

Council

Public minutes of the 152nd meeting of the Health and Care Professions Council as follows:

Date: Thursday, 5 October 2023

Time: 10am

Venue: Videoconference

Present: Christine Elliott (Chair)
Oli Davies*
Maureen Drake
Rebekah Eglinton
Kathryn Foreman
Helen Gough
John McEvoy
Lianne Patterson
David Stirling
Kathryn Thirlaway (until 11.30am)
Valerie Webster

Apologies: Damien Baker*
Sue Gallone
Steven Vaughan

In attendance:

Zoe Allan, Business Manager
Claire Amor, Executive Director of Governance, Assurance and Planning
Alastair Bridges, Executive Director of Resources and Business Performance
Laura Coffey, Interim Executive Director of Regulation
Madeleine Connor, Senior Policy Officer (for item 7)
Aveen Croash, Quality Assurance Programme Lead (for item 8)
Karen Flaherty, Head of Governance
Rosemary Flowers-Wanjie, Policy Manager (for item 6)
Rachael Gledhill, Head of Policy and Standards (for items 6 and 7)
Colette Higham, Professional Standards Authority
Anna Holdsworth, Capsticks LLP
Alan Keshtmand, Head of Finance
Vesna Maglov, Governance Officer
Thomas Miller, Policy Manager (for item 7)

* Council Apprentice

Bernie O'Reilly, Chief Executive and Registrar
Mark Platt, Policy Lead (for items 6 and 7)
Anna Raftery, Head of Assurance and Compliance (for item 8)
Andrew Smith, Interim Deputy Chief Executive
Leigh-Anna Smith, Case Support Administration Manager
Cain Whitehead, Executive Assistant

Public Agenda

Item 1. 23/93 Chair's welcome and introduction

1.1 The Chair welcomed those present to the 152nd meeting of Council.

Item 1.i. 23/94 Apologies for Absence

1.i.1 Apologies were received from Steven Vaughan. Damien Baker and Sue Gallone had given apologies for the public session and would be joining the meeting for the private session.

Item 1.ii. 23/95 Approval of Agenda

1.ii.1 The Council approved the agenda.

Item 1.iii. 23/96 Declaration of Members' Interests

1.iii.1 Members had no interests to declare.

Item 1.iv. 23/97 Minutes of the Council Meeting of 6 July 2023

1.iv.1 The Council approved the minutes of its meeting of 6 July 2023, subject to the correction of a typographical error and a change to highlight the action from the previous meeting to discuss the impact of 'on hold' cases with the Professional Standards Authority. This would also be added to the matters arising so that the outcome of the discussion was monitored and reported to the Council.

Item 1.v. 23/98 Matters Arising

1.v.1 The Council noted those matters arising from previous meetings.

Standing reports

Item 2. 23/99 Chair's Report

2.1 The Council noted this item.

Item 3. 23/100 Chief Executive's Performance Report

3.1 The Council received the first report from the recently appointed Chief Executive. The report highlighted key areas of development in the reporting period since the Council's last meeting in July 2023.

3.2 The Council noted the following points.

- The All Staff Awayday, which took place on 5 July, and had involved Council members and Council Apprentices and other registrants and had demonstrated the impact of the work of registrants and the HCPC.
- The Chief Executive's meetings with senior leaders from the HCPC's key external stakeholders since he joined the HCPC in July, including the first in-person meeting of the HCPC hosted Professional Body Forum in September, for the professional bodies of all the professions regulated by the HCPC.
- The Chief Executive had provided a comprehensive statement to Module 3 of the COVID-19 Public Inquiry, which was examining the impact of the COVID-19 pandemic on healthcare systems in the four nations of the United Kingdom, in response to a request from the Chair of the Inquiry.
- The latest progress report for the 2023-24 Corporate Plan milestones included as appendix C of the report. The tone of voice project had now been implemented and would be central to how the HCPC delivered services. The English Language Proficiency review, previously reported as 'amber', was now 'green' and the consultation document was included for approval later on the Council's agenda. The implementation of the finance system (Business Central) remained 'amber', due to being delayed against the original timeline to have completed this work last financial year. Progress was now on track against the revised timeline for this project and would move to 'green' once there was sufficient assurance and confidence in achieving the plan. Due to delays in initiating the e-recruitment system upgrade, the delivery of the people strategy project was rated as 'amber', notwithstanding that other areas of the project have progressed as planned, including the launch of the reverse mentoring programme. The online Fitness to Practise (FTP) concerns form was also rated as 'amber' following reengagement with suppliers to deliver better value for money.
- The HCPC's Strategic Risk Register included as appendix D of the report. The HCPC's most significant risk remained financial sustainability. The legislation for the HCPC's proposed fee rise was expected to come into effect in early November 2023 following completion of the negative resolution parliamentary processes in the United Kingdom and Scotland. While financial sustainability would always be a strategic risk for HCPC, the fee increase would help mitigate this risk.
- Performance had been maintained with the Key Performance Indicators (KPI) for closing FTP cases prior to the Investigating Committee Panel (ICP) stage of the process, reflecting the focus on balancing the progression of both older and newer cases.

- The HCPC's corporate sustainability statement had been published on the website following the Council's approval. The delivery of the actions to improve sustainability would continue to be monitored by the Executive Leadership Team and reported to the Council.
- 3.3 The Council noted that the NHS Workforce Plan applied to England only, although similar workforce planning was under way in Scotland, Wales and Northern Ireland.
- 3.4 The resumption of the work to better define and develop principles for advanced practice was welcomed by the Council, building on previous research by the HCPC and the Nursing and Midwifery Council (NMC) while recognising the differences between nursing and other professionals.
- 3.5 The Council noted the improvement in the FTP KPIs and questioned whether the KPIs should be reviewed to better evidence where performance was improving or if it was deteriorating and to support continued improvement. The Interim Executive Director of Regulation was reviewing the KPIs to ensure that these remained appropriate and provided quantitative and qualitative assurance, however, it was not yet clear whether or what changes would be made and whether this would include statistical process control (SPC) charts.
- 3.6 The Council commented positively on the conversations that the Chief Executive was having with staff across the organisation and in a range of roles through the 'Let's Talk' sessions and meetings with every new member of staff. The Chief Executive shared some early insight from staff about their experiences working at the HCPC and how staff were very upbeat and engaged about working for the HCPC and passionate about its purpose. He commented that the areas raised often related to how internal communications addressed the questions or concerns that staff had, and if successfully done, these communications would help maintain positive staff engagement.

Item 4. 23/101 Finance Report

- 4.1 The Council received a report from the Executive Director of Resources and Business Performance and the Head of Finance, outlining the HCPC's financial position as at the end of August 2023. The Chairs of the Audit and Risk Assurance Committee (ARAC) and the People and Resources Committee (PRC) had been briefed on the financial position as described in the report prior to the meeting.
- 4.2 The Council noted the following points.
- The operating surplus at the end of August 2023 was £2.9 million compared to a forecast surplus of £2.4 million. The full year forecast surplus at the end of August was £4.3 million, which was an improved position and a favourable variance of £0.2 million compared to the position at the end of July 2023 and a favorable variance of £4.1 million

compared to the budget for 2023-24, reflecting the decision to set a prudent budget.

- There continued to be a number of significant risks and future liabilities, alongside the need to rebuild reserves to a more sustainable level, which could impact on the latest forecast surplus of £4.3 million, including regulatory reform and the operating model for partners.
- There had been an increase in the levels of international applicants, above previous forecast projections, with 4,000 applications received in August compared to the original forecast of 2,600. This had generated £0.9 million of income (of which £0.8 million was attributable to international scrutiny fees) and had offset a shortfall in income as a result of the increase in registration fees taking place in November rather than July 2023, as originally expected, and an overspend related to FTP legal costs and for Registration (due to an increase in the associated costs for international applications).
- A review of some of the key trends would be carried out prior to the next report to support more accurate forecasting in future reports. This would include international applications, FTP legal costs and the increase in registration fees. The phasing of expenditure for facilities management and for training and development was also being reviewed to ensure that this was accurate given current underspends.
- An interim reserves policy was currently in place as the HCPC built up its reserves, however, if the current position was maintained until the end of the financial year the HCPC's reserves would be in line with the pre-existing reserves policy (i.e. holding positive net assets, less intangible assets).

4.3 The Council noted that the ARAC was monitoring the medium likelihood risk relating to a reduction in international applications and seeking assurance in respect of any changes to the risk profile.

4.4 The ARAC had also reviewed the reserves policy and it had been agreed that it would not be appropriate to revise this until the annual report and accounts for 2022-23 had been finalised and following the implementation of the fee increase. The external auditors, who were present at the meeting where this was discussed, had been content with this approach.

4.5 The Council acknowledged the prudent approach to budgeting, which supported the strategic priority relating to financial sustainability.

4.6 The Council discussed the development of a medium-term organisational plan, which took account of registration fees, international applications, national workforce plans across all four nations of the United Kingdom and other areas of strategic intelligence and insight, to enable the associated planning of resources and financial planning. This was being developed with better data available. The annual budget for 2024-25 would be considered by

the PRC before being presented to the Council for consideration as part of the corporate planning and budgeting processes for 2024-25.

Item 5. 23/102 Fitness to Practise Performance Report

- 5.1 The Council received the report setting out the progress of the FTP Improvement Programme and the impact on operational performance as at the end of August 2023.
- 5.2 The Council noted the following points.
- The performance target of three weeks for progressing a matter to an Interim Order once the need for an Interim Order was identified was being maintained. The twelve week target for progressing a matter to Interim Order hearing from receipt of a concern was not being met and the time taken was 20 weeks. Performance was impacted by the time taken for third party investigations to be progressed and receipt of additional information that changed the risk profile of cases. These measures indicated how effectively risk assessments for cases were completed and updated.
 - The quality and timeliness of risk assessments had achieved the increased target of 80% adherence with best practice standards for four of the last five months. Targeted coaching, support and oversight for less experienced case managers had been implemented when performance had dropped below the target resulting in an improvement. Since May 2023 the 80% target for adherence to best practice standards for the quality and timeliness of case plans had been achieved. Performance was measured based on a review of a sample of cases and cases continued to be reviewed to ensure that there was a case plan and risk assessment in place.
 - The median age of cases closed monitored the balance between the progression of older and newer cases. In August, the median age of cases closed at the threshold and ICP stage was 24 weeks, below the KPI of 33 weeks. The age of cases closed ranged between two weeks and 205 weeks and 37% of cases closed at this stage were within the KPI. The median age of cases concluded at final hearing in August was 61 weeks, which was above the KPI of 39 weeks. The median age of cases was expected to remain above the KPI while older cases moved through the process.
 - There had been an increase in new cases since June 2023. This trend was being monitored and the team had responded well to manage the increase. This increase was reflected in the volume of cases at the threshold stage, 629 at the end of August, although the number of active cases was lower due to ongoing third party investigations. The caseload had remained under 800 since April 2023. There were 117 cases listed or in the process of being listed for final hearing and fewer

cases were being listed for final hearing as a result of introducing frontloaded investigations and legally qualified ICP chairs.

- 5.3 The Council noted the positive impact of the improvements made on the timeliness of decisions by frontloading cases and queried whether virtual hearings had also had a positive impact on timeliness. The changes to the rules to allow remote hearings were progressing through parliamentary processes and virtual or in-person hearings continued to take place on a consensual basis. Requests for in-person hearings from registrants were still low. Remote hearings did take longer, on average, than those in person to allow for more breaks due to the intensity of virtual meetings and this reflected the experience of other professional regulators.

Action: The impact of virtual hearings on the timeliness of hearings would be monitored.

- 5.4 The Council congratulated those involved in the completion of the tone of voice review. The FTP team was seeking feedback on the templates and new information sheets from registrants and participants, and these would continue to be reviewed and updated. The Council also discussed the impact of a more empathetic approach on members of the FTP team. The team had been keen to improve the templates and the feedback through the training and rollout had been positive. Achieving an appropriate balance between compassion and objectivity would be the main challenge and feedback would also be sought from members of the team. The Council was keen for the work around tone of voice to be extended throughout the organisation, particularly to other touchpoints with registrants and the public.

Action: The extension of the tone of voice work to other areas of the organisation would be considered by the Executive Leadership Team.

- 5.5 The Council noted that recruitment to the FTP team remained challenging and the potential impact on the team as well as the increase in expenditure with additional agency staff to cover unfilled vacancies. The Interim Executive Director of Regulation described how agency staff were treated as full members of the team, receiving the same induction and carrying out the full range of functions as team members on permanent and fixed term contracts. The short notice period for agency staff did create some anxiety for team members given the impact on the wider team having to respond quickly when agency staff left. The recruitment strategy and the case manager role were being reviewed to attract candidates, however, other regulators also struggled to recruit to these roles in a competitive jobs market.

Items for discussion/decision

Item 6. 23/103 Standards of Conduct, Performance and Ethics Consultation Response

- 6.1 The Council reviewed the paper from the Policy Manager, which summarised the outcome of the public consultation on the revised Standards of Conduct

Performance and Ethics (SCPEs) and guidance on social media and the proposed changes and included the equality impact assessment (EIA). The Council had previously considered the initial analysis of the consultation responses at its meeting on 6 July 2023 and the recommendations it had made had been incorporated in the final version of the SCPEs and guidance.

- 6.2 The Education and Training Committee (ETC) had reviewed the final proposed revisions to the SCPEs and the guidance on social media at its meeting on 6 September 2023 following a workshop for ETC members on 2 August 2023, to which all Council members had been invited. Feedback from the ETC had been reflected in the final version of the SCPEs and guidance. The ETC had also considered and supported the approach to develop online materials on working sustainably in health and care to be followed by drafting a new Standard relating to sustainability to be consulted on and introduced as part of the review of Standards of Education and Training (SETs) and future guidance between 2024-2026. This intention had been clearly signalled to registrants.
- 6.3 The Council commended the comprehensive paper and the thoroughness of the consultation, including the consideration of the impact of the changes on different groups as documented in the EIA. The Council requested that an executive summary was included in the Consultation outcome document to be published.

Action: An executive summary would be added to the Consultation outcome prior to publication.

- 6.4 The Council welcomed the values-based approach in the guidance on social media. The Council discussed the challenges presented by social media and the need to keep the guidance under review as technology evolved to provide appropriate support to registrants. Further feedback would be sought through the implementation period, including a thematic workshop about communication and social media. This would be part of an ongoing conversation with registrants and stakeholders and the HCPC would return to this area regularly through the review of other Standards.
- 6.5 It was clarified that while the Standards would not apply retrospectively to historic social media posts by registrants, these could still be reviewed and investigated depending on the content in the HCPC's role to protect the public. Posts by registrants using anonymised accounts would be subject to the Standards, however, it was recognised that this may present challenges from an enforcement perspective.
- 6.6 The Council approved the launch of the revised SCPEs and the guidance on social media during the week commencing 9 October 2023 and bringing these into force in September 2024. The Council also agreed the following post-consultation activities:
- implementation actions, including workshops exploring each of the SCPEs in the eleven month period for implementation; and

- the development of online materials on working sustainably in health and care to be followed by drafting a new Standard relating to sustainability to be consulted on as part of the review of SETs and future guidance between 2024-2026.

Item 7. 23/104 Consultation on Changes to English Language Proficiency for International Applicants

- 7.1 The Council reviewed the paper from the Policy Manager. The Senior Policy Officer responsible for the EIA also joined the meeting for this item. The paper provided an overview of the policy proposals and plans for communication and engagement during the consultation period. The Policy and Standards team had carried out pre-consultation engagement with internal and external stakeholders and the feedback had been used to inform the proposals in the planned consultation and guide the plans for communication and engagement. The plans for engagement were designed to maximise the breadth of engagement and the number and diversity of responses and would be supported by the Professionalism and Upstream Regulation and Communications teams.
- 7.2 There had been a Council seminar in June 2023 and a workshop for ETC members had taken place on 2 August 2023, to which all Council members had been invited, that had considered and inputted to the policy proposals. The Council noted the following points:
- the proposals to be consulted on were intended to lead to a more objective and consistent approach, which would be fairer and easier to understand;
 - it was recognised that there could be cost implications for registrants who would no longer be able to make a self-declaration that English was their first language;
 - it was expected that the EIA would be updated as a result of the consultation process due to the equalities based questions in the consultation and the HCPC's Equality, Diversity and Inclusion Forum had been involved in the pre-consultation engagement; and
 - the HCPC had taken the learning from recent, more specific reviews carried out by the General Medical Council (GMC) and NMC.
- 7.3 The Council supported the careful and transparent approach to the consultation described in the paper recognising that this was an important and sensitive area. The Council discussed the reasons why self-declaration had been adopted by the HCPC and was not used by the GMC and NMC, which had been in place for many years. There were also a range of approaches to the use and content of country lists by other regulators in health and care and other sectors, including national governments.

Action: It would be helpful to see the countries included on different regulators' country lists presented in a way that would allow for easy comparison.

- 7.4 The Council supported the planned engagement and communication activity and recommended that this encompassed groups with specialist knowledge and expertise who would be able to contribute on the specific areas of impact identified in the EIA. The learning from recent consultations would also inform the consultation process and the wider policy and approach by the HCPC for carrying out a good consultation.
- 7.5 The Council approved the launch of the consultation on English language to run for 13 weeks, from 16 October 2023 to 19 January 2024.

Item 8. 23/105 Risk Appetite Review

- 8.1 The Head of Assurance and Compliance presented the outcome of the 2023 review of the HCPC's Risk Appetite Statement, including the proposed new risk types and risk appetite, based on the input from Council members and the Executive and Senior Leadership Teams. The ARAC had also considered and provided feedback on the review at its meeting on 20 September 2023. Everyone who had contributed to the review was thanked for their contribution and there had been a great degree of alignment among the responses.
- 8.2 The Council discussed how risk appetite would be used by staff in practice to support and empower decision-making throughout the organisation. It was agreed that the Risk Appetite Statement would provide guidance for staff and ensure the organisational risk appetite was considered when making decisions and that the rationale and support for exceeding risk appetite or taking less risk was clear. The Executive and Senior Leadership Teams would be considering how to communicate the information proactively through team meetings and workshops so that this reached a wide audience.
- 8.3 The Council approved the revised Risk Appetite Statement.

Item 9. 23/106 Council Apprentices 2024

- 9.1 The Council reviewed the proposal for the continuation of the Council Apprentice initiative for a fourth year. The current Council Apprentices had provided feedback on their experiences in the role, which had informed the proposal to continue with the initiative and would also be used in the recruitment materials and campaign for the fourth year of the initiative if its continuation was approved by the Council. The feedback had suggested that a two year term for the Council Apprentices could be more beneficial in allowing the Council Apprentices to get the most from the opportunity and make a greater contribution to the HCPC in the role. However, the proposal was to continue with a one year term for the fourth year to maximise the opportunities offered for a larger and more diverse group of registrants. There would be a one month overlap with the term of office for the current Council

Apprentices to support the introduction of the new Council Apprentices to the role and the HCPC.

- 9.2 The Council recommended that it was made clear to applicants for the Council Apprentice role that they should seek the support of their employer in advance of taking on the role given the required time commitment. It was also suggested that some information was provided to employers to reinforce the value and importance of the role and the learning and development opportunity it provided.

Actions:

- The need for support from employers would be reiterated in the recruitment process.
- The Executive Leadership Team would consider the information that could be provided to employers about the role at the application stage and the conclusion of the term.

- 9.3 The Council approved the proposal to run the Council Apprentice initiative for 2024.

Public items to note

Item 10. 23/107 Unconfirmed minutes of the Education and Training Committee of 6 September 2023

- 10.1 The Council noted this item. The Chair of the ETC thanked the Education team for the recent review of the Education and Training Panel approval process and the speed and thoroughness of the implementation of the changes.

Item 11. 23/108 Unconfirmed minutes of the People and Resources Committee of 7 September 2023

- 11.1 The Council noted this item.

Item 12. 23/109 Unconfirmed minutes of the Audit and Risk Assurance Committee of 20 September 2023

- 12.1 The Council noted this item. In the absence of the Chair of the ARAC, a member of the Committee highlighted the feedback from both external auditors about how well prepared the Finance team had been and the smoothness of the external audit process as a result.

Item 13. 23/110 Decisions outside of meeting

- 13.1 The Council noted this item.

Item 14. 23/111 Resolution

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
15	H
16	H
17	H
18	H
19	H
20	H
21	H

The meeting was adjourned at 12.10pm.

Chair:

Date: