

Audit Committee, 5 September 2017

Review of financial elements of the scheme of delegation and the financial regulations

Executive summary and recommendations

Introduction

HCPC's scheme of delegation and financial regulations were updated and approved by Audit Committee in October 2014 and by Council in December 2014 and are due for review at least every three years.

The financial regulations are operating effectively and no changes are proposed.

In the scheme of delegation, paragraph 7.4, the only proposed change is to increase the Chief Executive's authority to award contracts from £100k to £250k, in line with the proposed change in the procurement policy. Contracts above £250k may be awarded by the Chief Executive with the approval of the Chair.

Decision

The Committee is asked to review the scheme of delegation and the financial regulations and to agree to recommend the proposed change in the scheme of delegation to Council.

Resource implications

None

Financial implications

None directly

Appendices

Current scheme of delegation, with proposed change tracked, and current financial regulations (no changes proposed)

Date of paper

22 August 2017

Scheme of Delegation

1 Introduction

- 1.1 This scheme of delegation (the **Scheme**) is intended to facilitate the efficient and effective functioning of the Health and Care Professions Council (the **Council**).
- 1.2 The Scheme is designed to ensure that, so far as possible, the Council and its Committees set policy and strategy and the Executive implements that policy and strategy and is responsible for all operational matters.
- 1.3 The Scheme sets out the decisions which the Council has:
 - 1.3.1 reserved to itself;
 - 1.3.2 delegated to its Education and Training Committee;
 - 1.3.3 delegated to the Chief Executive and Registrar (the **Chief Executive**), some of which may also be exercised by nominated officers of the Executive or by persons nominated by the Chief Executive;
 - 1.3.4 delegated to other nominated officers of the Executive.
- 1.4 The Executive, under the direction of the Chief Executive, remains responsible for day to day administration of the HCPC's affairs and nothing in the Scheme applies to any decision which is administrative in nature.
- 1.5 The Scheme does not affect those statutory functions which are conferred upon the Registrar by or under the Order, the discharge or delegation of which are a matter for the Chief Executive (as Registrar).

2 Withdrawal of delegated power

- 2.1 The Scheme remains in force unless and until it is amended or revoked by the Council.
- 2.2 The requirement to amend or revoke the Scheme does not apply to any matter where the Council is of the opinion that delegated authority should not be exercised. In that event, the Council may resolve that delegated authority is not to be exercised in relation to that matter.

3 Exercise of delegated power

- 3.1 Where power is delegated under the Scheme, it must be exercised in a manner which is consistent with the Council's obligations under the general law and the Health and Social Work Professions Order 2001 (the **Order**).
- 3.2 In particular, the decision maker must have regard to Article 3(4) of the Order, which provides that the main objective of the Council in exercising its functions is to safeguard the health and well-being of persons using or needing the services of registrants.
- 3.3 The decision maker must also recognise that lawful exercise of a statutory power requires not only formal compliance with the conditions laid down for its performance but also with the principle that all statutory powers must be exercised in good faith and for their proper purpose.
- 3.4 Delegation does not impliedly authorise sub-delegation. Consequently, a Committee or person to whom the Council has delegated any power may not permit another Committee or person to exercise that power unless the Council has expressly authorised them to do so.

4 Matters reserved to the Council

- 4.1 The Council retains ultimate responsibility for all policy matters including agreeing the overall strategy for the performance of its functions.
- 4.2 The power to make Rules is specifically reserved to the Council by Article 3(12) of the Order and cannot be delegated.
- 4.3 The Council retains responsibility for the following decisions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Council:
 - 4.3.1 establishing the Standards of Proficiency, Standards of Conduct, Performance and Ethics, Standards of Education and Training and Standards of Continuing Professional Development;
 - 4.3.2 prescribing good conduct and good character requirements for safe and effective practice;
 - 4.3.3 establishing criteria for the purposes of Article 13 (grandparenting criteria), Article 15 (approvals criteria) and Article 15B (criteria for approved mental health professionals courses) of the Order;
 - 4.3.4 making recommendations to the Secretary of State and the Scottish Ministers concerning the regulation of any profession or social care workers in England and giving guidance on the criteria that it will take into account in so doing;
 - 4.3.5 making any proposal to the Privy Council concerning the structure of the register;

- 4.3.6 approving any report, plans or accounts to be submitted to the Privy Council, the Secretary of State or the Scottish Ministers;
 - 4.3.7 setting the fees to be charged for or associated with registration (including renewal, readmission, restoration and scrutiny fees);
 - 4.3.8 establishing any committee or sub-committee and making the Standing Orders for any committee or sub-committee;
 - 4.3.9 appointing members to any committee or sub-committee;
 - 4.3.10 appointing or removing the Chief Executive;
 - 4.3.11 appointing members to represent the Council on outside bodies;
 - 4.3.12 entering into any arrangements with a body created or designated by the National Assembly for Wales under Article 20 of the Order;
 - 4.3.13 acquiring or disposing of any freehold or leasehold interest in land and property or other interest in land;
 - 4.3.14 re-structuring the Council's staff where the changes involve 20 or more employees.
- 4.4 The Council is also responsible for making decisions in relation to any matter:
- 4.4.1 in which a person who would otherwise have delegated authority to act has an actual or potential interest;
 - 4.4.2 which, in the opinion of the Chief Executive, would for any reason be more appropriately dealt with by the Council.

5 Matters delegated to the Education and Training Committee

Approving, for the purpose of Article 12 of the Order, qualifications awarded in the United Kingdom which attest to the Standards of Proficiency required for admission.

6 Matters delegated to the Chief Executive

- 6.1 Maintaining the register and establishing arrangements for its publication and inspection.
- 6.2 Issuing certificates of good standing to registrants who wish to practise in another relevant European State.
- 6.3 Referring any allegation received by the Council under Part V of the Order to a Practice Committee or to Screeners. This power may also be exercised by the Director of Fitness to Practise.
- 6.4 Exercising the power under Article 22(6) of the Order to refer a matter for investigation as if it was the subject of an allegation.

- 6.5 Subject to any appointments procedure established by the Council, appointing:
 - 6.5.1 Visitors under Article 16 of the Order;
 - 6.5.2 Members and Panel Chairs of the Practice Committees (collectively, the Health and Care Profession Tribunal (the **Tribunal**)) under rules 3 and 4 of the Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009; and
 - 6.5.3 Legal Assessors, Registrant Assessors, and Medical Assessors under Articles 34 to 36 of the Order.

This power may also be exercised by the Director of Human Resources.

- 6.6 Prosecuting offences under Articles 39 and 39A of the Order (but subject to any prosecution policy established by the Council). This power may also be exercised by the Director of Fitness to Practise.
- 6.7 Conducting and defending all proceedings brought by or against the Council in any court, tribunal or arbitration other than proceedings relating to fitness to practise cases or proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 6.8 Entering into arrangements for the provision of administrative, technical or advisory services under Article 44A of the Order.
- 6.9 Advising the Privy Council that a person has ceased to be a member of the Council. This power may also be exercised by the Secretary to the Council.
- 6.10 Maintaining and publishing the Register of Members' Interests. This power may also be exercised by the Secretary to the Council.

7 Matters delegated to the Chief Executive and any officer nominated by the Chief Executive

- 7.1 Determining applications for registration (but subject to any policies or procedures established by the Council or the Education and Training Committee).
- 7.2 Determining and administering the Council's employment procedures and processes.
- 7.3 Arranging any insurance on behalf of the Council where either the value of the premium payable does not exceed £50,000 or the renewal premium payable does not exceed the previous premium by more than 10%.
- 7.4 Tendering, awarding and varying contracts where the estimated total value does not exceed £250,000. The Chief Executive, with the approval of the Chair of the Council, may enter into contracts which exceed that limit (except in any case where the Council has resolved otherwise).

- 7.5 Approving the terms of any other agreement or transaction of a minor or urgent nature which, in the opinion of the Chief Executive, is in the best interests of the Council.
- 7.6 Managing any property owned by the Council or in which the Council has an interest including the submission of planning and building consent applications.
- 7.7 Appointing (but not selecting):
 - 7.7.1 the members of any Panel which is to determine a registration appeal; and
 - 7.7.2 the Legal Assessor who is to be present at a registration appeal hearing.
- 7.8 Publishing the particulars of decisions (and the reasons for them) made by the Council's Registration Appeals Panel.
- 7.9 Conducting and defending all proceedings brought by or against the Council in relation to registration appeals.
- 7.10 Appointing authorised persons for the purpose of Articles 37(7) of the Order.

8 Matters delegated to the Director of Fitness to Practise

- 8.1 Conducting and defending all proceedings brought by or against the Council in relation to fitness to practise cases and proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 8.2 Appointing authorised persons for the purpose of Article 25(1) of the Order.
- 8.3 Requiring a person to comply with Article 25(2) of Order (certain information to be provided by a registrant who is the subject of an allegation). This power may be exercised by any person nominated by the Director of Fitness to Practise.
- 8.4 Seeking an extension by a court, under Article 31(8) of the Order, of an interim order made by a Practice Committee.

9 Matters delegated to the Head of Tribunal Services

- 9.1 Appointing (but not selecting) the Legal Assessor who is to be present at a Tribunal hearing.
- 9.2 Publishing the particulars of orders and decisions made by the Tribunal (and the reasons for them).

(The Head of Tribunal Services is also authorised by the Registrar under rules 3(2) and 4(3) of the Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009, to invite Panel Members and Panel Chairs of the Tribunal to participate in fitness to practise proceedings.)

10 Matters delegated to the Director of Education

- 10.1 Appointing (but not selecting) Visitors to conduct a visit or perform other functions under Part IV of the Order.
- 10.2 Publishing Visitors' reports and any responses to such reports (where the respondent has asked for it to be published).
- 10.3 Maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions.

11 Matters delegated to the Director of Finance

- 11.1 In conjunction with the Chief Executive, who is the Council's Accounting Officer:
 - 11.1.1 keeping the accounts and preparing the annual accounts of the Council in accordance with Article 46 of the Order;
 - 11.1.2 administering the Council's finances including, but not limited to, the day to day control and regulation of those finances.

7th July 2016

FINANCIAL REGULATIONS

Introduction

1. These Regulations set out the principles governing the financial and accounting practices of the Health and Care Professions Council (**HCPC**). Their purpose is to ensure that the HCPC's finances are managed with probity, accuracy, economy, efficiency and effectiveness.
2. The Regulations have effect as if they were incorporated in the Council's Standing Orders and should be read in conjunction with the Council's Scheme of Delegation.
3. The Regulations are not intended to provide detailed procedural advice and the Chief Executive or Director of Finance should be consulted in respect of any matter which is not covered by the Regulations and which may have a material effect upon the HCPC's finances.
4. Where appropriate, the Regulations will be supplemented by detailed Financial Operating Procedures.

Roles and responsibilities

The Council

5. The Council has the ultimate responsibility for the financial viability of the HCPC and for making arrangements for the proper administration of its finances. The Council exercises financial supervision and control by approving the annual budget and the five year plan, and defining and approving essential features of the financial control framework, including policies on reserves, investment and procurement.
6. Under the Health and Social Work Professions Order 2001, the Council is specifically responsible for:
 - 6.1 setting fees;
 - 6.2 keeping accounts;
 - 6.3 preparing and publishing the annual accounts; and
 - 6.4 appointing auditors.

Audit Committee

7. To assist it in the discharge of its financial responsibilities, the Council has established an Audit Committee, which oversees the HCPC's audit and other risk management arrangements.

Chief Executive

8. The Chief Executive has overall executive responsibility to the Council and as such is responsible for:
 - 8.1 the organisation and management of the HCPC's functions and leadership and management of all employees;
 - 8.2 ensuring that budgets and resources are managed within the estimates approved by the Council; and
 - 8.3 the HCPC's financial operations, including the system of internal control.
9. The Chief Executive has been appointed as Accounting Officer by the Privy Council and, as such, is responsible for ensuring that the HCPC performs its statutory functions within the available financial resources and for complying with the Council's obligations under Article 46 of the Health and Social Work Professions Order 2001.

Director of Finance

10. The Director of Finance is responsible for the administration of the financial affairs of the HCPC, in particular, by:
 - 10.1 implementing the Council's financial policies;
 - 10.2 maintaining effective system of internal financial control, including ensuring that detailed procedures incorporate the principles of separation of duties and appropriate internal checks, keeping the Financial Regulations under review and reporting to the Chief Executive on any matters that may require revision;
 - 10.3 ensuring that records are maintained which explain the HCPC's transactions and disclose, with reasonable accuracy, the financial position of the HCPC at any time;
 - 10.4 providing financial advice to the Council, its committees and employees;
 - 10.5 preparing such accounts and reports as the HCPC may require for the purpose of carrying out its statutory functions;
 - 10.6 ensuring that good financial practice is adopted by HCPC, in accordance with accepted professional standards and taking account of advice received from the internal and external auditors; and
 - 10.7 preparing Financial Operating Procedures to supplement these Regulations.

Budgets and Financial Planning

Financial Planning

11. The Chief Executive will each year produce a draft annual budget for submission to the Council including:
 - 11.1 a statement of the Council's priorities and objectives for the year;
 - 11.2 the planned use of resources to reflect those priorities and achieve those objectives;
 - 11.3 the financial implications of the planned use of resources; and
 - 11.4 performance targets established by the Council.

Annual Budget

12. Resources are allocated annually by the Council. Directors and Managers are responsible for the efficient and effective use of the resources allocated to them.
13. The Chief Executive is responsible for preparing an annual budget and capital programme each year for approval by the Council.
14. The Chief Executive must ensure that detailed budgets are prepared in order to support the resource allocation process and that these are communicated to Directors and Managers as soon as possible following their approval by the Council.
15. The Chief Executive is responsible for the day to day management and control of the annual budget and capital programme and may:
 - 15.1 authorise spending on items not exceeding £50,000 each;
 - 15.2 with the approval of the Chair of Council (except in any case where the Council has resolved otherwise), authorise spending on items which exceed that limit; and;
 - 15.3 authorise all payroll transactions.

Budgetary Control

16. The control of expenditure within an agreed budget is the responsibility of the Director or Manager who holds that budget (**Budget Holder**) who must ensure that effective day to day monitoring is undertaken. A Budget Holder may delegate authority to use resources within their budget, but may not delegate responsibility for the management of that budget. Each Budget Holder is responsible for expenditure within their budget and will be assisted in this duty by management information provided by the Director of Finance.
17. Budget Holders must report significant deviations from agreed levels of expenditure to the Chief Executive or Director of Finance as soon as they become apparent and ensure that any necessary action is taken promptly.

Accounts

18. HCPC's annual accounts shall be prepared under the direction of the Director of Finance and comply with any relevant statutory requirements and accepted accounting practice.
19. The annual accounts shall be presented to the Audit Committee and subsequently to the Council for approval.

Financial Systems and Procedures

20. The Director of Finance must establish procedures for the secure receipt and payment of all HCPC monies.
21. The HCPC's accounting systems should provide for the allocation of expenditure incurred and income received in a manner which facilitates the preparation of statutory and other accounts, with all items of income and expenditure being allocated to relevant cost centres whenever possible.
22. The Director of Finance will be responsible for the day to day operation and control of the systems and procedures required to:
 - 22.1 order goods and services;
 - 22.2 pay creditors, allowances and expenses;
 - 22.3 collect and bank all income due to the HCPC;
 - 22.4 provide, safeguard and subsequently dispose of HCPC assets; and
 - 22.5 account for taxes and make necessary payments to the appropriate authorities.
23. The Finance Director, working in conjunction with the Human Resources Director, shall be responsible for the day to day operation and control of the systems and procedures required to pay salaries, wages and pensions.

Banking

24. The Council is responsible for the appointment of the HCPC's Bankers.
25. All bank accounts which contain HCPC funds (**HCPC Accounts**) shall be operated in the name of the Health and Care Professions Council and in no circumstances shall HCPC funds be held in an account operated in the name of an individual or with other than HCPC's appointed bankers.
26. The consent of the Council is required before any person opens or maintains any account which contains monies which do not form part of HCPC funds and the title of which includes any reference to the Health and Care Professions Council.

27. All cheques and other documents authorising payment from HCPC Accounts must be signed by two of the following authorised signatories:

- 27.1 the Chair of the Council;
- 27.2 the Chief Executive;
- 27.3 the Director of Finance; and
- 27.4 any other person who is appointed as an authorised signatory by the Chair on the recommendation of the Chief Executive.

28. A person may be appointed under Regulation 27.4 as a signatory for all or specified HCPC Accounts and any such appointment may be revoked by the Chair at any time.

29. Transfers of funds between HCPC Accounts may be undertaken by electronic banking methods without authorising signatures. The Chief Executive shall designate the persons authorised to perform such transactions.

30. Every HCPC Account shall be reconciled at least once every month.

31. The Director of Finance is authorised to invest surplus funds, in a manner which:

- 31.1 manages cash resources effectively and provides security of HCPC's capital; and
- 31.2 accords with any investment policy adopted by the Council.

Borrowing arrangements

32. The approval of the Council is required before the HCPC enters into any borrowing arrangements.

Income

33. The Director of Finance shall establish procedures for the secure collection, custody, control and deposit of all monies due to the HCPC, enabling the HCPC to receive all income to which it is entitled and ensuring that all monies due are collected promptly, including the proper and timely collection of debts.

34. All monies received on behalf of the HCPC shall be banked without delay in one of the HCPC Accounts.

35. All agreements, invoices, receipts and other documents relating to income receivable by the HCPC shall be in the name of the HCPC.

36. The custody of all cash holdings must comply with any requirements of the HCPC's insurers.

37. No deductions may be made from, or personal or other cheques cashed out of, any cash collected or received on behalf of the HCPC.

Debts

38. The Chief Executive shall have all necessary powers to recover debts, including the taking of legal action.
39. The Chief Executive is authorised to write off debts which, after appropriate steps have been taken, are considered to be irrecoverable but no individual debt of more than £5,000 or any debt arising from theft or fraud shall be written off without the approval of the Council.

Expenditure

40. Invoices will only be paid for amounts authorised by an appropriate Budget Holder.
41. Payments shall only be made on invoices where the goods or services have been satisfactorily received. However, in circumstances where advance payment (partial or full) is required as a condition of contract and the HCPC is satisfied that it will ultimately receive the goods and services, then such payments may be made.
42. No credit card account shall be established or operated in the name or on behalf of the Council without the prior express consent of the Council.

Payment of travel, subsistence and other allowances

43. All payments for travel, subsistence or other allowances will be made in line with the expenses policy agreed from time to time by the Council.
44. Claims for payment (including bookings made with any travel company approved by the HCPC) shall be authorised in the following manner:
 - 44.1 claims by employees shall be authorised, as appropriate, by their line manager or another appropriate reviewer within the department;
 - 44.2 claims by Directors or the Chief Executive up to the domestic limit (UK travel, subsistence and allowances not exceeding £500) may be self-authorised but will be subject to an annual audit process conducted by the Business Process Improvement department to ensure compliance with applicable policies;
 - 44.3 claims by Directors which exceed the domestic limit or involve travel outside the UK shall be authorised by the Chief Executive or two other members of the Executive Management Team;
 - 44.4 claims by the Chief Executive which exceed the domestic limit or involve travel outside the UK shall be authorised by the Chair of the Council and the Director of Finance;
 - 44.5 claims by Council members shall be authorised, as appropriate, by the Secretary to the Council, Secretary to the Committees or a relevant Budget Holder;
 - 44.6 claims by HCPC partners shall be authorised by the relevant Budget Holder; and

44.7 claims by the Chair of the Council shall be authorised by the Chief Executive and the Director of Finance.

Contracts and procurement

45. The HCPC is the legal party for all contracts entered into for the purchase of goods and services, for the provision of works and for the purchase of assets, including land and buildings.
46. Contracts and the process through which they are procured must be open and transparent with the successful contractor being chosen on the basis of a fair and competitive process which accords with any procurement policy adopted by the Council.

Asset Management

47. The purchase, lease, rent or disposal of land and buildings by HCPC can only be undertaken with the approval of the Council.
48. The Director of Finance shall be responsible for:
 - 48.1 maintaining a register of all HCPC assets; and
 - 48.2 the safe keeping of deeds, leases, agreements, financial instruments, loan agreements, share certificates and other securities.
49. The Chief Executive shall be responsible for ensuring that appropriate security arrangements exist to cover all HCPC buildings, stores, furniture, equipment, cash, information and records.

Risk Management

50. The Audit Committee is responsible for the oversight of the HCPC's risk register.
51. Insurance arrangements are a key element of risk management and the Chief Executive shall be responsible for arranging appropriate insurance in line with any agreed policy.

Audit Arrangements

52. The Council is responsible for the appointment of the internal and external auditors, acting on the recommendation of the Audit Committee. The same person or firm shall not be appointed to both positions.
53. The main purpose of the internal audit is to provide the Council with independent and objective assurances on the adequacy of the HCPC's financial control, operating control and risk management systems.
54. The external auditor's responsibilities include reporting an opinion on whether the HCPC's accounts give a true and fair view. As part of that responsibility the external auditor obtains an understanding of the system of internal control to the extent that it is relevant to the audit. Including the control environment, the risk assessment process and information technology relevant to financial reporting.

Authority of Internal and External Auditors

55. In order to perform their functions, the internal and external auditors have authority to:

- 55.1 enter, at a reasonable time, any HCPC premises or land;
- 55.2 have access to records, documents and correspondence relating to any transaction of the HCPC;
- 55.3 review any relevant activity of the HCPC;
- 55.4 require and receive such explanations as are necessary concerning any matter under examination; and
- 55.5 require any HCPC Council member, employee or contractor to produce any asset under his or her control for which the HCPC is responsible.

Comptroller and Auditor General

56. Article 46 of the Health and Social Work Professions Order 2001 provides that the HCPC's accounts shall be subject to examination by the Comptroller and Auditor General.

57. For the purposes of such examination, the Comptroller and Auditor General may inspect the HCPC's accounts and any records relating to them. Notwithstanding that power and the powers available under the National Audit Act 1983, the Comptroller and Auditor General shall have the same authority under Regulation 55 as the internal and external auditors.

Subsidiary companies

58. The HCPC shall not establish any subsidiary company (or appoint or remove a director of any such subsidiary company) without the approval of the Council.

Review of Financial Regulations

59. The Financial Regulations will be reviewed at least every third year in order to ensure that they continue to reflect the circumstances of the HCPC and financial best practice.

4th December 2014