

Tribunal Advisory Committee, 31 May 2017

## Panel Training programme overview

### Introduction

The FTP and Partners' Unit teams currently deliver a range of training to support Partner to:-

- Complete their induction on appointment to the role
- As part of refresher training, understand changes to legislation or processes, or develop and maintain their skills in assessing and weighing evidence, and using it to make a decision as a panel.

Following the TAC induction, it was agreed that the current training would be shared.

### Decision

The TAC is asked to:

- i) consider the attached paper; and
- ii) advise on any additions that may be required.

### Background information

Training is delivered to all of those involved in panel decisions. This includes Panel Chair, Registrant and Lay Panel Members, and Legal Assessors.

On appointment, all Panel members receive the detailed New Panel Member training. We then deliver a refresher session within 2 years. Panel Members with performance issues may be required to have refresher sessions earlier than this, on advice from the Partners' Unit.

Training is delivered in groups, and specific training is delivered to Chairs and Legal Assessors, separate from the Panel Members. This is to allow specific discussions about leadership and legal matters.

Training is delivered over two days, and is a mixture of presented material, with group or individual exercises. The content of these exercises is drawn from suitably anonymized cases, and is focused on decision making, weighting of evidence or production of reasoned decisions. General themes of case management and balancing the requests for adjournments versus pursuing the case are also covered.

There are sessions that cover:-

- Case law and legal precedents, as well as the Order. This is delivered by HCPC's Special Counsel.
- Data security and handling of sensitive information, delivered by HCPC Business Process Improvement team. Panel members are also required to complete the HCPC standard on-line data security training programme.
- Information relating to pre-hearing case management activity, the role of the Investigating Committee and the relevant tests applied by the Panels when deciding a Case To Answer.
- Scheduling and fixing processes, and the requirements of Panel Members in making themselves available for new and resuming activity.
- Understanding the role of the Professional Standards Authority, and the way we use learning points from specific cases.

In addition to the training programme, we produce a quarterly newsletter, which sets out new developments – either in case law or process – that emerge between revisions of the training programme material.

### **Resource implications**

The review process is managed through the existing FTP and Partners' Unit processes and existing resources. The number of sessions is related to the recruitment process and FTP hearing activity forecast.

### **Financial implications**

Changes to the mechanism for delivery of the training programme may require a review of the approved budget.

### **Appendices**

Appendix 1: slides from latest Partner Training programme

### **Date of paper**

22 May 2017

2017

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# New panel member training

Format, Opportunity for  
discussion, Q&A

Mobile phones  
Washrooms  
Fire Alarm

Welcome

Your information packs  
– practice notes/policies  
(also on HCPC website)  
& evaluation forms

Speakers and sessions

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## Aim

Introduce you, as a new panel member to the legal framework that underpins the work of HCPC and provide you with a sound understanding of the Fitness to Practise process and your role

## Objectives

The objectives for this two day event are to:

- 1. Describe the importance of equality and diversity in your role as panel member
- 2. Describe the key elements of the legal framework, evidence management and decision making
- 3. Describe why information security is key to the fitness to practise area of work
- 4. Describe the fitness to practise process from the investigating panel to final hearings, decisions and sanctions



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❖ Day 1:

- Information Security
- Legal framework and human rights
- Evidence and its management
- The Partners team
- Engagement skills
- Decision Making

❖ Day 2:

- Equality and Diversity
- The Investigating Panel and Registration panels
- Conduct and Competence Committee panels
- Decisions and sanctions

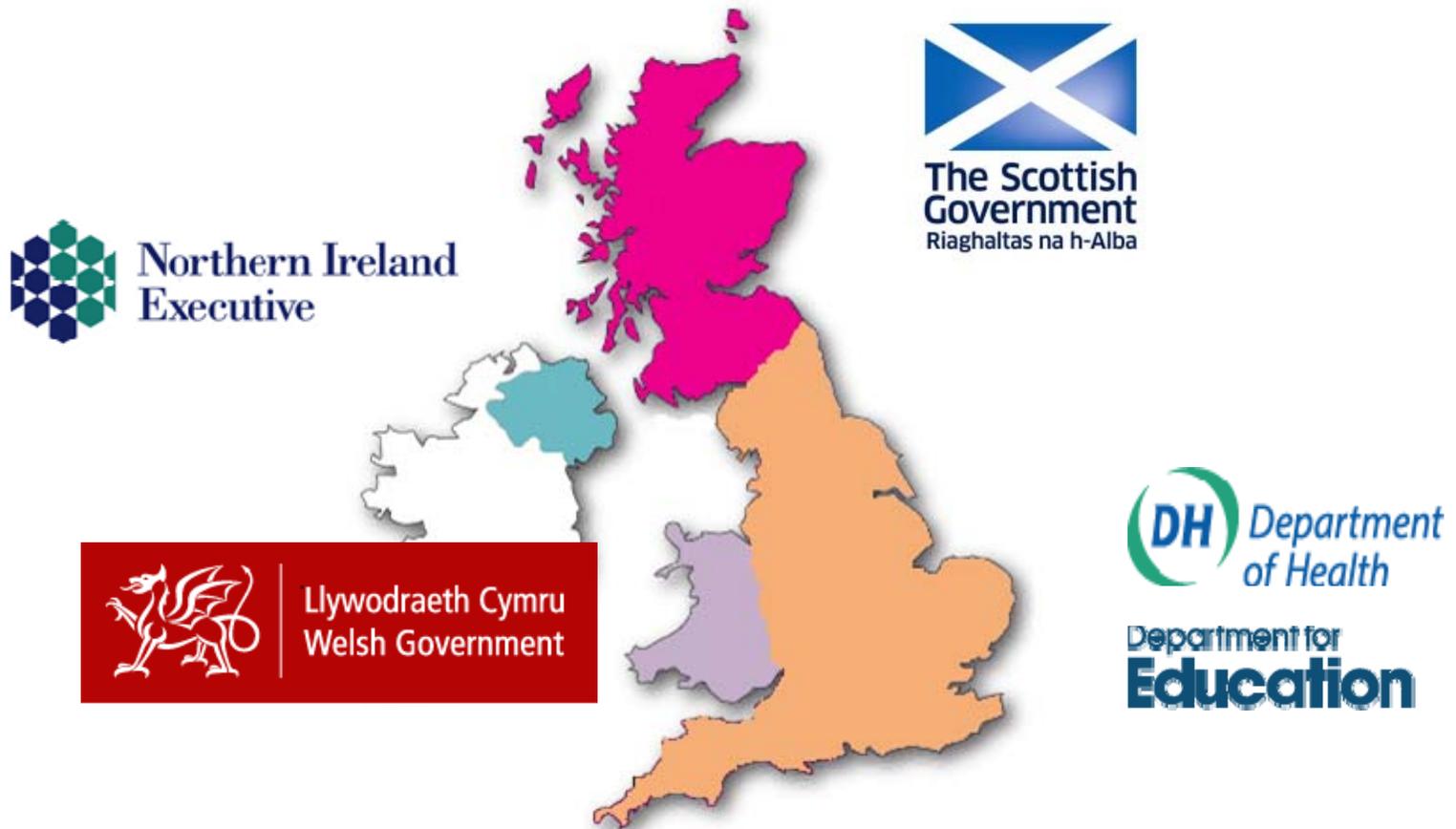
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# Health and Care Professions Council

Set up in 2001, replacing 12 separate Boards, to regulate:

- Arts Therapists
- Biomedical Scientists
- Chiropodists and Podiatrists
- Clinical Scientists
- Dietitians
- *Hearing Aid Dispensers*
- Occupational Therapists
- *Operating Department Practitioners*
- Orthoptists
- Paramedics
- Physiotherapists
- *Practitioner Psychologists*
- Prosthetists and Orthotists
- Radiographers
- *Social Workers (England)*
- Speech and Language Therapists

## UK-wide regulation\*



\*except for social workers (England only)

## Truly multi-professional regulation



## HCPC's objective

“The main objective of the Council in exercising its functions shall be to safeguard the health and well-being of persons using or needing the services of registrants.”

*Articles 3(2) and (4), Health and Social Work Professions Order 2001*

## Integrated regulation



## Snapshot of Fitness to Practise Statistics

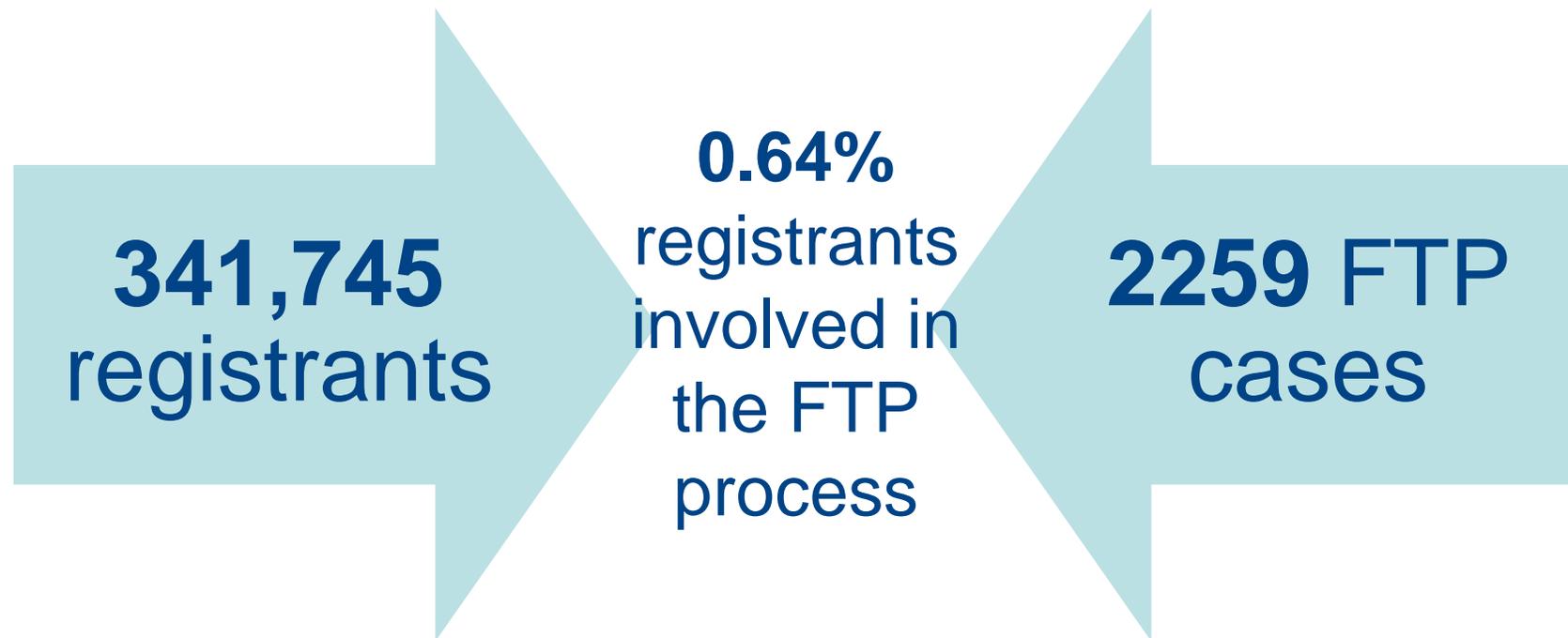
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
FTP cases received	925	1657 plus 217 GSCC transfer	2,069	2170	2127	2259
Cases considered at ICP	516	647	707	810	787	653
Case to answer %	51%	62%	53%	54%	63%	71
Concluded final hearings	287	228	311	351	320	445

### Additional activity...

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Interim order hearings	197	222	265 (99 IO Apps)	329 (80 IO apps)	346 (86 IO apps)	466 (142 IO apps)
Review hearings	126	83	159	166	202	216

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**Who does it affect?**



**26.4% of FTP cases were raised by employers**

- 
- ISO27001 Standard on Information Security

# An update on Information Security for HCPC (Panel) Partners

- Roy Dunn

- Head of Business Process Improvement

# Your agreements with HCPC

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**PARTNER SERVICES AGREEMENT**

**Date** [date]

**Parties**

- The **HEALTH AND CARE PROFESSIONS COUNCIL** of Park House, 184 Kennington Park Road, London SE11 4BU (the **HCPC**); and
- [NAME]** of **[address]** (the **Partner**)

**Partner Role**

This agreement confirms the terms of appointment of the Partner to

"Services" means the services of a **[Partner Role]** to be provided by the Partner as set out in Part A of the Schedule to this Agreement.

**2. Term of Agreement**

This Agreement shall commence on **[date]** (the **Commencement Date**) and shall continue for a period of **[four years]**, unless it is terminated in accordance with Clause 12.

**3. Supply of Services**

3.1 The Partner shall provide the Services as requested from time to time by the HCPC.

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 **health & care  
professions  
council**

**Partner Code of Conduct**

**Introduction**

Partners work in several roles for the HCPC. They make important and valuable contributions to HCPC's decision-making processes by providing the following expertise:

- Panel Members** and **Panel Chairs** together form Panels which conduct hearings and make other decisions in Fitness to Practise cases;
- Legal Assessors** advise those participating in Fitness to Practise proceedings, ensure those proceedings are fair and legally compliant and help Panels to draft their decisions;
- Registrant Assessors** and **Medical Assessors** provide professional expertise in Fitness to practise proceedings;
- Visitors** evaluate and report on institutions providing and delivering (or proposing to provide and deliver) approved education and training;
- Registration Assessors** assess registration applications to ensure that applicants meet the required standards of proficiency;
- CPD Assessors** assess registrants' CPD submissions to ensure that they meet the relevant HCPC standards.

HCPC is an open and transparent organisation and Partners should be aware that high standards of conduct and personal integrity are essential to maintaining public confidence in the HCPC.

In performing their roles, Partners are expected to maintain high standards of conduct. This Code of Conduct applies to all Partners and compliance with its terms is part of the contract between each Partner and the HCPC. Partners must ensure that they are familiar with the Code and that their actions comply with its provisions.

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 **health & care  
professions  
council**

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184 Kennington Park Road  
London SE11 4BU

tel +44 (0)845 300 6184  
fax +44 (0)20 7820 9684  
www.hcpc-uk.org

Chair: Dr Anna van der Gaag  
Chief Executive and Registrar: Marc Seale

**Personal**  
XXXXXXXXXXXX  
XXXXXXXXXXXX  
XXXXXXXXXXXX

Date

Dear,

**Accreditation to handle Registrant or Applicant-Identifiable Data**

Your appointment as an HCPC Partner means that you may handle and have access to Registrant or Applicant-Identifiable Data. In order to assist HCPC Partners in complying with our requirements in relation to Registrant and Applicant Identifiable data I write to each new member of staff and each new HCPC Partner highlighting the rules that we have put in place in regard to working with such data. The purpose of this letter is to make clear what the rules are (and I write in similar terms to all HCPC Partners and staff who are not allowed access to Registrant/Applicant data as well).

The Health and Care Professions Council is registered with the Information Commissioner under the Data Protection Act 1998. The Freedom of Information Act 2000, which applies to all public authorities, will also therefore apply to those working with registrant and applicant data. It is the responsibility of the Data Controller to ensure that the Health and Care Professions Council's practices and procedures comply with the Data Protection Act. The Data Controller is the Health and Care Professions Council itself. Individuals (our registrants and applicants) who are the subject of personal data are known as Data Subjects. When processing any personal data for and on behalf of the Data Controller, we require you to comply with the following obligations. The obligations are summaries of the Security and Confidentiality Policy and Procedures and the Information Systems Security Policy and Procedures. As part of your terms

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- Information relating to individuals should not be disclosed to third parties without legal access to the data. This includes external HR Managers of registrants/applicants. They are only a
- If you no longer need to be handling Registrant and of data), inform your HCPC contact and make arran

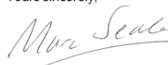
Any requests for confidential information should be refer to the HCPC, who acts as Data Controller. Confidential information relating to applications for registration.

Any questions concerning these obligations should be referred to the HCPC - Tel: 020 7840 9711

Obviously, as one of the people allowed access to Registrant or Applicant-Identifiable Data, you have a special responsibility. But it is not yours alone: HCPC is able to carry out your role as an HCPC Partner by providing you with the necessary processes to deal with any problems that arise. Please ensure you think have not been adequately addressed.

I shall be grateful if, for the record, you will sign and return this letter to me. You will understand the special status and responsibilities of the role and a copy will be retained at the HCPC, or with your HCPC contact.

Yours sincerely,



Marc Seale  
Chief Executive and Registrar

## Data protection principles

We have an obligation to:

- Process personal data fairly and lawfully
- Only obtain and retain personal data for lawful purposes
- Ensure that this data is not excessive
- Ensure personal data is accurate and up to date
- Do not retain personal data for longer than necessary
- Ensure that we take measures to prevent unlawful access or processing of data
- Respect the rights of individuals e.g. [\[9\]](#)
- Do not transfer data outside the EEA unless the country has a certain level of protection
- For more information:  
[http://www.ico.org.uk/for\\_organisations/data\\_protection/the\\_guide/the\\_principles](http://www.ico.org.uk/for_organisations/data_protection/the_guide/the_principles)

..and if you do not follow those principles successfully.....

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## **British Pregnancy Advice Service 7 March 2014**

British Pregnancy Advice Service fined £200,000. **Hacker** threatened to publish thousands of names of people who sought advice on abortion, pregnancy and contraception.

## **Ministry of Justice 26 August 2014**

A monetary penalty notice has been served on the Ministry of Justice for £180,000 over serious failings in the way prisons in England and Wales have been handling people's information

## **London Borough of Lewisham 12 December 2012**

A monetary penalty has been served to London Borough of Lewisham after a social worker left sensitive documents in a **plastic shopping bag on a train**, after taking them home to work on. The files, which were later recovered from the rail company's lost property office, included GP and police reports and allegations of sexual abuse and neglect.

## Health Regulation

**15 February 2013**

A monetary penalty has been served to the **Nursing and Midwifery Council**. The council lost three DVDs related to a nurse's misconduct hearing, which contained confidential personal information and evidence from two vulnerable children. An ICO investigation found the information was not encrypted.

[View a PDF of the Nursing and Midwifery Council monetary penalty notice](#)

[http://www.ico.org.uk/enforcement/~media/documents/library/Data\\_Protection/Notices/nmc\\_monetary\\_penalty\\_notice.ashx](http://www.ico.org.uk/enforcement/~/media/documents/library/Data_Protection/Notices/nmc_monetary_penalty_notice.ashx)

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- reconsidered the amount of the monetary penalty generally, and whether it is a reasonable and proportionate means of achieving the objective which the Commissioner seeks to achieve by this imposition;
- ensured that the monetary penalty is within the prescribed limit of £500,000; and
- ensured that the Commissioner is not, by imposing a monetary penalty, acting inconsistently with any of his statutory or public law duties and that a monetary penalty notice will not impose undue financial hardship on an otherwise responsible data controller.

**Amount of the monetary penalty**

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The Commissioner considers that the contravention of section 4(4) of the Act is very serious and that the imposition of a monetary penalty is appropriate. Further that a monetary penalty in the sum of £150,000 (One hundred and fifty thousand pounds) is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

**Payment**

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The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by 15 March 2013 at the latest. The monetary

## • Health & Care Professions Council (HCPC)

9 July 2013

- An undertaking to comply with the seventh data protection principle has been signed by the Health & Care Professions Council (HCPC) after an incident in which papers containing **personal data were stolen on a train** in 2011. undertaking signed July 2013.
- **Luggage containing a bundle was stolen from a luggage rack at the end of the carriage**

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## Bundle loss – what are the potential impacts?

**BUNDLES CONTAIN.....Patient contact details, clinical information, witness contact details, output from prior investigations, potentially details on those under 16 years of age, other evidence.**

**.....and could result in a fine of up to £500,000 per incident as well as reputational damage**

**What would the bundle relating to this salacious case have contained? Would its loss have been an issue.**



## **What is happening at HCPC?**

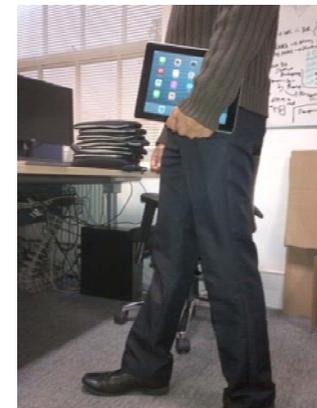
- HCPC is a Data Controller as defined by the Data Protection Act 1998
- HCPC have gained ISO27001 certification
- HCPC are training all employees on an annual basis
- HCPC are attempting to be more robust than the threshold.
- HCPC have been working out where our weakest points are, and addressing issues as they are determined
- HCPC is rolling out specific training to all Partners

## What is my role as a Partner?

- Protect the personal information that you are using at all times
- Ensure it is locked away and out of view of others, including at home-  
**DO NOT USE A FAMILY (or shared) EMAIL ADDRESS**
- Do not read bundles when you are travelling, as the content may be read by others on the same train, aircraft etc
- Thieves love luggage, or parcels, ready wrapped for transportation
- Destroy by shredding or burning all information that you no longer need.
- Do not retain copies of information longer than you could justify to a judge – and destroy the information with care (do not do a Letwin!)
- Minimise the amount of personal information in any correspondence with HCPC

**Our greatest risks – visitors course information, application packs, Registration Appeals, FTP bundles and CPD profiles.**

**Also iPads or other devices in view, reading on transport. Education material contains less personally identifiable information, but more commercially sensitive information**



## Precautions – to reiterate

- High risk to information when travelling, or transporting a pack from the post office to home
- Keeping 'information' in your possession safe is your responsibility
- Do not use a "family" email address for HCPC correspondence, only the Partner should have access. (eg. smiths\_family@222winsford.net)
- If you need a copy of documentation at a later date, it can be resent. Do not retain copies long term & destroy securely, by cross cut shredding or burning.
- Keep bags in sight at all times
- Have an attachment to the information
- If travelling with HCPC information - Avoid end of carriage luggage racks and overhead racks on trains;

## Dispose of HCPC information carefully



The screenshot shows a web browser window displaying a BBC News article. The address bar shows the URL <http://www.bbc.co.uk/news/uk-1>. The page features the BBC logo and navigation links for Sign in, News, Sport, Weather, iPlayer, TV, and Radio. The main headline reads "NEWS POLITICS" and "Oliver Letwin's binning of sensitive papers 'unlawful'". The sub-headline states: "Cabinet Office minister Oliver Letwin breached the Data Protection Act when he dumped sensitive official documents in a park bin, a watchdog has said." The article text includes: "The Information Commissioner Christopher Graham warned that Mr Letwin faces formal enforcement action if it happens again." "The West Dorset MP has now signed a written commitment pledging to dispose of his files in a secure manner." "Mr Graham said: 'It is clear that Mr Letwin has learned from this incident.'" "He added: 'Constituents entrust their Member of Parliament with all sorts of personal information and should never expect the details of the concerns they've raised in...'" A photograph of Oliver Letwin, a man in a suit and tie, is shown on the right side of the article. Below the photo, a caption reads: "Mr Letwin said he was embarrassed by the episode".

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## ISO27001 and onwards

- What is it? ISO27001 is the international standard for managing information security
- HCPC have achieved certification
- Employee and Partner awareness is vital in achieving and maintaining the standard
- This includes not just electronic data but ***all*** data
- Annual HCPC information security training package/ test for all employees, Partners, Council Members and even some legal advisors.
- Finally, **please protect the information we give to you, and yourselves**

# The Legal Framework

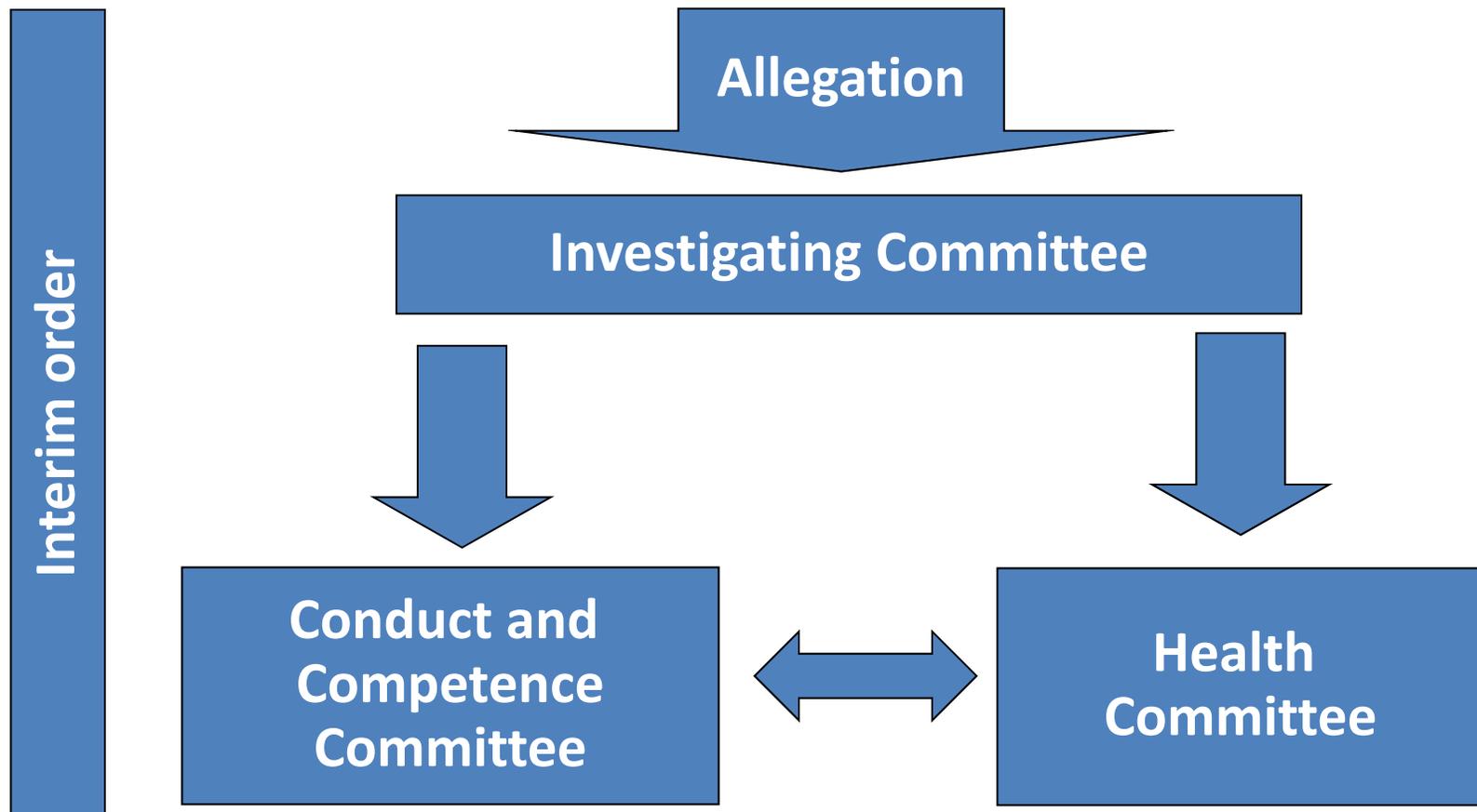
## The legal framework

- Health and Social Work Professions Order 2001
- Statutory Rules
- HCPC Standards
- Practice Committee Directions
- Human Rights Act 1998
- Applicable case law

## The Standards

- Standards of Proficiency
- Standards of Conduct, Performance and Ethics
- Standards of Education and Training
- Standards of Continuing Professional Development
- Standards for Return to Practice

## The FTP process



## **Fitness to Practise**

### **A non-punitive process**

#### **Allegations may relate to:**

- misconduct
- criminal conviction or caution
- lack of competence
- health
- determination by another regulator

#### **Issues to be determined are:**

- is fitness to practise impaired?
- what must be done to protect the public?

## Panels

Three members:

- Panel Chair (lay or registrant);
- Registrant member;
- Lay member.

Sit as one of three “Practice Committees”:

- Investigating Committee;
- Health Committee;
- Conduct and Competence Committee.

## Fitness to practise, not “discipline”

Forget:

- “discipline”;
- “prosecution”;
- “guilty”;
- “punishment”.

FTP is about a registrant’s ongoing fitness to practise.

## Allegations

Three elements to an allegation:

1. facts
2. statutory ground
3. current impairment

***“On [date] at [place] you did [act]. That [act] constitutes [misconduct], by reason of which your fitness to practise is impaired.”***

## The Hearing

- process is “adversarial plus”
- it is for HCPC to prove the facts alleged
- civil rules of evidence
- civil standard of proof
- is the allegation well founded?
  - has HCPC proved the facts alleged?
  - do those facts amount to the “statutory ground”?
  - as a result, is fitness to practise impaired?
- if so, what sanction (if any) is appropriate?

# Impairment

The decision involves consideration of:

**PAST**  
Events and  
Surrounding  
Facts

**PRESENT**  
Circumstances

**FUTURE**  
Safe and  
Effective  
Practice?

## Sanctions

The purpose of sanctions is to protect the public, not to punish registrants. The options are:

- no further action;
- [mediation;]
- caution;
- conditions of practice;
- suspension;
- striking off.

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# REASONS!



# Human Rights Act 1998

## Human Rights Act 1998

“An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights”

“So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with Convention rights” [section 3]

“It is unlawful for a public authority to act in a manner which is incompatible with the Convention...” [section 6]

## Convention rights

### ABSOLUTE RIGHT

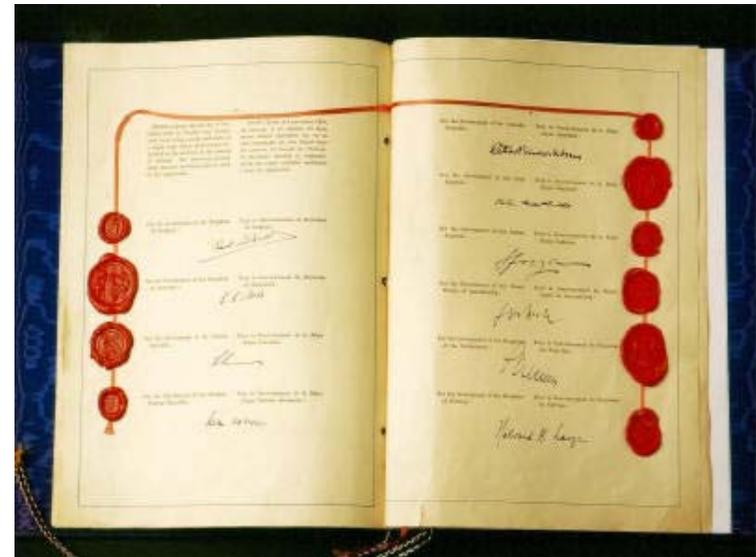
one with which the State  
MUST comply

### LIMITED RIGHT

may only be limited as  
provided in the Article

### QUALIFIED RIGHT

one which may be  
restricted more generally



## **Article 6 - Right to a fair trial**

In the determination of civil rights or a criminal charge:

- fair and public hearing;
- within a reasonable time;
- by an independent and impartial tribunal
- press and public may be excluded in some circumstances.

## **Interpretation**

### **Purposive approach**

- consider the aim of the Convention;
- interpret as a living instrument, in the light of current social conditions.

### **Proportionality**

- is the measure necessary?
- is it the minimum needed to achieve the legitimate aim?

# REASONS!





# Evidence and its management

## Evidence: reasoning from facts

The law of evidence is the law of facts. It regulates:

- the information which may be received by a Panel;
- how that information may be presented; and
- how that information is used.

Evidence must be:

**RELEVANT:** relate to issues the Panel must determine; and

**ADMISSIBLE:** as a matter of law



## Evidence: flawed assumptions

The law of evidence assumes that:

- fact finding is logical, that distractions can be avoided and rational inferences will only be drawn from relevant information;
- it reflects the 'natural' rules of fact discovery, of drawing rational inferences from observations or information;
- as events occur independent of human observation, facts may be revealed through direct observation or by logical inference from the direct observation of others (hence the focus on orality);
- people share a 'common experience' and 'cognitive competence' so that, in assessing information, triers of fact will come to much the same inferences and conclusions.

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## The Birthday Party

Annie and Freddie went to Peter's birthday party. Once all the other guests were there, Peter opened his presents. Later, everyone sang "Happy Birthday" and Peter blew out the candles.



## The rules for Panels are...

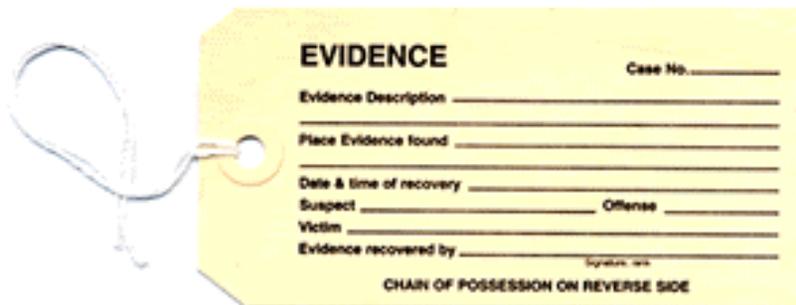
*“the rules on the admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply”*

But, a Panel may:

*“hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public.”*

## The chain of evidence ('bag and tag'):

- source;
- identification;
- collection;
- storage;
- continuity.



**EVIDENCE** Case No. \_\_\_\_\_

Evidence Description \_\_\_\_\_

Place Evidence found \_\_\_\_\_

Date & time of recovery \_\_\_\_\_

Suspect \_\_\_\_\_ Offense \_\_\_\_\_

Victim \_\_\_\_\_

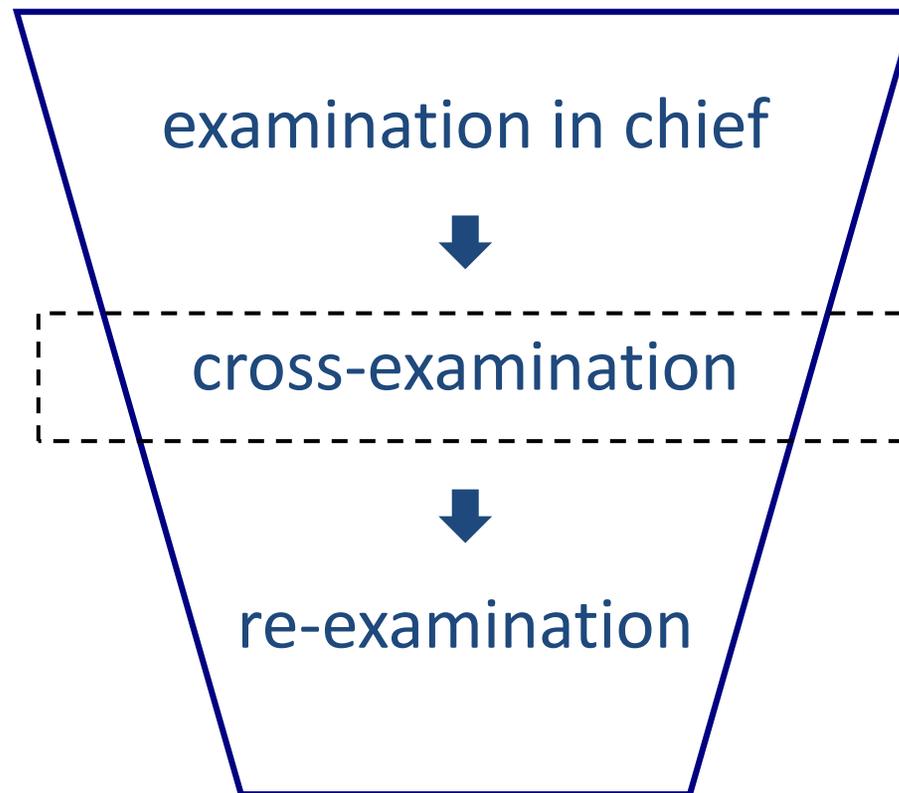
Evidence recovered by \_\_\_\_\_

CHAIN OF POSSESSION ON REVERSE SIDE



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## The evidence 'funnel'



## Opinion evidence...

is generally inadmissible, as it is for the Panel to form an opinion, in the sense of drawing logical inferences from the facts.

Exceptions:

- expert witnesses;
- Assessors;
- statements of opinion on facts in issue.

Opinion evidence is not always expert evidence

## Experts

- It is for the Panel to decide whether expert evidence is required.
- Consent should only be given where the expert can address matters beyond the Panel's knowledge and which need to be addressed.
- Always give directions in respect of expert evidence.
- Wherever possible, an agreed single report should be ordered.

## Hearsay evidence

In civil proceedings evidence shall not be excluded on the ground that it is hearsay.

In this Act...“hearsay” means a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated.

Civil Evidence Act 1995 (s.1);

Evidence shall not be excluded solely on the ground that it is hearsay.

Civil Evidence (Scotland) Act 1988 (s.2)

## Privilege

- Self incrimination.
- Legal professional privilege:
  - lawyer - client communications;
  - documents relating to litigation.
- ‘Without prejudice’.
- Public interest immunity.

## The weight of evidence

Is the evidence:   credible?  
                          reliable?

What about:       accuracy?  
                          motive?  
                          prejudice?

Was it:             hearsay?  
                          direct?  
                          circumstantial?

Draw logical inferences and rational conclusions from the evidence. Do not speculate on matters not in evidence.

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## Directions and Preliminary hearings

*[A Panel] before it holds any hearing... where it considers that it would assist it in performing its functions, [may] hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;*

*Each stage in proceedings under Part V... shall be dealt with expeditiously and the [Panel] may give directions as to the conduct of the case and for the consequences of failure to comply with such directions...*

*The Council may provide in the rules for the Chair... to hold the meeting... or to give the directions... and, subject to the agreement of the parties... to take such action as the Committee would be competent to take at such a meeting.*

## **‘Prelims’ - manage the evidence:**

- to what extent is there agreed evidence?
- are witness or production orders needed?
- is anyone seeking to introduce expert evidence?
- vulnerable witnesses?
- are any special requirements needed (e.g. facilities for videos or exhibits, interpreters, etc.)?
- do further steps need to be arranged to which the Panel has agreed and the registrant has requested or consented?
- are directions needed for the exchange of documents?
- should a date be set for the hearing (or a further preliminary hearing)?

## **Blankshire Courier**

### **Minister left shell shocked**

Health Minister Helen Green faced a hostile demonstration and had eggs thrown at her when she visited Blankshire Hospital yesterday. An egg struck her on the side of the head as she entered the hospital. Another egg, which hit the hospital door, splattered her clothes.

A demonstrator who works at the hospital, John Smith, was arrested shortly afterwards and charged with assault and criminal damage.



## Crime Scene Investigation

The broken shells of the eggs thrown at the Minister were collected by the police and compared to the eggs found in the possession of John Smith.

The Crime Scene Examiner who conducted the comparison states that the eggs bore the same brand marking, source and batch code and date stamp.



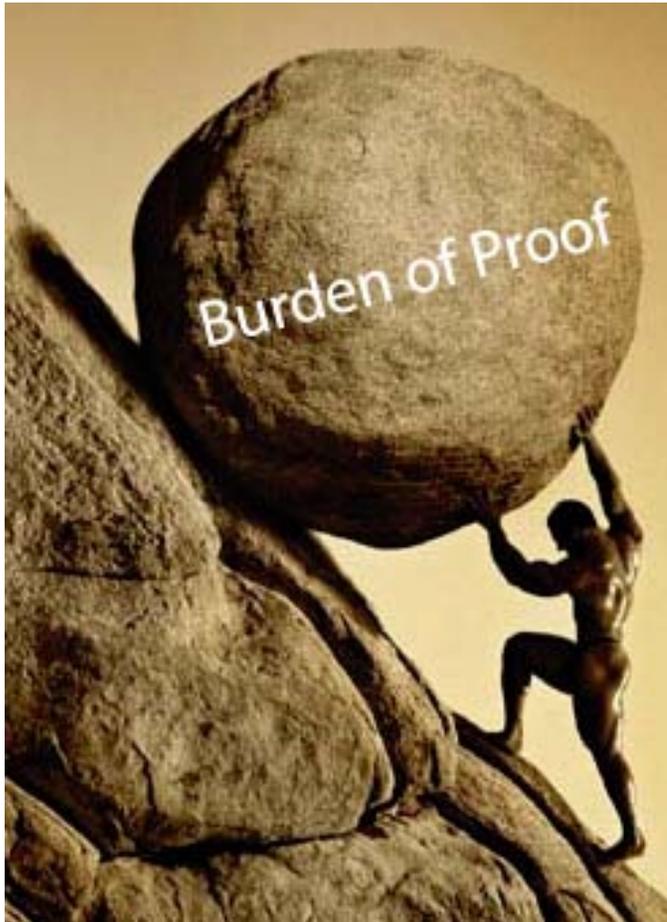
## Further evidence



1. When questioned at the police station, Smith said he stopped at the demonstration on his way home from the market. He said he was in a hurry because he was going out that evening and really should not have stopped. He denies throwing the eggs.
2. The police visit Smith's flat while he is in custody. His flatmates say he went out to buy groceries at the market. They confirm that they were all planning to go out for the evening once John got back.
3. The police go to the market. Only one stallholder has eggs for sale. He says that many customers are students, so he sells eggs loose and provides a discount if they bring their own cartons. He confirms that he has sold hundreds of eggs that way during the course of the day.

**Does any of this evidence change your conclusions?**

## Remember:



- The burden of proof rests upon the HCPC, but only in respect of the fact pattern.
- Whether the 'statutory ground' is established and fitness to practise is impaired are matters of judgement for the Panel, based upon the facts found proved.
- The standard of proof is the balance of probabilities.



# Partner Induction

Partners Team, Human Resources Department

Fiona Palmer  
Partners & HR Manager

## Partners Team

- Fiona Palmer Partner & HR Manager
- Deborah Dawkins Partner Co-ordinator
- Daniel Bair HR Administrator (partners)
- Mita Patel HR Administrator (partners)  
(Mon-Wed)

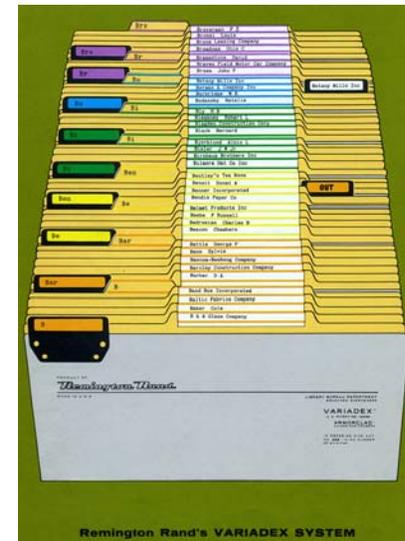
## About the department

- What are we Responsible for?
- Recruitment & Selection



## What are we responsible for?

- Performance management
- Records management
- Partner complaints
- Agreement renewals
- Feedback & Evaluation



## Partners in numbers

- 809 Partners
- 190 Registration Assessors
- 230 Panel Members
- 30 Registration Appeals Panel Members
- 35 Panel Chairs
- 37 Legal Assessors
- 213 Visitors
- 104 CPD Assessors

## Partner Responsibilities

- **The HCPC expects Partners to:**

- Hold valid HCPC registration (unless lay/ legal assessor)

- Keep us updated with current contact details

- Inform us of holidays, sickness or periods of unavailability

- Adhere to the terms of the partner services agreement, partner code of conduct and partner policies

- Declare any potential conflicts of interest

- Take full advantage of training opportunities

- Participate in performance management process

---

## Partner performance management

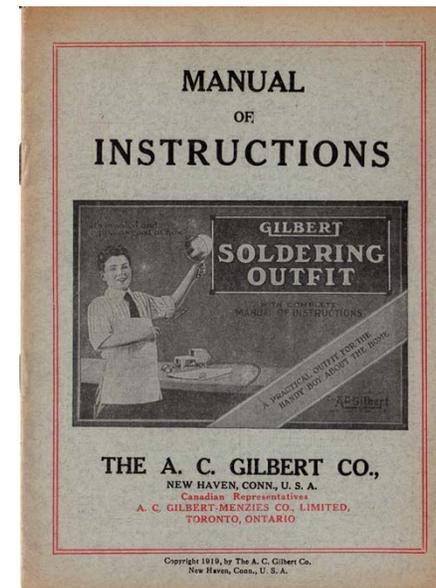
- Why?
  - Benefits
- 
- Self and peer format assessment
  - Five key headlines and scoring
  - Positive and negative indicators and comments



## Assessment Paperwork

- Guidance

- Forms



## **What's happening in the future?**

- New systems for the Partners function Spring 2017
- Online recruitment
- Partner portal
- Online appraisal and training booking
- Improved sharing of information across the organisation
- Increase HCPC and partner engagement

## **Travel and Accommodation**

- HCPC use **Click Travel** for employee and partner travel & accommodation.
- Using **Click** and **booking online** is the most cost effective option.
- Travel within London – Oyster/ contactless
- **Aim for value for money**
  - Standard class travel
  - Railcards
  - Book as far in advance as possible
  - Open tickets only when end time of event is unknown
  - Use preferred hotels close to venue
  - Use public transport

## Further information

- Our website, <http://www.hcpc-uk.org/aboutus/partners/> holds further information on:
  - Role briefs for each role including fees
  - Partner Handbook and expenses claim forms
  - Partner policies
  - Information on our Partner appraisal process
  - Current recruitment
- If you have any further questions, or to express interest in another role, you can email us at [partners@hcpc-uk.org](mailto:partners@hcpc-uk.org)

## Partner Team

- Central contact information:
  
- Email: [partners@hcpc-uk.org](mailto:partners@hcpc-uk.org)
- Telephone: 0207 840 9737 / 9771
  
- Partner Manager – Fiona Palmer
- Email: [fiona.palmer@hcpc-uk.org](mailto:fiona.palmer@hcpc-uk.org)
- Telephone: 0207 840 9757

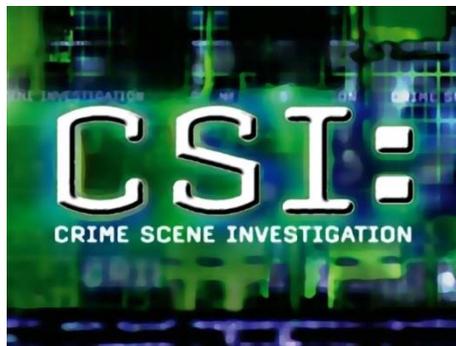
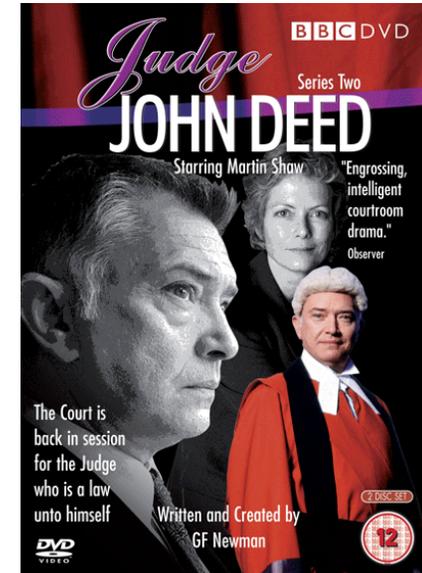
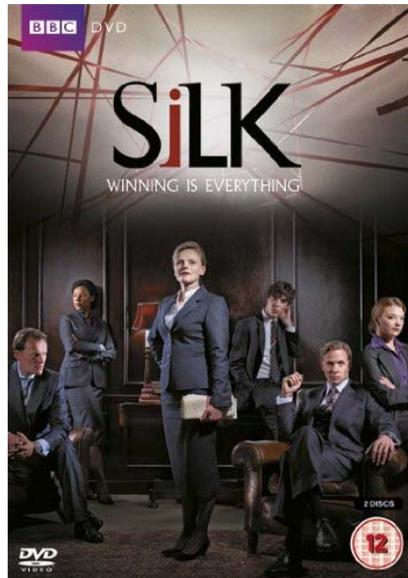
# Engagement Skills

## The aim of engagement

...is to ensure that everyone involved in a hearing understands what is taking place and can participate fully, so that the case is decided on its merits and the public are protected.

It is achieved by:

- making introductions;
- explaining the process;
- set the scene;
- seeking and encouraging involvement.

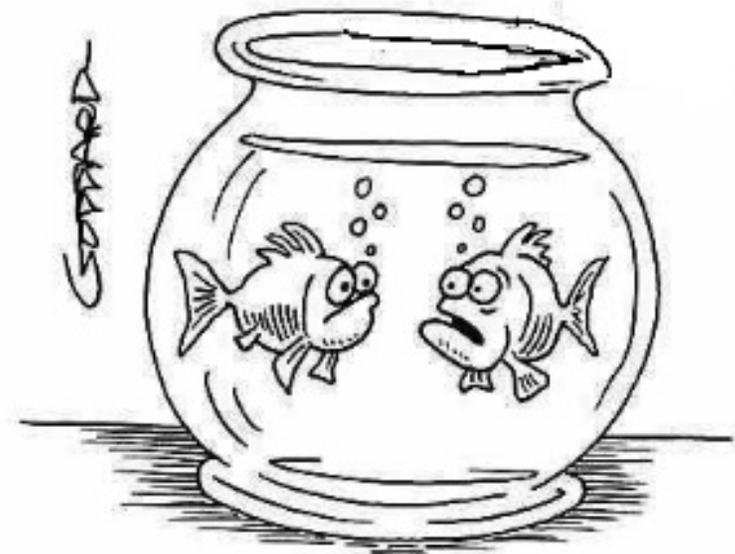


## **Barriers to engagement**

- time;
- status;
- room layout
- formal language and procedure
- emotional distraction
- cultural misinterpretation;
- ‘reticence or lack of response.

## What is required?

- preparation.
- setting aside any bias;
- active listening;
- appropriate questioning.



"Pardon? Oh, sorry, I thought you were  
talking to someone else..."

## Engagement

- look at the witness!
- appropriate eye contact and body language
- focus:
  - minimise external distractions
  - ignore internal distractions
- respond positively
- solve problems together
- ensure the witness is heard

---

## REMEMBER: YOU SET THE TONE!

Panels need to establish their authority by:

- being prepared;
- being polite;
- maintaining control;
- dealing with their own anxiety; and
- providing:
  - direction;
  - stability;
  - conflict management.



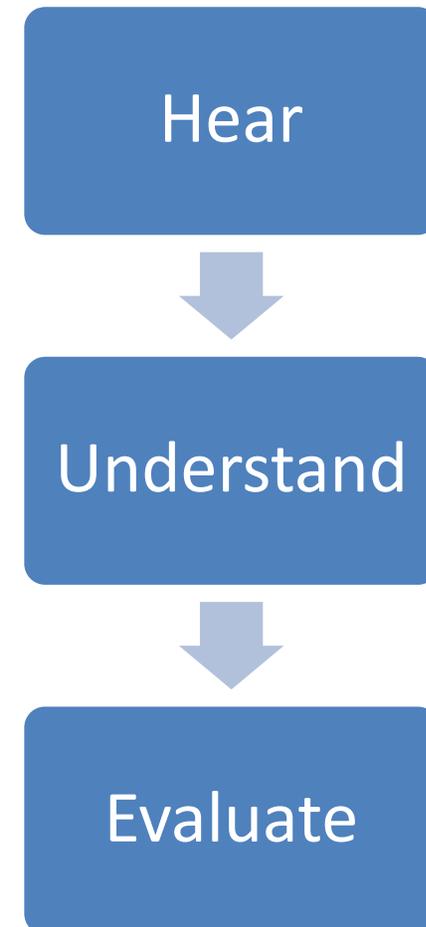
## Communication skills

	Learned	Used	Taught
Listening	1	1 (45%)	4
Speaking	2	2 (30%)	3
Reading	3	3 (16%)	2
Writing	4	4 (9%)	1

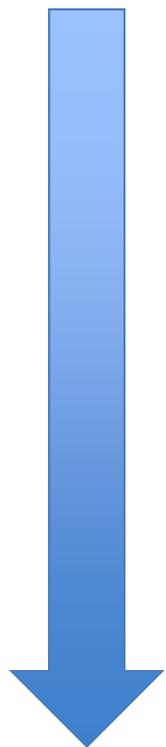
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## Active listening

- **Pay Attention**
  - give undivided attention;
  - avoid distraction;
  - acknowledge the message.
- **Show that you're listening**
  - think about your body language;
  - encourage the speaker to continue.
- **Defer judgement**
  - avoid interruptions;
  - defer questions;
  - don't spend time preparing a rebuttal!



## Questioning (and listening!) technique



Open

Probing

Reflective

Closed

Conclusions



## Note taking

- The purpose of notes is to aid decision-making.
- Develop strategies to limit the writing.
- Make use of the inherent structure of the case.
- It often helps to record:
  - specific detail;
  - Numbers;
  - unfamiliar names;
  - exact quotations.

**REMEMBER:** your main task is to focus on the proceedings.

## Note taking: find your own style

<p><u>JOHN SMITH (JS)</u> HCPC Witness 1 - (H1)</p> <p>XinC</p> <p>Couldn't recall all events clearly. Vaguely remembers what occurred but clinic was busy that day.</p> <p>But recalls Patient A, says she was rude to him.</p> <p>JS spoke to her briefly before seen by SP.</p> <p>Confirms SP did treat her without chaperone, not ideal but often happens when busy.</p> <p>Unaware of complaint by Pt A about SP, certainly didn't to JS at time.</p> <p>Certain about it even though said could not recall clearly.</p>	<p>reluctant?</p> <p>slow/hesitant in claim</p> <p>not v. credible in answer</p>
--	--



# Decision making for Panels

## Decision making

the culmination of an effective adjudicative process during which the Panel:

- identifies and elicits the relevant evidence;
- weighs and assesses that evidence;
- uses that assessment to make findings of fact; and
- uses those facts to reach a fair and reasoned decision.

## **List 1**

apple, vegetable, orange, kiwi, citrus, ripe,  
pear, banana, berry, cherry, basket, juice, salad,  
bowl, cocktail

## **List 2**

web, insect, bug, fright, fly, arachnid, crawl,  
tarantula, poison, bite, creepy, animal, ugly,  
feelers, small

System 1	System 2
REALIST	FORMALIST
intuitive	deliberative
quick	slow
heuristic	systematic

## Consider the following:

Everyone is prejudiced against prejudiced people.

A is prejudiced against B.

Does it follow that C is prejudiced against D?

## Or this one:

A bat and ball cost £1.10.

The bat costs £1.00 more than the ball.

How much does the ball cost?

## Objective and perceived truth

- a hearing is an attempt to recreate the past, based upon ‘memory-trace’ and physical evidence;
- the Panel must assess that evidence and determine competing claims as to the truth;
- in this context truth is an elusive concept as post-event ‘contamination’ may create false memories;
- a witness may be truthful but nonetheless mistaken and the Panel needs to be able to discriminate between perceived and objective truth.

## Credible, reliable or both?

- Reliability is an inherent quality. Reliable evidence can be trusted. It is what it purports to be.
- Credibility is less objective. It means evidence is plausible, regardless of whether it is true.
- Reliable evidence is invariably also credible evidence.
- The reverse is not so; the evidence of an honest but mistaken witness may be credible but is not reliable.
- Memory is **reconstructive** in nature and thus fallible. We store an outline of an event and cannot always separate direct experience from detail 'filled in' later

## Change blindness

- Failing to notice the apparently obvious.
- We wrongly assume that we fully process everything in our periphery.
- The 'Door Experiment' (Simon and Levin 1998):
  - a stranger asks a passer-by for directions;
  - people carrying a door pass between the stranger and passer-by, blocking their view of one another;
  - the stranger is replaced by a different person;
  - 50% of passers-by failed to notice the switch



## Influencing memory (Loftus and Palmer)



Participants all saw the same video. They were then divided into five groups and asked to estimate the speed when the cars:

“contacted”	31.8 mph
“hit”	34.0 mph
“bumped”	38.1 mph
“collided”	39.3 mph
“smashed”	40.8 mph

---

## Credibility assessment

*“I got the impression that here was a man who could be relied upon when he had given his word”.*

Neville Chamberlain on Adolf Hitler

- assessing credibility is a key aspect of fact-finding
- assessing ‘demeanour’ is rational, not intuitive
- Panels will rarely be sure a witness is ‘telling the truth’ and should avoid unreliable indicators:
  - eye contact
  - apparent nervousness or confidence
  - manner of speech

## Rational credibility assessment

- consistency of the witness's evidence with the known or established facts;
- the internal consistency of the witness's evidence;
- the consistency of the witness's present evidence and prior statements;
- the witness's capacity to perceive, recollect, or communicate any matter on which the witness gives evidence; and
- the witness's credit in relation to other matters.

## Improving credibility assessment

Gather evidence:

- don't make up your mind too quickly
- if you are suspicious, don't let it show
- use an information-gathering style
- let the witness repeat what they have said
- ask the witness to elaborate
- ask the witness temporal questions

## Logical fact-finding

- what are the elements that need to be proved?
- what relevant facts are agreed, undisputed or have a high degree of certainty?
- what are the relevant facts in dispute?
- what evidence is there in respect of these relevant and disputed facts?
- what reliance can be placed on that evidence?

## **Back to that memory test...**

happy, woman, winter, circus, spider, feather,  
citrus, ugly, robber, piano, goat, ground, cherry,  
bitter, insect, fruit, suburb, kiwi, quick, mouse,  
pile, fish

**Please write down the words you recognise  
from List 1 and List 2 which you saw earlier**

## **List 1**

apple, vegetable, orange, kiwi, citrus, ripe,  
pear, banana, berry, cherry, basket, juice, salad,  
bowl, cocktail

## **List 2**

web, insect, bug, fright, fly, arachnid, crawl,  
tarantula, poison, bite, creepy, animal, ugly,  
feelers, small

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

ESTATE OF HANS PEDER JENSEN  
by Christine Jensen (Executor)

v.

THE WHITE STAR LINE

Read the facts in the case and  
the cases for the Claimant and  
Respondent.

Identify the key issue of fact  
which is in dispute and which  
the court will need to decide.



## Structured Decision Making

- make accurate notes of the proceedings;
- follow the correct decision making structure;
- carefully assess the evidence and submissions made;
- stay on track and help your colleagues to do so;
- challenge inappropriate or unjustified conclusions;
- help your colleagues reach a clear, reasoned decision.

## Good written decisions are...

- a simple, concise and easily comprehensible explanation of the decision reached and why it was made;
- written in plain English, avoiding language that is complex, ambiguous or esoteric language;
- coherent and internally consistent;
- well reasoned, with clear findings of fact.

**REMEMBER:** it's not a thriller.

You don't have to keep the suspense to the end!

# REASONS!



**Any questions?**

# Welcome to Day 2- New panel member training

- Diversity training for  
Panel members

## Key questions

Diversity and equality  
matter in our role  
because...?



What is the difference,  
if any, between  
equality and diversity?



## Diversity at HCPC

Legislation

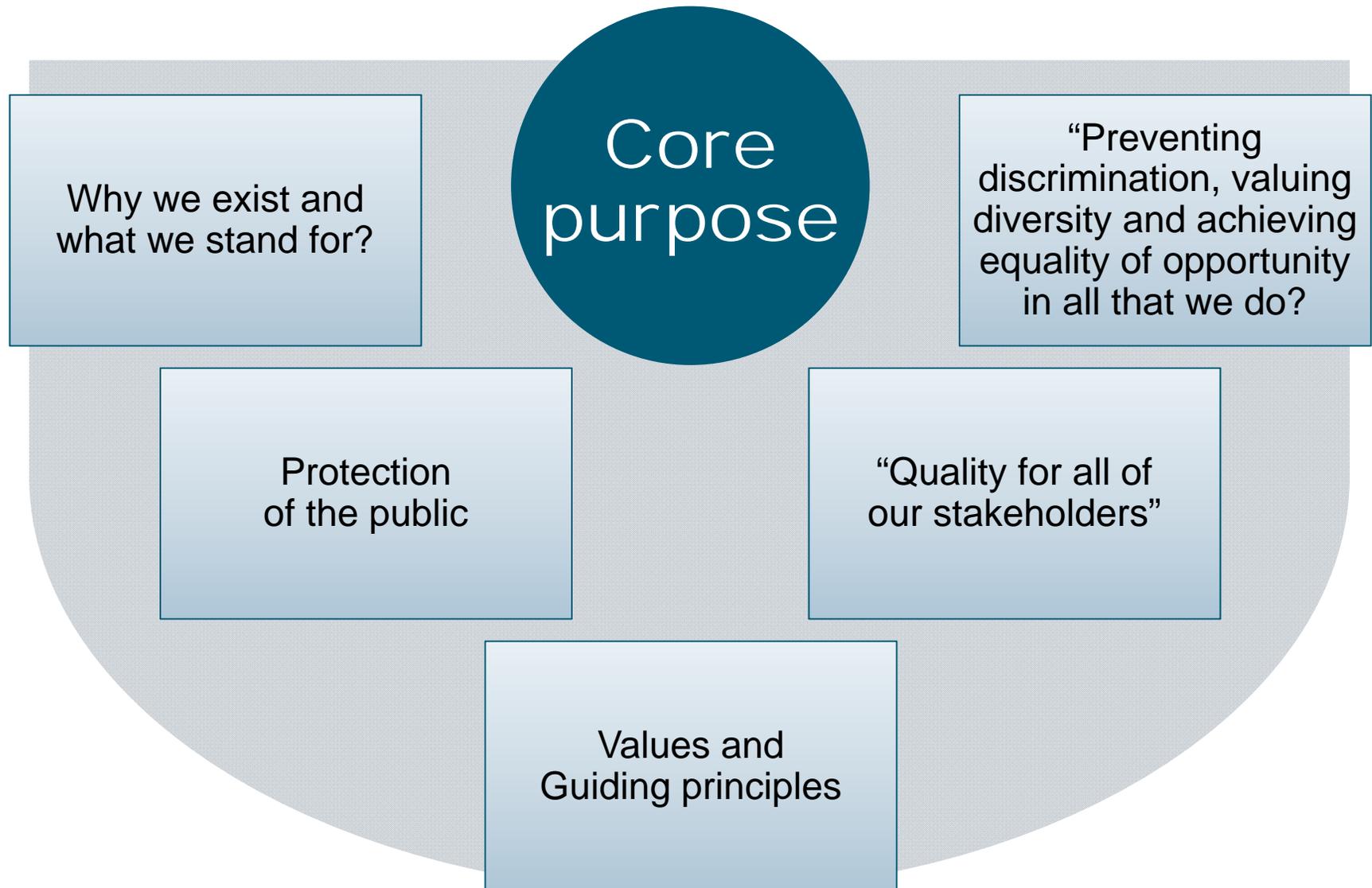
Strategic goals,  
policies and values

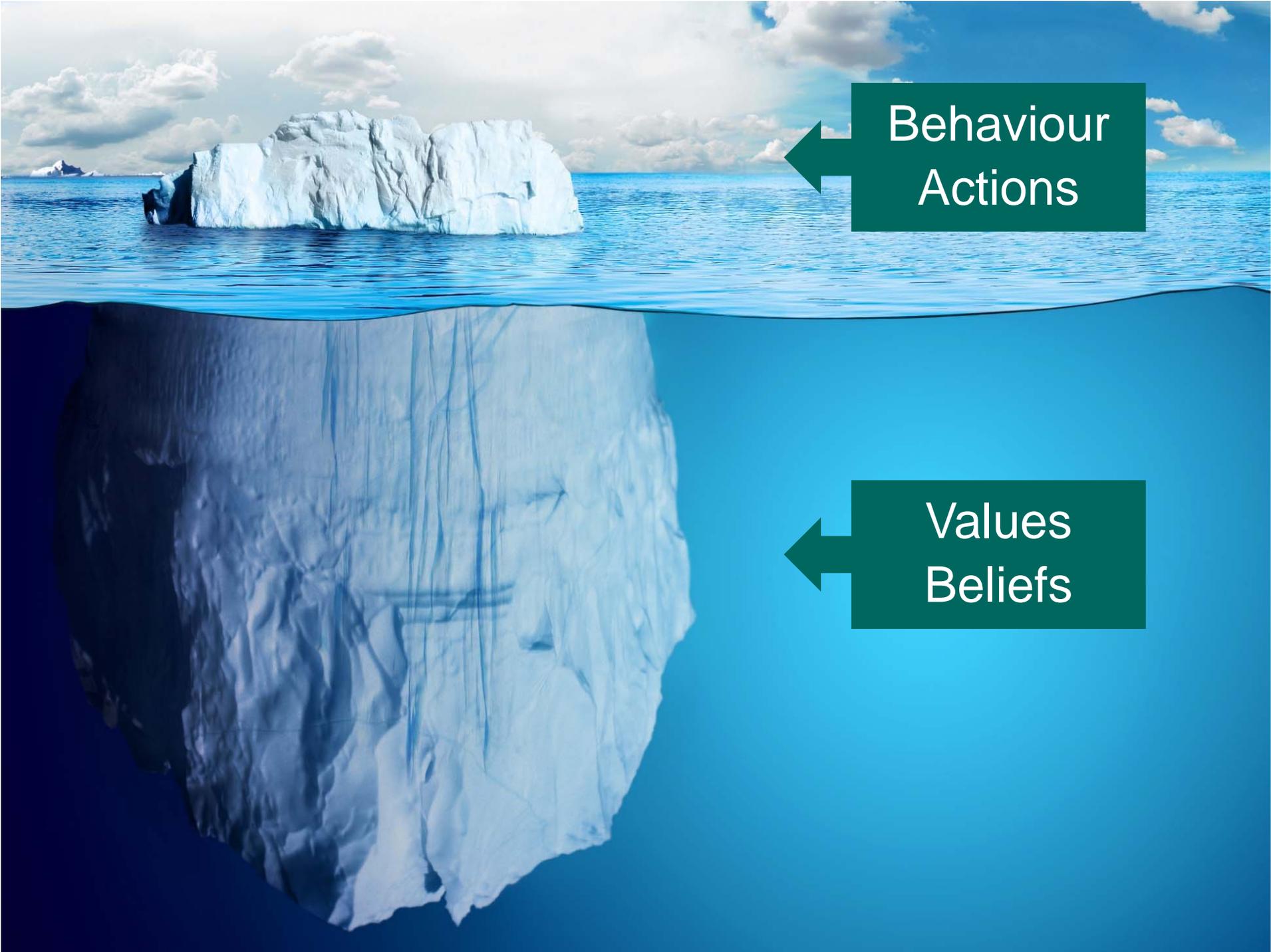
Equality scheme/  
impact assessment

Demonstrating best  
practice (not political  
correctness) regarding  
diversity and inclusion

Behavioural  
requirements to meet  
internal/ external  
expectations

Good practice  
minimises  
discrimination





Behaviour  
Actions

Values  
Beliefs

## Direct and indirect discrimination

Less favourable  
treatment

Same  
treatment  
=  
Different  
outcome

Impact  
assessment

Values such  
as being  
non-judgemental  
are not enough

What is  
an Impact  
Assessment?

A thorough and systematic analysis of a policy, practice or provision to determine whether it has a differential impact on a particular group

## In groups



### Activity

Take an example from one of the case studies or from an experience you have had in the past and, on each table, discuss:

What is your  
emotional response?

What would  
you do?

What should  
you do?

---

## Judicial Studies Board 2004

People who are socially and economically disadvantaged in society may assume that they will be at a disadvantage when they appear before a court or tribunal

Those at a particular disadvantage may include people from minority ethnic communities, those minority faith communities, individuals with disabilities (physical or mental), women, children, those whose sexual orientation is not heterosexual, and those who through poverty or any other reason are socially or economically excluded

Ensuring fairness and equality of opportunity may mean providing special or different treatment

## Key interpersonal skills

### Body language

Eye contact  
Facial expression  
Posture  
Gestures

Visual  
impact

### Tone

Volume  
Pitch  
Pace  
Articulation  
Energy

Vocal  
impact

### Words/ Phrases

Positive  
Negative  
Neutral

Content  
impact



## Removing stereotypical language

Be aware of possible negative implications of symbolism and usage that could offend people or reinforce bias

Avoid language that has questionable racial/ gender/ age/ sexual orientation or ethnic connotations

Educate and enable others to demonstrate best practice/ understanding

So...

The impact on your role(s)

How do you want to be perceived?

Where might you “the HCPC” be vulnerable to complaint/ concern?

How do we practice inclusion?

How to we demonstrate respect?

How do we ensure that our values and E and D aims and aspirations are evident in everyone’s behaviour?

How do we build a reputation for fairness, awareness and professionalism?

# Investigating Committee Panel

# The Process



## How does the process work?

- information received
- confirm whether it is an allegation, and what type
- assigned to Case Manager
- obtain further information where necessary (Article 25(1) powers)
- registrant provided with allegation and 28 days to respond
- considered by Investigating Committee Panel
- panel decides whether there is “a case to answer”

---

## What will you receive?

- list of all cases you will be considering
- bundle for each case containing:
  - case investigation report
  - information received from the complainant
  - the registrant's response



## Example allegation

In the course of your employment as a [profession]  
by [employer]:

1. You were provided with access to a computer  
belonging to [employer].
2. Between [dates], contrary to [employer's] Internet  
Access Policy, you used that computer to:
  - A. access websites containing pornographic  
material,
  - B. download pornographic images from such  
websites;
3. The matters set out in paragraphs 2A [and] B  
constitute misconduct.
4. By reason of that misconduct, your fitness to  
practise is impaired.

**FACTS**

**GROUND**

**IMPAIRMENT**

## The “case to answer” test

Is there a “realistic prospect” that the Council will be able to establish at a final hearing that the registrant’s fitness to practise is impaired?

The test must be applied to the whole allegation:

- the facts
- the ‘statutory ground’
- whether fitness to practise is impaired

## Impaired fitness to practise

- Consider:
  - nature and severity of the matters alleged;
  - the risk of repetition:
    - Is there evidence to suggest that the issue/incident was a “one off” or isolated lapse in behaviour;
    - What has been done to remedy the shortcomings and reduce the risk of repetition since the incident occurred?
  - Has the matter been successfully resolved at a local level;
  - the level of insight demonstrated;
  - is there evidence to demonstrate the registrant does not meet a **key requirement** of being fit to practise?

---

## **Presumption of impairment**

- serious or persistent lapses in professional services;
- reckless or deliberate acts;
- concealing acts or obstructing their investigation
- sexual misconduct, indecency or involvement in child pornography;
- breaching autonomy of service users;
- violence or threatening behaviour;
- dishonesty, fraud or an abuse of trust;
- exploitation of a vulnerable person;
- substance abuse or misuse;
- failing to address health problems;
- other, serious activities which undermine public confidence

**If there is a case to answer...**

The Investigating Panel can either:

- refer the case to:
  - The Health Committee (physical or mental health)
  - The Conduct and Competence Panel (in the case of any other type of allegation)

## If there is no case to answer...

- Issue learning points?
- the case is closed, but
- the information remains on record for 3 years and may be taken into account if another allegation is received.

## Decisions

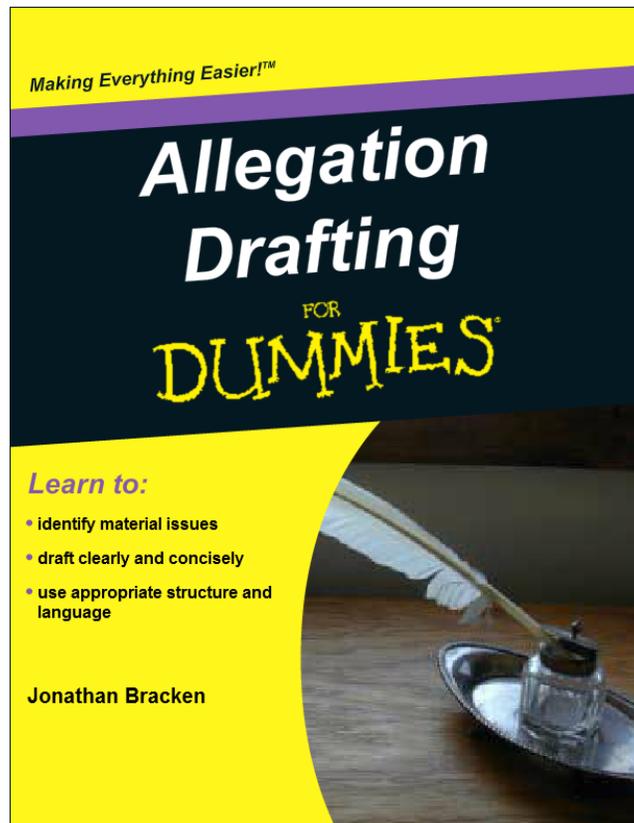
- Sent to registrant and complainant
- Audited by Professional Standards Authority (PSA)
- Must be sufficient for anyone to understand why decision was made
- Reference realistic prospect test for all 3 grounds
- **MUST** also provide reasons for your decision

## **Fraudulent or incorrect entry**

- The Investigating Committee also considers allegations of fraudulent or incorrect entry to the register
- In such cases there is no ‘case to answer’ stage and the proceedings are similar to a full hearing before a Panel of the Conduct and Competence or Health Committee

# Exercise 1: What would you do in this case?





Three elements:

- facts;
- statutory ground; and
- impairment.

The HCPC must prove the facts. The other elements are matters of judgement, based upon the facts.

---

## Drafting objective

To set out the facts which are alleged to demonstrate impairment, in a manner which:

- enables the registrant to understand the case that he or she has to meet;
- assists the Panel to make findings of fact and a structured and reasoned determination; and
- complies with the Article 6 ECHR 'fair hearing' obligation.

## It's an allegation, not a case summary

Every fact alleged will require a finding of fact, so:

- don't overburden the Panel with fact-finding;
- do **not** simply paraphrase a complaint or report;
- focus on the elements which go to impairment;
- consider:
  - which facts indicate impairment?
  - what evidence is there to support those facts?
  - what can be proved or disproved?
- strike an appropriate balance...

## **A drafting checklist**

- Is the allegation as clear and specific as possible?
- Are facts alleged that do not need to be?
- Is it in chronological order? If not, is there good reason for deviating?
- Are dates (or date ranges) specific and is it clear to what they relate?
- Are events grouped logically?
- Are there any duplicated or 'sweeping up' allegations?
- Has "failed" been used when "did not" would be more appropriate?
- if there are direct quotations, are they needed and, if so, appropriately qualified ("...or words to that effect")?
- If adjectives are used, are they required? ("inappropriate", "inadequate", etc. are rarely are needed. Whether acts were "dishonest" or "sexually motivated" is a question of fact (as to state of mind) which does need to be alleged).

## Allegation Drafting Example:

“You have failed to meet the Health Professions Council’s Standards of Proficiency for [profession], in particular that:

- a. You are unable to maintain professional relationships with colleagues in a multi-disciplinary team, in particular:
  - i. You were removed from rotation on two occasions due to deterioration in working relationships;
    - a. ITU on or before [date];
    - b. Bloggs Ward on or before [date];
  - ii. You agreed to attend anger management counselling as a service objective set on [date], however colleagues continued to report abrupt and unhelpful comments and unprofessional behaviour;
  - iii. You failed to attend pre-arranged PAS training on [date] and disputed the arrangement although it was recorded and witnessed by your supervisor.

## A better approach...

1. In the course of that employment you did not maintain appropriate professional relationships with colleagues. In particular:
  - a. as a consequence of [specify conduct] you were removed from:
    - i. the ITU on [date]; and
    - ii. Bloggs Ward on [date];
  - b. you agreed with your supervisor [name] that you would, but then did not, attend:
    - i. anger management counselling on [date]; or
    - ii. Patient Administration System (PAS) training on [date].

---

## Exercise 2 – Drafting and amending allegations – table discussion

- Review allegation (further case detail not required)
- Discuss any concerns identified
- Feedback to the group



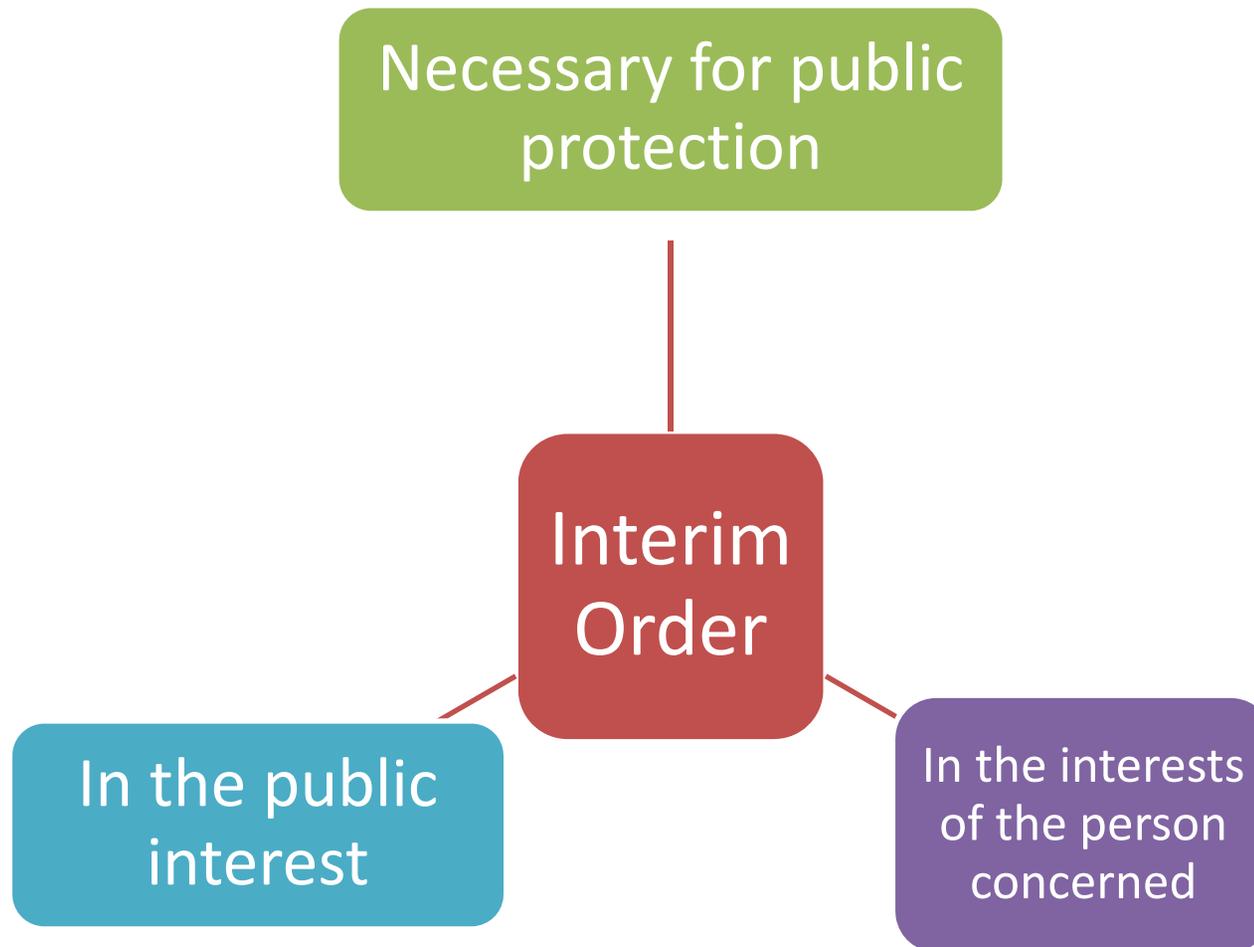
# Interim Orders

## Article 31

An interim suspension order or conditions of practice order may be imposed if the Panel is satisfied that doing so is:

- necessary for the protection of the public;
- in the interests of the registrant; or
- otherwise in the public interest.

## Article 31



## **Protection of the public**

- continuing risk based on alleged prior acts:
  - repeated or persistent lapses;
  - a single, serious, lapse which may be repeated;
  - acting beyond scope of practice;
- seeking to practise whilst unfit to do so
- serious breach of service user trust/relationship
- breach of existing conditions or suspension

## Interests of the registrant

- registrant at risk of self harm, where removal from the work environment or limiting practice would minimise that risk;
- registrant who lacks insight and needs to be protected from repeating or compounding a serious lapse.

## Public interest

- wider than public protection and includes:
  - public trust in the profession concerned;
  - public trust in the regulatory process;
  - deterrent effect for other registrants.
- allegations so serious that public confidence in the profession or regulatory process would be undermined if the registrant was allowed to remain in unrestricted practice



# Registration Panels

## Role of the Panel

- Assess declarations or information relating to:
  - ‘character’ matters; or
  - ‘unmanaged’ health issues;
- and make **recommendations** to the Education and Training Committee as to whether registration should be **allowed** or **refused**.
- Applies to declarations made by applicants seeking admission (or readmission) to the register or renewal of registration
- It is a non-statutory process but the recommendation forms the basis of a statutory decision by the Committee

## The relevant law

- Article 9(2) of the HSWPO requires an applicant to satisfy the Education and Training Committee, in accordance with the Council's requirements mentioned in Article 5(2), that he or she is capable of safe and effective practice.
- Under Article 5(2) the Council must specify:
  - standards of proficiency; and
  - prescribed requirements as to good character evidence

## The prescribed requirements

- In satisfying itself as to the good character of an applicant, the Committee shall have regard to:
    - the character reference;
    - any conviction or caution in the UK or conviction elsewhere for an offence which would be an offence in England and Wales;
    - any determination by a regulatory or licensing body;
    - any other matter that appears to the Committee to be relevant,
  - The Committee may seek additional information from any person or source as it considers appropriate.
- 
- Rule 5(1), HCPC (Registration and Fees) Rules 2003

## The standard to be applied

- “...the disciplining of a [registrant] involves subtly different considerations from those which apply to an applicant for registration. That said, I have no doubt that the differences should not be allowed to give rise to the existence of a double standard in connection with those who are entitled to be in practice... The protection of the public will not be served by the application of a different standard at erasure from that which is applied when considering registration.”

- *CRHP v General Dental Council* [2005] EWHC 87 (Admin)

## Registration Panel recommendations

The recommendation must be to allow or refuse

Refusal should only be recommended where the applicant is “not capable” of safe and effective practice

The Panel should take account of:

- the nature and severity of the matter declared
- when it occurred
- the applicant’s conduct since then
- the applicant’s insight and remediation
- relevance to professional practice
- any predictors of future conduct (e.g. patterns of dishonesty or abuse)

## Panel Reasoning - Key points

- The Panel **MUST** provide clear and detailed reasons for its decision, (especially if registration is not granted.)
- Must explain the Panel's rationale for its findings and not simply be a repetition of the evidence
- Must be sufficient for applicant to understand why decision was made
- Must be sufficient for use as a basis of a registration appeal
- **Is the applicant incapable of safe and effective practice?**



# New panel member training

An introduction to the HCPTS and your role

Tribunal Services Team telephone – 0207 840 9817

Email – [hearings@hcpts-uk.org](mailto:hearings@hcpts-uk.org), [Tsteam@hcpts-uk.org](mailto:Tsteam@hcpts-uk.org)

## What is the HCPTS

- The Health and Care Professions Tribunal Service (HCPTS) is the fitness to practise adjudication service of the [Health and Care Professions Council](#) (HCPC).
- Although it is part of the HCPC, the distinct identity of the HCPTS seeks to emphasise that hearings are conducted and managed by independent Panels which are at arm's length from the HCPC.

# hcpts

health & care  
professions  
tribunal service

## Structure

- **Health and Care Professions Tribunal**

These are the Panels that hear and determine cases on behalf of the HCPC's three Practice Committees: the Investigating Committee, Conduct and Competence and Health Committees.

- **The Tribunal Service team**

This team provides operational support to the Tribunal. Within it sit the Tribunal Service **scheduling team**, which is responsible for listing all fitness to practise proceedings, and the Tribunal Service **hearings team**, which is responsible for providing support to Panels and other participants at hearings and is also responsible for publishing Tribunal decisions.

## **Introduction to the Tribunal Service Team - Scheduling**

- Arranging a hearing date
- Notices for hearing
- Vulnerability and special measures
- Contacting panel members
- Expenses and travel policy

## **Introduction to the Tribunal Service Team – Hearings**

- Postponements and adjournments
- Content of papers and delivery
- Standard directions
- Proceeding in absence
- Contacting about issues before hearings and providing feedback

# hcpts

health & care  
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## Who is at a hearing



## **Hearings Officers**

- Ensure smooth running of proceedings
- Management of lay participants – registrants / witnesses
- Deal with media enquiries
- Oversee private / public session
- Prove service
- Management of exhibits and confidential information
- Ensure 'house style' in decision drafting

## Legal Assessors

Legal assessors shall have the general function of giving advice to... the statutory committees on questions of law arising in connection with any matter which [the committee] is considering under... Part V...

They may at the request of the [committee] assist in the drafting of any decision required by this Order...

They shall have such other functions as may be conferred on them by rules made by the Council.

- *Art. 34(2) - (4), Health and Social Work Professions Order 2001*

## Before a hearing

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	Miss Clare Lynette Bushell			
	Mr Rudolph Antonio Coombs			
	Mr Robert Clarke	Mrs Lisa Jane Thorn		
	Mr Andrew M Davidson	Amira Alam		Geraldine Morgan
	Mr Vitor Manuel Amarel Costa	Mr Ahmed Suleiman		Mr Adrian P N Penfold-Ivany
	Mr Christopher J Elliott	<div style="background-color: #fff; padding: 5px; border: 1px solid #ccc;"> <p><b>Profession:</b> Radiographer</p> <p><b>Hearing type:</b> Review Hearing</p> <p><b>Location:</b> Health and Care Professions Tribunal Service (HCPTS), 405 Kennington Road, London, SE11 4PT</p> <p><b>Date and Time of hearing:</b> 3rd May 2017 10:00</p> <p><b>End:</b> 3rd May 2017 12:00</p> <p style="text-align: right;"><a href="#">Full details</a></p> </div>		
	Mrs Emily Harrison			
	Mrs Hazel Williams			
<b>8</b>	<b>9</b>			
Miss Clare Lynette Bushell				
Mrs Lisa Jane Thorn				
Mr Gordon Jarvie				

# After a hearing – Outcome published

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Date	Registrant	Profession	Outcome/Status
12/05/2017	Miss Alexandra Claire Burns	Physiotherapist	Hearing has not yet been held
12/05/2017	Miss Tracy Hands	Social worker	Interim Conditions of Practice
12/05/2017	Mr Peter John Dryden	Social worker	Hearing has not yet been held
11/05/2017	Mr Amarendar R Boddu	Physiotherapist	Hearing has not yet been held
09/05/2017	Mr Salim M Ahmaida Makhlof	Operating department practitioner	Interim Suspension

## **Decision audits and reviews**

- PSA provide learning/feedback points
- Quality Compliance Team
- Decision Review Group
- Policy and Standards Team

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# Decisions and sanctions

- The purpose of sanctions in fitness to practise proceedings is to **protect the public**
- It is **not** the function of a Panel to **punish** registrants

## **The Indicative Sanctions Policy**

- Is not a fixed tariff
- Intended a guidance for panels when considering sanctions
- Do need to be mindful when going against the guidance set out and ensure you have proper reasons for doing so
- Also ensure that you explain your reasons in the decision

## **Disposal Options**

- take no further action
- mediation
- caution
- conditions of practice
- suspension
- striking off

## **No Further Action**

- Panels are not obliged to impose a sanction
- appropriate step if:
  - allegation amounts to minor, isolated lapse; and
  - the registrant fully understands the nature and effect of the lapse

## **Mediation**

- a consensual process
- appropriate where issues between the registrant and another party remain unresolved
- may only be used if the Panel is satisfied that no further sanction is required

## **Caution**

- For a specified period of between one and five years
- Appropriate:
  - for slightly more serious cases;
  - where there is a low risk of recurrence; and
  - where the lapse has been corrected

## **Conditions of Practice**

- must be for a specified period, up to three years
- remedial and rehabilitative in nature
- need to be realistic and verifiable
- appropriate where:
  - a failure or deficiency is capable of being remedied; and
  - allowing the registrant to remain in practice poses minimal risk of harm

## **Suspension**

- must be for a specified period of up to one year
- inherently more punitive in nature
- appropriate where conditions of practice would be insufficient to protect the public

## **Strike Off**

- sanction of last resort for serious allegations where there is no other way to protect the public
- registrant may not apply to be restored to the register for at least five years
- may not be used as initial sanction in respect of competence or health allegations

## **Key considerations when imposing a sanction**

- Public protection
- Confidence in the profession
- Proportionality – consideration of the ‘next sanction up’
- The effect of any dishonesty or sexual motivation found proved

## **Other ways an allegation may be dealt with**

- Disposal of case by consent – includes voluntary removal
- Discontinuance
- Article 30 review hearings
- Restoration

# Thank you

Any questions