

Tribunal Advisory Committee, 31 May 2017

Head of Tribunal Services report - May 2017

Introduction

This update paper summarises a number of key areas of work relating to the planned hearing activity, which is being delivered through the Health and Care Professions Tribunal Service (HCPTS).

It is intended this summary provides a useful context to the Tribunal Advisory Committee (TAC) at their inaugural meeting in May 2017.

Decision

The TAC is asked to:

- i) consider the attached paper.

Background information

HCPTS launch

The HCPTS project has concluded, with the Tribunal Service team going live as planned in the week commencing 24 April 2017.

There were no unplanned events, and all aspects of the project have been delivered.

We have held a project debrief and lessons learned session, and these will be considered by the HCPC Executive team later this month.

Feedback from stakeholders has been positive, with the new external website being well received. The website can be seen at:

www.hcpts-uk.org

Summary of activity

At the TAC induction day, we discussed the reporting available to support any questions that members may have in understanding the planned activity, or the areas that may be best targeted in terms of training or Practice Note development.

We produce a significant amount of management information, as well as an Executive Summary. The latest version can be found at:-

<http://www.hcpc-uk.org/assets/documents/100053C5Enc04-FitnesstoPractisereport.pdf>

Reviewable sanctions

We have identified an emerging trend in the outcomes of cases with a reviewable sanction. The number of reviewable sanctions has increased in the last six months, and the duration of the order has decreased. This has an impact on the ability of the registrant to engage (and mitigate any behaviours or omissions), and makes more challenging the listing of review hearings.

For instance, in the period September 2016 to March 2017, we had 24 new conditions of practice, and 73 suspensions.

In the same period 12 months earlier, there were 23 conditions of practice, and 27 suspensions imposed. As such, the rate of reviewable sanctions has doubled in a year.

Reviewable sanctions are not intended to be punitive. Of the 73 suspensions imposed at the final hearing in 2016-17, 16 (22%) were imposed for 3 to 6 months; 9 (12%) were imposed for 7 to 11 months; and 48 (66%) were imposed for 12 months.

Analysis of these cases shows that a significant number of them related to cases where the registrant had not engaged in the process. There is a similar picture when looking at the reviewable sanctions (both conditions and suspensions) when considered at subsequent reviews.

The net result is that these reviews of short sanctions almost always result in a continuing order, often without changing the terms of the original order.

We think that we would like to enhance guidance for Panels (and for external parties) so that we provide more guidance in the following ways:-

- Whether a baseline of 12 months for a suspension is the expected norm, with an explicit requirement for Panels to include an explanation of why a shorter or longer period is required. We think the parallel with caution orders is useful in this respect.
- How a Panel should consider lack of engagement of the registrant, and what triggers would result in changing the order (either varying the condition, or changing it to a suspension).
- Making clear in the decision the deficiencies in the evidence that meant a reviewable sanction was necessary.

We think that some further work on these issues may also feed into the future training of Panel Members, and that “in the room” written guidance may assist when taking these issues into consideration.

Stakeholder engagement

We meet the registrant representative and professional bodies on a six monthly basis, to engage with their experience of our processes, and update them on planned work. This includes major changes to our operational approaches, or to elicit feedback to consultations or input into our guidance (such as policies or Practice Notes).

We met the group in early May, and have agreed to pilot some initial stages work that may help us develop the requirements for changes to our electronic systems, and allow earlier sharing of information such as witness statements, and to do that by secure electronic file transfer.

This work will inform the requirements gathering activities for the replacement of our existing case management system, programmed to take place over the next 12 months. These requirements will inform any future business case to be made for the new system.

Learning points from Professional Standards Authority (PSA)

We receive learning points from the PSA, following their scrutiny of our panel decisions. We review and respond to each of these learning points, setting out our agreement or otherwise.

We also share the PSA learning point and our response with the panel who sat on the case, so they can see the outcome of their sitting.

We also use the learning points (redacted appropriately) as examples for the Partner Newsletter, or as examples in the refresher training sessions.

We report the number of learning points in our management pack that goes to the Executive Management Team and Council. Where obvious, analysis of themes or trends is undertaken, but the complex and specific nature of cases and different individuals means that this can be undertaken at the highest level only.

Pre-instruction work for Case To Answer decisions

Working with our external investigators, Kingsley Napley (KN), we carefully manage the open investigations against contractual service level targets. Ninety percent of instructed cases should be returned to HCPC scheduling team for fixing within 10 weeks. The remaining 10% allows for complex Police or health investigations. We have a case plan on instruction, and a 5 week report of progress.

We hold a weekly teleconference to discuss complex cases, or seek additional instruction. We also have a monthly service level review meeting and analyse cases that do not comply.

Recent audits have shown that there are a number of common areas that can delay completed investigations. These include: getting information from employers or other parties; maintaining engagement with witnesses to be interviewed or provide statements; getting availability for witnesses or experts to attend a hearing.

We have developed an escalation mechanism to identify these issues on cases before they go to our external investigators. We have developed a suite of standard letters to

explain our article 25 powers to request information, to alert employers (at executive level) of the requirement to free members of staff to provide information as part of our investigation, especially when the employer is the complainant.

We will be reviewing the impact of this on the progression of cases during the summer months.

Usage of 405 Kennington Road: report to Audit Committee.

The Audit Committee commissioned a report on the usage of the space at 405 Kennington Road. HCPTS team members have been involved in providing data to the auditor, and a report will be considered by the Audit Committee in June 2017. The Director of FTP, Head of Tribunal Services and Tribunal Services Manager met with the auditor in advance of the draft report being available.

Overall, usage of the space has exceeded the planned levels in the forecast (92% for the period April 2016 to March 2017, compared with a target of 90%). In April 2017, the occupancy rate has been 94%.

The scheduling team have effective systems to maximize use of the building to ensure that:-

- Best use of resources is achieved
- There is a consistent experience from hearing participants
- Cancellations or changes in scheduling can be reused for other uses, such as training or meetings.

Resource implications

There are no resource implications arising from this update paper.

Financial implications

There are no financial implications arising from this update paper.

Appendices

There are no appendices associated with this update.

Date of paper

22 May 2017