

## **Tribunal Advisory Committee**

### **Public minutes of the 10<sup>th</sup> meeting of the Tribunal Advisory Committee held on:-**

**Date:** Tuesday 17 September 2019

**Time:** 1pm

**Venue:** Room K Health and Care Professions Council, Park House,  
184 Kennington Park Road, London SE11 4BU

**Present:** Graham Aitken  
Catherine Boyd  
Philip Geering  
Sheila Hollingworth  
Alan Kershaw  
Marcia Saunders (Chair)

### **In attendance:**

Claire Amor, Secretary to the Committee  
Claire Baker, Tribunal Services Manager – Hearings  
Brian James, Head of Fitness to Practise  
Zoe Maguire, Head of Tribunal Services  
Deborah Oluwole, Tribunal Services Manager – Scheduling  
Uta Pollmann, Partners and HR Manager

## Public agenda

### **Item 1. Chair's welcome and introduction**

- 1.1 The Chair welcomed Committee members and the Executive to the tenth meeting of the Tribunal Advisory Committee.
- 1.2 The Committee noted that the Chair had presented the Committee's annual report to the Council at its July meeting. The report was well received, with enthusiasm for the Committee to consider how it could continue to add value.
- 1.3 The Chair noted that she and Committee member Catherine Boyd had met with Council member Stephen Cohen to inform his review of FTP data reporting.
- 1.4 The Chair advised that she continued to meet with the Chairs of the equivalent committees of the other healthcare regulators.
- 1.5 The Committee noted that the government's response to the regulatory reform consultation, and the FTP annual report draft had been circulated to members since the last meeting of the Committee.

### **Item 2. Apologies for absence**

- 2.1 No apologies were received.

### **Item 3. Approval of agenda**

- 3.1 The Committee approved the agenda.

### **Item 4. Declarations of members' interests**

- 4.2 Graham Aitken, Catherine Boyd and Philip Geering have declared a standing interest as sitting panel chairs due to the nature of the Committee's remit. There were no other declarations of interest.

### **Item 5. Minutes of the Tribunal Advisory Committee meeting of 28 May 2019 (report ref: TAC 18/19)**

- 5.1 The Committee agreed that paragraph 7.3 of the minutes required further clarity. With this amendment, the Committee agreed the minutes from its meeting held on 28 May 2019.

### **Item 6. Matters arising (report ref: TAC 19/19)**

- 6.1 The Committee noted the matters arising from its meeting of 28 May 2019.

- 6.2 The Committee agreed to receive the audit of final hearing decisions by email circulation following the Decision Review Group's (DRG) review of the findings.

**Item 7. Tribunal Advisory Committee review of remit (report ref: TAC 20/19)**

- 7.1 The Committee received a presentation from the Head of Fitness to Practice focused on increasing the added value the Committee could provide.
- 7.2 The Committee noted the following points:-
- proposed areas for future Committee involvement were based on a preliminary discussion with Chair of the Committee and the HCPC Executive, in the context of the desire to be more focused and practical, whilst recognising time and resource limits;
  - whilst the Committee needed to ensure separation of advisory from operational matters, members had experience and expertise to inform changes;
  - the Committee could provide guidance to the Executive on the potential impact and opportunities resulting from the legislative change proposed by the reforming regulation government consultation response;
  - the Committee had already identified the need for a more fundamental review of Practice Notes;
  - the Committee could undertake a holistic review of feedback mechanisms;
  - ongoing FTP partner competency framework and its 'loop' with recruitment, training and assessment would remain an important area for the Committee's focus; and
  - the area of 'research' could include identifying trends in tribunal data to support improvement.
- 7.3 The Committee discussed consent orders, undertakings and the roles of case examiners. It was noted that the HCPC had discussed with Social Work England their intended use of these orders, however these were yet to be tested by practical application. The Head of FTP suggested that the Committee's experience of the application of consent orders in different organisations would be helpful to learn from in preparing for regulatory reform.
- 7.4 The Committee recommended that the Executive review how consent orders are used outside of the healthcare regulators, for example the ACCA.

- 7.5 The Committee remarked on the many positive mentions of the HCPC in the government's response to the reforming regulation consultation. The Committee agreed that the HCPC's less legalistic tribunal culture was an asset to be preserved during future change.
- 7.6 The Committee discussed PNs. PNs had grown incrementally and would benefit from an overarching review of audience, purpose, structure and tone, and the Committee concluded that degree of work involved was considerable and could require additional resource. The Committee agreed that additional Committee workshops could assist with this task but was clear that it should not undertake Executive roles or ownership.
- 7.7 It was agreed that four broad areas would be discussed in small pre-meeting scoping groups prior to the Committee's November meeting. These areas would be regulatory reform, led by the Head of Fitness to Practise; Practice Notes led by the Department Lead – Tribunal Services; Competency Framework linked with Recruitment, Training and Assessment, led by the Partner and HR Manager. Individual members were identified for each group. A further whole-TAC seminar, with invited others, on feedback mechanisms from panels and partners would also be arranged. After initial scoping work by the small groups TAC meeting a whole-TAC workshop would take place on that date prior to the formal meeting.
- 7.8 The Executive agreed to circulate high-level proposals for the areas of focus as agreed in paragraph 7.7 and for how to take them forward e.g. via face-to-face discussion.
- 7.9 Chair and the Secretary to the Committee would subsequently review the Committee's forward planning document to reflect the plans for future work.
- 7.10 The Committee agreed to hold discussions in subject area groups, followed by a collective discussion before the beginning their November meeting. Members agreed to meet at 10.30am before the formal meeting at 1pm.
- 7.11 The Committee agreed that following November's Committee meeting, consideration would be given to the Committee's terms of reference and the need to gain Council agreement for any proposed changes.

#### **Item 8. Head of Tribunal Services report (report ref: TAC 21/19)**

- 8.1 The Committee received a report from the Department Lead - Tribunal Services.
- 8.2 The Committee noted the following points:-

- during the reporting period, the numbers of cases that were adjourned or part heard were slightly below forecast. The numbers of hearings that are not well found had fallen slightly;
- there had been a high level of hearings activity over the last 3-4 months in order to ensure social work cases were progressed, and where possible concluded prior to the transfer in December. The time taken to schedule a hearing had remained consistent;
- the DRG had put in place a not well found action plan which sets out initiatives aimed at addressing the numbers of cases that are not well found;
- in August, the PSA published its annual HCPC performance report. The HCPC did not meet 6 of the 10 FtP standards. The PSA's review covered the period before the implementation of the FtP improvement plan. In their report, the PSA recognised the scale of work and efforts made and acknowledged it is too soon to judge the impact of the changes introduced;
- in July, the specialist ICP Chair pilot concluded and its impact was being reviewed;
- the new sanctions policy went live on 15 July. The majority of FTP Partners completed the e-learning module. The launch was smooth with no issues; and
- 9 PSA learning points had been received in June. Some of the issues raised by the learning points included lack of finding at grounds stage and ensuring the decision was self-contained and easily understood.

8.3 The Committee noted that Mr James Titcombe had been invited to provide a talk to FTP employees titled 'Valuing the Patient's Voice.' Mr Titcombe, a patient safety specialist, was able to offer powerful insight through his experience of trying to find answers as to why his child died whilst in the care of the Morecambe Bay NHS Foundation Trust maternity unit and his subsequent interaction with the NMC.

8.4 The Committee received clarification as to what a self-contained decision meant. It was noted that the PSA learning points received were case specific and did not point to wider issues of policy.

8.5 The Committee noted that Panel members were provided with feedback on PSA learning points when they refer to a hearing they were part of. Wider learning points were included in partner training sessions.

8.6 The Committee noted that the new PSA standards would be applied to the next HCPC performance review. The Executive were working with the PSA to gain understanding on what evidence they will require.

- 8.7 The Committee requested the Executive look into the monthly reminder Panel members used to receive summarising their upcoming hearing activity. If this had been discontinued it was requested that this be clearly communicated.
- 8.8 The Committee agreed to receive the not well found cases action plan as developed by the DRG.

**Item 9. Partner team operational report (report ref: TAC 22/19)**

- 9.1 The Committee received a paper from the Partners and HR Manager.
- 9.2 The Committee noted the following points:-
- the Partner Portal upgrade had initiated, the project would run for 4-6 months;
  - the sanction policy eLearning was launched and 96% of all FTP partners had completed the module. Partners who had not completed the module had been advised that the HCPC would not engage them until they had completed it;
  - information security eLearning training would be launched in September and rolled out to all partners; and
  - the purchase of the Kallidus 360 degree feedback system has been delayed due to the need to obtain approval from the IT board and procurement.
- 9.3 The Committee noted that the FTP recruitment partner had been in place for one year and that the purpose of this role was to support independence and consistency in FTP partner recruitment. If requested by the, the recruitment partner was available to report to the Committee about the recruitment process.
- 9.4 The Committee noted that a deferral procedure had been produced for when Panel members or Panel chairs wish to defer their contract due to health reasons. The Committee noted that deferral would be for up to two years and a minimum of six months upon request. The Committee agreed the procedure.
- 9.5 The Committee noted that a review of partner fees was planned. Questionnaires are to be circulated to relevant organisations to support this. The Committee recommended that organisations outside of the PSA remit be included in the information gathering and suggested CIPFA and the SRA as examples.
- 9.6 The Committee noted that with the transfer of social worker regulation, the number of hearings was expected to halve. The Committee asked what impact this would have on the number of panel members currently

engaged. It was noted that the 8 year rule for Partner appointments would coincide with the removal of social work hearings, as the increased numbers of panel members taken on to support the regulation of social workers occurred in 2012.

**Item 10. Practice Notes (report ref: TAC 23/19)**

- 10.1 The Committee received a paper from the Department Lead - Tribunal Services.
- 10.2 the Committee noted that, following its feedback in May 2019, amendments had been made to the Finding Fitness to Practise Impaired and Drafting Decisions PNs.
- 10.3 The Committee considered whether the PNs should be amended at the present time, as a more in depth review of the approach to PNs was planned. The Committee noted that the PSA reviewed how the HCPC kept its guidance up to date as part of its performance review. It was agreed that the two PNs in question were fundamental to the HCPC's tribunal service and should therefore be amended so as to be up to date as an interim measure.
- 10.4 The Committee agreed to provide feedback to the Executive on the revised PNs and to consider for approval final versions circulated by email.

**Item 11. Any other business**

- 11.1 The Committee agreed to provide feedback to the Head of Fitness to Practise on the draft FTP annual report.

**Item 12. Forward planning (report ref: TAC 24/19)**

- 12.1 The Committee noted this item.

**Item 13. Future meetings:**

- 12 November 2019
- March 2020
- 9 June 2020
- 15 September 2020
- 10 November 2020

**Chair.....**

**Date.....**