

Audit Committee, 13 March 2013

Internal Audit Report – Fitness to Practise

Executive summary and recommendations

Introduction

Mazars has undertaken a review of the arrangements for the management of fitness to practise cases in accordance with the internal audit plan agreed by the Committee in March 2012. The audit considered the following risks:

- Legal cost over-runs.
- Tribunal exceptional costs.
- Rapid increase in the number of allegations and resultant legal costs
- Backlog of FTP cases.
- Reputational damage and/or financial costs of appeals by registrants against decisions.

The report is attached as an appendix to this paper.

Decision

The Committee is asked to discuss and approve the report

Background information

At its meeting in March 2012 the Committee approved the Internal Audit Plan for 2012/13

Resource implications

None

Financial implications

None

Appendices

Internal Audit Report – Fitness to Practise

Date of paper

1 March 2013



Internal Audit Report

**Fitness to Practise
(05.12/13)**

January 2013

FINAL REPORT

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AUDIT CONTROL SCHEDULE:

Client contacts:	Kelly Johnson: Director of Fitness to Practice	Internal Audit Team:	Peter Cudlip: Partner Graeme Clarke: Director James Sherrett: Assistant Manager David Kershaw: Auditor
Finish on Site \ Exit Meeting:	10 December 2012	Management responses received:	3 January 2013
Draft report issued:	21 December 2012	Final report issued:	4 January 2013

In the event of any questions arising from this report please contact Graeme Clarke, Director, Mazars LLP graeme.clarke@mazars.co.uk

Status of our reports

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1. INTRODUCTION

- 1.1 As part of the Internal Audit Plan for 2012/13, we have undertaken a review of the Health and Care Professions Council's (HCPC's) arrangements for the management of fitness to practise (FtP) cases. This audit was included in the Plan primarily due to there being a number of risks in HCPC's Risk Register relating to this area.
- 1.2 We are grateful to the Director of Fitness to Practice, the FtP Team and other members of staff for their assistance during the course of the audit.
- 1.3 This report is for the use of the Audit Committee and senior management of HCPC. The report summarises the results of the internal audit work and, therefore, does not include all matters that came to our attention during the audit. Such matters have been discussed with the relevant staff.

2. BACKGROUND

- 2.1 A Registrant must meet a range of requirements to be considered 'fit to practise'. The requirements include the Registrant possessing the skills, knowledge and character to practise safely and effectively.
- 2.2 The FtP processes overall aim is to protect the public. This is a quasi-judicial process for investigating, managing and reaching decisions on cases concerning whether a Registrant's fitness to practise has been impaired. For example, dishonesty, fraud, hidden mistakes, issues with their own health which may impact on work, carrying out reckless or harmful acts, and abusive or violent behaviour.
- 2.3 The FtP process is not used to investigate or resolve general complaints. When complaints are not relevant to FtP, the complainant may be advised of the alternative options open to them and whether there are any alternative organisations able to help.
- 2.4 If an allegation is serious and there is a suggestion the Registrant may harm themselves or others, HCPC can apply for an interim order to prevent the Registrant practising, or to limit practise until a case is heard. Interim orders apply with immediate effect.
- 2.5 The FtP department within HCPC has developed a financial and resource forecasting and planning model based on trends analysis of the number and types of cases and the resources required to meet demand. There are regular three-monthly reviews through the year looking at the accuracy of projected number of cases and the associated required resources. In August 2012, HCPC took on responsibility for the regulation of Social Workers in England. Social Workers were previously regulated by the General Social Care Council (GSCC). HCPC worked with the former GSCC as part of the 'on-boarding' to ensure that the resource planning model reflected the additional workload which this would generate.
- 2.6 Insurance is in place for exceptional High Court/judicial review costs.
- 2.7 The FtP process is overseen by the Director of FtP, with support from the FtP team. Each case is assigned a Case Manager, who is required to have an objective and unbiased role in the managing of cases throughout the process. The team has access to detailed operational processes in the form of Operational Guidance and Practice Notes.

- 2.8 In order to undertake its responsibilities the FtP team has an annual budget of approximately £10m. For 2011/12 there were 925 FtP cases, from a total of 219,162 registrants. The FtP forecast an increase in the number of cases following the 'on-boarding' of social workers and this has been incorporated into the resource planning model.

3. SCOPE AND OBJECTIVES OF THE AUDIT

- 3.1 Our audit considered the following risks relating to the area under review:

- Legal cost over-runs (*Risk Ref 13.1, HCPC Risk Register, September 2012*);
- Tribunal exceptional costs (*Risk Ref 13.3, HCPC Risk Register, September 2012*);
- Rapid increase in the number of allegations and resultant legal costs (*Risk Ref 13.4, HCPC Risk Register, September 2012*);
- Backlog of FTP cases (*Risk Ref 13.8, HCPC Risk Register, September 2012*); and
- Reputational damage and/or financial costs of appeals by registrants against decisions.

- 3.2 In reviewing the above risks, our audit considered the following areas:

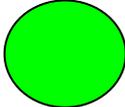
- FtP Work Plan, relevant operational procedures, Operational Guidance and Practice Notes;
- Forecasting of number and types of cases and associated financial budgeting and resource planning;
- Review and on-going management of financial position and resources against forecasts/projections;
- Contractual arrangements and service level agreements with legal advisors;
- Insurance arrangements to cover exceptional legal costs;
- 'Conditions of practice' and 'Suspension' orders, decision-making processes for these, review and extension where applicable; and
- Management and financial information and reporting to EMT/Committee/Council.

- 3.3 The objectives of our audit were to evaluate the adequacy and effectiveness of controls and processes for management of FtP cases, and the extent to which controls have been applied, with a view to providing an opinion on the extent to which risks in this area are managed. In giving this assessment, it should be noted that assurance cannot be absolute. The most an Internal Audit service can provide is reasonable assurance that there are no major weaknesses in the framework of internal control.

- 3.4 We are only able to provide an overall assessment on those aspects of the management of FtP cases that we have tested or reviewed. This audit was not an evaluation of the decisions in particular cases and whether or not decisions were appropriate. Only that appropriate processes are in place for making such decisions and that these have been complied with.

- 3.5 As part of the audit we took account of findings from the most recent Council for Healthcare Regulatory Excellence (CHRE) Performance Review Report and FtP Audit Report and did not duplicate coverage. Our audit therefore did not include detailed sample testing of case files due to work undertaken by CHRE. The CHRE has been renamed and is now known as the Professional Standards Authority (PSA).
- 3.6 The responsibility for maintaining internal control rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy of the internal control arrangements implemented by management and perform testing on those controls to ensure that they are operating for the period under review. We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone are not a guarantee that fraud, where existing, will be discovered.

4. AUDIT FINDINGS: ONE PAGE SUMMARY

Assurance on effectiveness of internal controls	
	Substantial Assurance

Recommendations summary	
Priority	No. of recommendations
1 (Fundamental)	None
2 (Significant)	None
3 (Housekeeping)	None
Total	None

Risk management
<p>As detailed in 3.1 above, HCPC's Risk Register identifies four specific risks relating to FtP. In undertaking our audit, we have confirmed the identified mitigating controls in the Risk Register are in place and working effectively to reduce risk exposure in this area.</p> <p>Reference to risk is also made within the FtP 2012/13 Work plan, and the FtP team manages a number of risks in relation to its functions. FtP has identified as one of its activities, to review and respond to reports issued by CHRE, and its successor the PSA, and other relevant organisations, to ensure that HCPC learns from best practice and identifies and addresses any areas of weakness or risk.</p>

Value for money
<p>Value for money implications arise in this area through the administration and processing of FtP cases as well as the legal costs and time/attendance by various stakeholders at FtP hearings.</p> <p>The administration processes for FtP are subject to regular review to ensure it meets the needs of the business/users and following a Major Project, a new Case Management System was introduced in April 2012.</p> <p>Our review also indicated awareness of value for money within FtP in the context of expenditure in this area. For example, insurance cover has been taken to cover exceptional costs.</p>

5. SUMMARY OF FINDINGS

Overall conclusion on effectiveness and application of internal controls

- 5.1 Taking account of the issues identified in paragraphs 5.2 to 5.3 below, in our opinion the control framework for the management of FtP cases, as currently laid down and operated at the time of our review, provides **substantial** assurance that risks material to the achievement of HCPC's objectives are adequately managed and controlled.

Areas where controls are operating effectively

- 5.2 The following are examples of controls which we have considered are operating effectively at the time of our review:

- HCPC has a non-statutory FtP Committee which oversees and advises on FtP issues;
- FtP Operational Guidance (FOG) documentation is in place for internal use. FOGs are supported by externally available Practice Notes;
- Evidence was available to confirm contractual and SLA arrangements for legal service provision;
- HCPC has insurance arrangements to cover exceptional High Court/Judicial Review costs relating to FtP;
- To encourage receipt of only genuine and relevant FtP cases, information is made available on the HCPC public website. This is sufficiently detailed and includes, for example, terms of reference of investigating committees. Information is also available in paper format;
- Forecasting, re-forecasting and budgeting processes are in place and are scrutinised by senior management, for example at meetings of the Executive Team;
- Information is obtained from the case management system and with the addition of further explanation as necessary is collated into a Fitness to Practise Management Information Commentary. The Commentary, amongst other purposes, can be used as an early indication of where there may be issues arising, such as an increase in FtP cases, which can be incorporated into the resource planning model if required;
- A quality assurance framework is in place to plan when the internal FtP checks, audits and reports are completed and to address any issues identified. The framework enables any recommendations or sector good practice identified by external bodies, such as the PSA (formerly CHRE), to be implemented and incorporated into 'business as usual'; and
- A Fitness to Practise annual report is written to report on key issues of the preceding year.

Areas for further improvement

- 5.3 We did not identify any aspects under the areas considered as part of this review where there is scope for further improvement in the control environment.

Appendix 1 – Definitions of Assurance Levels and Recommendations

We use the following levels of assurance and recommendations in our audit reports:

Assurance Level	Adequacy of system design	Effectiveness of operating controls
Substantial Assurance:	While a basically sound system of control exists, there is some scope for improvement.	While controls are generally operating effectively, there is some scope for improvement.
Adequate Assurance:	While a generally sound system of control exists, there are weaknesses which put some of the system objectives at risk.	While controls are generally operating effectively, there are weaknesses which put some of the system objectives at risk.
Limited Assurance:	Control is generally weak leaving the system open to significant error or abuse.	Control is generally weak leaving the system open to significant error or abuse.

Recommendation Grading	Definition
Priority 1 (Fundamental)	Recommendations represent fundamental control weaknesses, which expose, HCPC to a high degree of unnecessary risk.
Priority 2 (Significant)	Recommendations represent significant control weaknesses which expose, HCPC to a moderate degree of unnecessary risk.
Priority 3 (Housekeeping)	Recommendations show areas where we have highlighted opportunities to implement a good or better practice, to improve efficiency or further reduce exposure to risk.