference for entry to the register;
- (ii) that HPC admission forms be amended to include the following self-declaration:

"I declare that my physical and mental health do not impair my fitness to practise the profession to which this application relates"; and
- (iii) that changes detailed under (i) and (ii) be made to the following forms:
  - Registration form – UK applicants;
  - Registration form – international/EEA applicants;
  - Registration form – grandparenting applicants; and
  - Readmission form - applicants wishing to come back onto the HPC Register (re-admission).

## Corporate Governance

### **Item 18.10/206 Appointment of the Internal Auditor (report ref:- HPC151/10)**

- 18.1 The Council received a paper for discussion/approval from the Executive.
- 18.2 The Council noted that the tendering for the internal audit work had been carried out in accordance with the approach and timetable agreed by the Audit Committee at their meeting in June 2010.
- 18.3 The Council agreed to appoint Mazars as HPC's internal auditors for a period of up to four years, subject to an annual review of the internal auditor's performance by the Audit Committee.

### **Item 19.10/207 Appointment of a Council member onto the Communications Committee (report ref:-HPC152/10)**

- 19.1 The Council received a paper for discussion/approval from the Executive.
- 19.2 The Council noted that, in accordance with the process for filling ad hoc vacancies, expressions of interest were sought from members wishing to serve on the Communications Committee. Following consideration of the supporting statements, Council's approval was sought to the appointment of Joy Tweed onto the Committee.

19.3 The Council agreed to the appointment of Joy Tweed to the Communications Committee until July 2011.

**Item 20.10/208 Proposed amendments to the content of the Annual report and accounts (report ref:-HPC153/10)**

20.1 The Council received a paper for discussion/approval from the Executive.

20.2 The Council noted the recommendations of the Communications Committee, namely; to remove the Council and Committee member biographies and attendance tables and to remove the foreword from the Chair and the introduction from the Chief Executive and replace it with a jointly authored introduction.

20.3 The Council noted the additional recommendation of the Communications Committee to consider publishing the attendance tables on the website.

20.4 During the course of discussion, the following points were raised:-

- That attendance tables would not indicate if a member left a meeting early so would not provide a true reflection of attendance over the course of the year
- That attendance was in fact dealt with by means of appraisals and so attendance tables on the website were unnecessary;
- The suggestion was made that the attendance tables should form part of the annual paper submitted to Council on feedback of appraisals, a suggestion members concurred with.

20.5 The Council agreed:-

- (i) the proposed amendments to the content of the Annual report and accounts, with effect from the 2010–11 report, as follows:-
  1. Removal of the “Foreword from the Chair” and “Introduction from the Chief Executive” and instead include one, jointly authored introduction;
  2. Removal the Council and Committee member biographies;
  3. Removal the Council and Committee member attendance tables.
- (ii) that attendance tables form part of the annual paper submitted to Council on the feedback of appraisals.

**Item 21.10/209 Audit Committee Terms of Reference (report ref:- HPC154/10)**

- 21.1 The Council received a paper for discussion/approval from the Executive.
- 21.2 The Council noted that the Audit Committee had recommended some changes to the Audit Committee Terms of Reference. These were reviewed by the Executive and a paper presented to the Audit Committee on 25 November who agreed the changes subject to Council approval.
- 21.3 The Council agreed to the amendments as follows:-
- (i) amend point 3 to read 'review the external auditors' management letters and any other *relevant* reports and to report on these to Council as appropriate.'
  - (ii) add an additional point (as point 8) to read 'to consider the Council's (a) accounting policies and (b) anti-fraud policies and the whistle-blowing processes and make recommendations to the Council and the Registrar (as Accounting Officer) as appropriate.'

**Item 22.10/210 The Health Professions Council (Registration and Fees) (Amendment) Rules 2010 (report ref:-HPC155/10)**

- 22.1 The Council received a paper for discussion/approval from the Executive.
- 22.2 The Council noted that the draft Rules had been agreed in principle at the previous Council meeting in October. The version before Council had now been approved by the Department of Health in accordance with protocol.
- 22.3 The Council agreed that the Health Professions Council (Registration and Fees) (Amendment) Rules 2010 be approved and signed and sealed by the Chair and the Chief Executive on behalf of the Council.

**Item 23.10/211 Public minutes of the Audit Committee held on 23 September 2010 (report ref:-HPC156/10)**

- 23.1 The Council received a paper for discussion/approval from the Executive.
- 23.2 The Council approved the recommendations therein.

**Item 24.10/212 Public minutes of the Fitness to Practise Committee held on 21 October 2010 (report ref:-HPC157/10)**

- 24.1 The Council received a paper for discussion/approval from the Executive.
- 24.2 The Council approved the recommendations therein.

**Item 25.10/213 Public minutes of the Communications Committee held on 4 November 2010 (report ref:-HPC158/10)**

- 25.1 The Council received a paper for discussion/approval from the Executive.
- 25.2 The Council approved the recommendations therein.

The Council noted the following papers:

**Item 26.10/214 Policy and Standards Department Update (report ref:-HPC159/10)**

**Item 27.10/215 Reports from Council representatives at external meetings (report ref:-HPC160/10)**

**Item 28.10/216 Public Minutes of the Education and Training Committee held on 18 November 2010 (report ref:-HPC161/10)**

**Item 29.10/217 Any other business**

- 29.1 There were no additional items for consideration this day.

**Item 30.10/218 Date and time of next meeting**

- 30.1 Council Strategy Day: Wednesday 9 February 2011, 12:30 – 4:30pm  
(Not open to the public)
- 30.2 Council meeting: Thursday 10 February 2011 at 10:30am  
(Open to the public)

Both meetings to be held at Park House.

### **Item 31.10/219 Resolution**

The Council agreed to adopt 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;

- (i) information relating to a registrant, former registrant or application for registration;
- (ii) information relating to an employee or office holder, former employee or applicant for any post or office;
- (iii) 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;
- (iv) negotiations or consultation concerning labour relations between the Council and its employees;
- (v) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (vi) action being taken to prevent or detect crime to prosecute offenders;
- (vii) the source of information given to the Council in confidence; or
- (viii) 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.

<b>Item</b>	<b>Reason for Exclusion</b>
32	iii and iv
33	-
34	iii
35	ii and iv
36	iii, iv, viii

### **Summary of those matters considered whilst the public were excluded**

#### **Item 32.10/220 Minutes of the Private part of the Council meeting held on 14 October 2010 (report ref:-HPC162/10)**

- 32.1 The Council considered and approved the minutes of the private part of the Council meeting held on 14 October 2010.

#### **Item 33.10/221 Matters arising**

- 33.1 The Council noted that there were no matters arising from the private part of the Council minutes of 14 October 2010.



**Item 34.10/222 Legal services tender (report ref:-HPC163/10)**

- 34.1 The Council received a paper for discussion/approval from the Executive.
- 34.2 The Council approved the recommendations therein.

**At 13.30 hrs, with the meeting having been convened for three hours, Council agreed to suspend Standing Order No. 13 in order that the rest of the business could be transacted that day.**

**Item 35.10/223 Transfer of the Regulatory functions from the General Social Care Council to HPC (report ref:-HPC164/10)**

- 35.1 The Council received a verbal update from the Chief Executive relating to the transfer of the regulatory functions from the General Social Care Council to HPC.

**Item 36.10/224 Minutes of the private part of the Audit Committee held on 23 September 2010 (report ref:-HPC165/10)**

- 36.1 The Council considered the minutes of the private part of the Audit Committee held on 23 September 2010 and agreed the recommendations therein.

**Item 37.10/225 Any other business for consideration in private**

- 37.1 There were no items for consideration in private.

Chair: .....

Date: .....