hpc health professions council

1 April 2007 to 31 March 2008

Fitness to practise annual report 2008

Contents

Executive summary

Welcome to the fifth fitness to practise annual report of the Health Professions Council (HPC) covering the period 1 April 2007 to 31 March 2008. This report provides information about the HPC's work in considering allegations about the fitness to practise of our registrants.

This report presents the ways in which our fitness to practise panels have dealt with the cases brought before them, as well as information about the number and types of cases and the outcome of those cases.

Allegations

We have received more allegations this year than in any previous year and have received more complaints from members of the public. However, this still only amounts to 0.24 per cent of the register, indicating that registrants are meeting the necessary standards of conduct, performance and ethics, and standard of proficiency.

178,289 health professionals were registered with the HPC at 31 March 2008. The majority of allegations are against registrants whose registered address is England. The majority of complaints are made against male health professionals despite 76 per cent of the Register consisting of female health professionals.

Investigating panels

More cases have been considered by panels of the Investigating Committee this year compared to 2006–07. Of the 299 cases considered by panels, 62 per cent (186) of cases have been referred to another panel for a final hearing.

Final hearings

More registrants were represented at hearings this year and more hearings have taken place. Panels met on 252 days to consider final disposal cases with cases, on average, taking approximately 1.5 days to conclude.

The budget for the fitness to practise department in 2007–08 was approximately £3.5m, which equates to 29 per cent of the HPC's overall operating costs. This represents an increase of four per cent since 2006–07.

Growth

In 2007–08, we reorganised the Fitness to Practise department into two distinct functions – Case Management and Hearings Management – creating a clear division between the investigation and adjudication of cases. We appointed more case managers and hearings officers to ensure that cases are efficiently managed, and appointed a Hearings Manager to manage our tribunal processes. In 2008–09 the Hearings Manager will undertake a full review of the hearings process which will include consideration of the venues that we use and the accessibility of the process.

In March 2007 we reappointed the law firm who present fitness to practise cases on our behalf. We are continually striving to manage costs efficiently and effectively. As part of that process we have agreed a 'capped hours' arrangement with the law firm who present cases on our behalf. As a consequence, we do not pay any fees for work beyond the agreed hours.

As in previous years, although the number of cases being considered by fitness to practise panels is increasing, the number of registrants this involves is still less than 0.5 per cent. Furthermore, the number of allegations where the outcome was not well-founded, has also increased. This demonstrates that even if an allegation is made against a registrant, it does not automatically follow that the registrant will be sanctioned. The fitness to practise process is not about punishing a registrant; it is designed to ensure that action is only taken when it is necessary to protect the public.

We are continually striving to improve our processes and the pace of development is unlikely to slow. You can find more information about policy developments in 2007–08 towards the back of this report. In 2008–09 we are planning on providing more information about the 'case to answer test' and ensuring our processes remain as accessible as we can make them. It is also likely that in the near future the HPC will begin the regulation of practitioner psychologists and hearing aid dispensers, further enhancing public protection through statutory regulation.

I hope you find this report of interest. If you have any feedback or comments please email me at ftp@hpc-uk.org

Kelly Johnson
Director of Fitness to Practise

Introduction – overview of the fitness to practise process

About us (the Health Professions Council)

We are the Health Professions Council. We are a regulator, and we were set up to protect the public. To do this, we keep a register of health professionals who meet our standards for their professional skills and behaviour.

We currently regulate 13 health professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Prosthetists / orthotists
- Radiographers
- Speech and language therapists

We may regulate other professions in the future. For an up-to-date list of the professions we regulate, please see our website at www.hpc-uk.org

Each of these professions has one or more 'protected titles' (protected titles include titles like 'physiotherapist' and 'dietitian'). Anyone who uses a protected title and is not registered with us is breaking the law, and could be prosecuted. For a full list of protected titles, please see our website at www.hpc-uk.org

For each profession there is one or more protected title which can only be used by people registered with us. Registration can be checked either by logging on to www.hpcheck.org or calling +44 (0)20 7582 0866.

Our main functions

To protect the public, we:

- set standards for the education and training, professional skills, conduct, performance, ethics and health of registrants (the health professionals who are on our Register);
- keep a register of health professionals who meet those standards;
- approve programmes which health professionals must complete before they can register with us; and
- take action when health professionals on our Register do not meet our standards.

What is 'fitness to practise'?

When a health professional is described as 'fit to practise', this means that they have the health and character, as well as the necessary skills and knowledge, to do their job safely and effectively.

The behaviour and minimum levels of skills and knowledge we can expect from a registrant are set out in the 'Standards of conduct, performance and ethics' and the 'Standards of proficiency.' For more information on the standards, please see our website at www.hpc-uk.org

The Fitness to Practise Department is responsible for handling complaints. These are known as 'allegations'. Allegations question whether professionals who are registered with us are fit to practise.

Who can complain?

Anyone can make a complaint to us about a registered health professional. This includes members of the public, employers, the police and other registrants.

We can only consider complaints about fitness to practise. The types of complaints we can

consider are those that question whether a registrant's fitness to practise is 'impaired' (negatively affected) by:

– misconduct;

– a lack of competence;

– a conviction or caution for a criminal offence (or a finding of guilt by a court martial);

– their physical or mental health; or

– a determination (a decision reached) by another regulator responsible for healthcare.

We can also consider allegations about whether an entry to the Register has been made fraudulently or incorrectly. There is more information about the types of complaints that were received by HPC in 2007–08 later on in this report.

We will consider individually each case that is referred to us. There is no time limit in which a complaint has to be made, but it should be made as soon as possible after the events that gave rise to the complaint occurred. We can also consider complaints when the matter being complained about occurred at a time that the registrant being complained about was not registered.

How can a complaint be made?

Complaints can be made in writing or by using our 'Reporting a Concern to the HPC' form which is available on the HPC website. We can also, in certain circumstances, take a statement of complaint over the telephone. The statement of complaint will still need to be signed by the complainant. We also have facilities to consider complaints which are made in another language. Please contact the Fitness to Practise Department for more information on this facility. We are continually seeking to ensure that our processes and procedures are as accessible as possible and have recently published brochures which set out the complaints process.

We can only consider complaints that are about fitness to practise and can close cases that do not meet this criteria or where evidence to support the complaint has not been provided.

What happens when a complaint is received?

For more information about how to make a complaint and the process we follow when we receive a complaint about a health professional, please contact us to request one of the following brochures:

– What happens if a complaint is made about me?;

– The fitness to practise process: information for employers; and

– How to make a complaint about a health professional.

You can also find this information at www.hpc-uk.org

Partners and panels

The HPC has approximately 350 partners to help carry out its work. Partners are drawn from a wide variety of backgrounds – including clinical practice, education and management. We also use lay partners to sit on our panels. At least one registrant and one lay partner sits on our panels to ensure that we have appropriate public input and professional expertise in the decision-making process.

At every public hearing there is also a legal assessor. The legal assessor does not take part in the decision-making process, but they will give the panel and the other people involved advice and information on law and legal procedure.

Council members do not sit on our Fitness to Practise Panels. This is to maintain separation between those who set Council policy and

those who make decisions in relation to individual fitness to practise cases. This contributes to ensuring that our tribunals are fair, independent and impartial. Furthermore, employees of the HPC are not involved in the decision-making process. This ensures their decisions are made independently and free from any appearance of bias.

Standard of proof

HPC uses the 'civil standard of proof' in its fitness to practise cases. This means that panels consider, on the balance of probabilities, whether an allegation is proven. All nine UK health regulators are already using, or are moving towards using, the civil standard of proof.

Allegations

This section provides information on the number and type of allegations/enquiries that we have.

Table 1.1 Total number of cases

Year	Number of cases	Total number of registrants	% of cases
2002–03	70	144,141	0.05
2003–04	134	144,834	0.09
2004–05	172	160,513	0.11
2005–06	316	169,366	0.19
2006–07	322	177,230	0.18
2007–08	424	178,289	0.24

There has been an increase in the number of allegations about health professions received by the HPC, although this still only accounts for 0.24% of the health professionals on the HPC register.

Graph 1.1 Total number of allegations

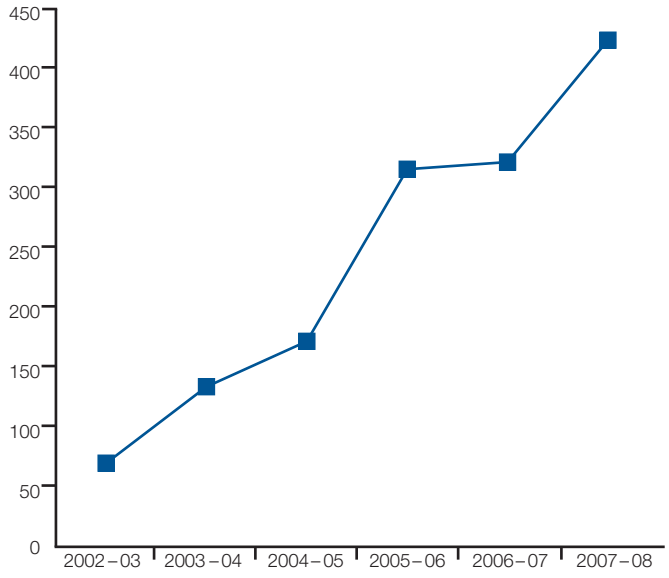
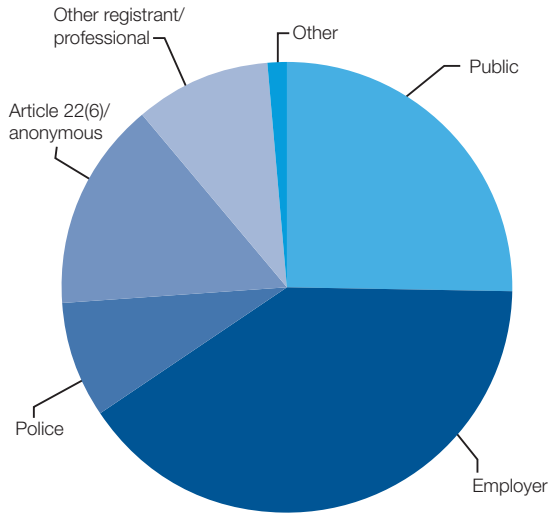


Table 1.2 Who makes allegations?

Type of complainants	2005 -06	% of allegations	2006 -07	% of allegations	2007 -08	% of allegations
Public	68	21	78	24	108	25
Employer	123	39	161	50	171	40
Police	24	8	31	10	35	8
Article 22(6) / anon	58	18	35	11	63	15
Other registrant / professional	28	9	16	5	42	10
Other	15	5	1	0.3	5	1
Total	**316**		**322**		**424**	

Graph 1.2 Who makes allegations?



There has been an increase in the number of allegations received across all types of complainant groups compared to 2006–07. However, as a percentage of the total allegations received, there has been a small drop in the number of complaints received from employers. Fifty per cent of allegations were from employers in 2006–07 and 40 per cent of allegations were from employers in 2007–08. In 2007–08, the Fitness to Practise Department reviewed the material that was available for employers about the fitness to practise process and published The fitness to practise process: information for employers.

This gives employers information on how to make an allegation and what to do when one of their employees is the subject of an allegation.

The proportion of allegations from members of the public remains similar to previous years. Allegations from members of the public make up around one in four of the allegations which we receive.

Article 22(6) of the Health Professions Order 2001

Article 22(6) of the Health Professions Order 2001 allows us to investigate a matter even if a complaint is not made to us in the usual way (for example, media reports or information provided by a person who does not wish to make a formal complaint). This is an important way in which we use our powers to protect the public.

Article 22(6) is also important in cases of 'self-referral'. When an individual is on the register, we encourage self-referral of any issue that may affect their fitness to practise. Standard 4 of the Standards of conduct, performance and ethics (as at 31 March 2008) states that: "You must provide any important information about conduct, competence or health."

When a self-referral is received, the case will initially be considered by a Registration Panel under the Council's Health and Character policy. The decision for the panel is whether the matter declared is sufficiently serious to be considered through the fitness to practise process. When a Registration Panel refers a matter to the fitness to practise process it is dealt with in the same way as an allegation under Article 22(6). In 2007–08, 81 self-referrals were considered by registration panels and 35 cases were referred to the fitness-to-practise process using Article 22(6) powers.

Allegations by profession and complainant type

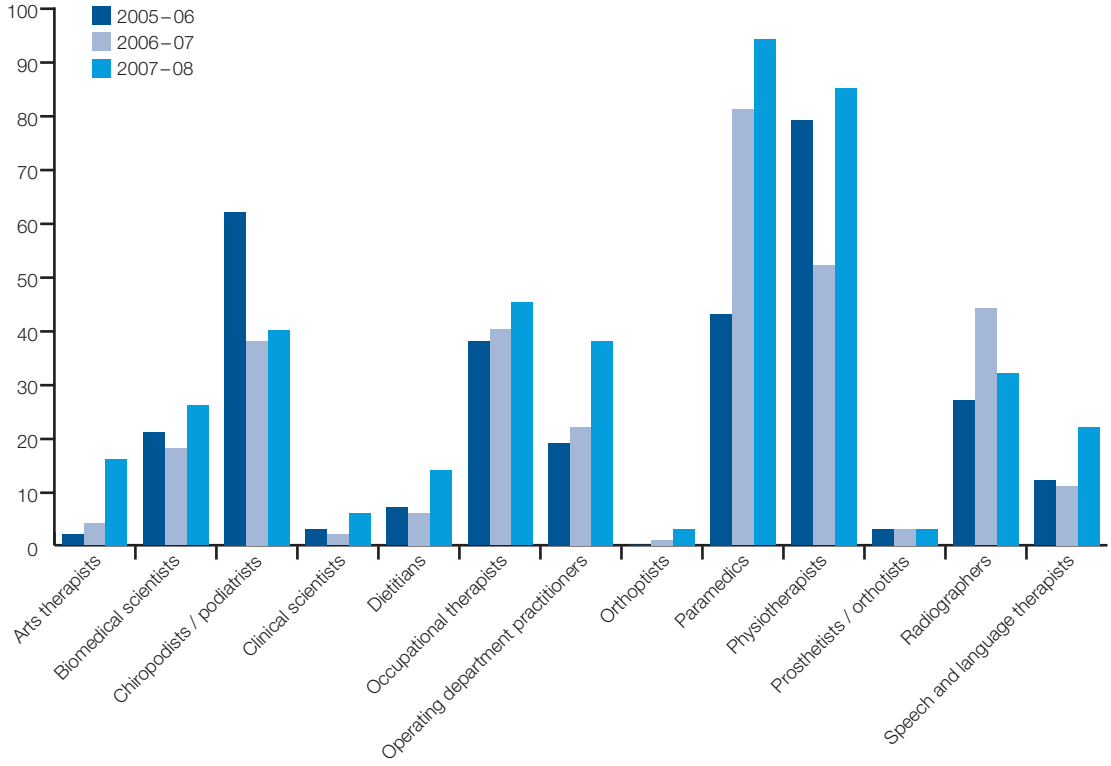
The three tables below show the percentage of cases that have been received by profession, and provide a comparison to the total number on the register. Graph 1.3 displays the number of allegations received by profession between April 2005 and March 2008.

The number of allegations received about arts therapists, chiropodists, operating department practitioners, paramedics and prosthetists and orthotists was higher than for other professions. However, allegations received overall involve less than one per cent of registrants.

Table 1.3 Allegations by profession

Profession	Number of allegations	% of total allegations	Number of registrants	% of total number on Register	Total % of registrants subject to allegations
Arts therapists	16	4	2,503	1.5	0.64
Biomedical scientists	26	6	21,518	12	0.12
Chiropodists / podiatrists	40	9	13,063	7	0.31
Clinical scientists	6	1	4,158	2	0.14
Dietitians	14	3	6,704	4	0.21
Occupational therapists	45	11	28,006	16	0.16
Operating department practitioners	38	9	9,468	5	0.40
Orthopists	3	1	1,237	1	0.24
Paramedics	94	22	13,624	8	0.69
Physiotherapists	85	20	42,676	24	0.20
Prosthetists / orthotists	3	1	832	0.5	0.36
Radiographers	32	8	23,157	13	0.14
Speech and language therapists	22	5	11,343	6	0.19
Total	**424**	**100**	**178,289**	**100**	**0.24**

Graph 1.3 Allegations by profession, April 2005 to March 2008



There has been an increase in the number of allegations received across all professions except radiographers, prosthetists and orthotists, where the number of allegations remains the same. In 2007–08 the number of allegations about chiropodists / podiatrists increased on 2006–07. However the number of allegations about chiropodists / podiatrists remains markedly lower than in 2005–06.

Table 1.4 Allegations by profession and complainant type

Profession	Employer	Public	Police	Article 22(6)/anon	Professional body	Other
Arts therapists	1	13	0	1	0	1
Biomedical scientists	15	1	1	6	0	3
Chiropodists / podiatrists	8	18	3	3	1	7
Clinical scientists	5	0	0	1	0	0
Dietitians	4	4	1	2	0	3
Occupational therapists	23	12	2	4	0	4
Operating department practitioners	26	1	5	5	0	1
Orthoptists	1	2	0	0	0	0
Paramedics	44	9	7	26	0	8
Physiotherapists	20	33	13	5	6	8
Prosthetists / orthotists	0	3	0	0	0	0
Radiographers	14	4	3	8	0	3
Speech and language therapists	10	8	0	2	0	2
Total	**171**	**108**	**35**	**63**	**7**	**40**

For some professions there is a higher volume of certain complaint types than for others. Employers made up 40 per cent of the overall complaint group yet for biomedical scientists (58%), clinical scientists (83%), operating department practitioners (68%), occupational therapists (51%), radiographers (44%), and speech and language therapists (45%) there is a higher complainant rate from this group.

Allegations from members of the public made up 25 per cent of all allegations.

However, in some professions there was a higher than average percentage of allegations made by the public:

- arts therapists (81%);
- chiropodists (45%);
- dietitians (29%);
- occupational therapists;(27%)
- orthoptists (67%);
- prosthetists and orthotists;(100%)
- physiotherapists (39%); and
- speech and language therapists (36%).

In one profession (prosthetists and orthotists) all the complaints were made by members of the public. However, it is once again important to highlight that the overall number of allegations remains low.

In 2008–09 we hope to be able to provide more analysis on why more complaints are received from certain complaint groups about particular professions.

Fifty-nine per cent of allegations about paramedics were made using Article 22(6) powers. However, more paramedic cases are self-referred and considered by our Registration Panels so this statistic is to be expected.

Home Office Circular 6/2006 provides that the HPC must be informed if a registered health professional is convicted or cautioned for an offence in England and Wales. In some instances we are made aware of this information by the registrant or their employer before we are informed by the police. So, although we have received 35 complaints from the police we do receive information about convictions and cautions from other sources.

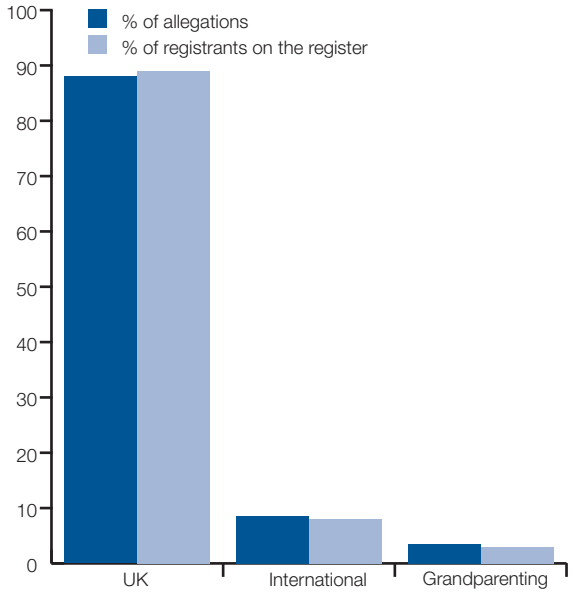
Allegations by route to registration

Table 1.5 and Graph 1.4, which show allegations by route to registration, clearly indicate that there is consistency between the percentage of registrants who entered the register by a particular route and where the complaint came from.

Table 1.5 Allegations by route to registration

Route to registration	2005–06	% of allegations	2006–07	% of allegations	2007–08	% of allegations	% of registrants on the register
UK	242	77	278	86	373	88	89
International	30	9.5	29	9	36	8.5	8
Grandparenting	35	11	15	5	15	3.5	3
Not known	9	2.5	0	0	0	0	0
Total	**316**		**322**		**424**		

Graph 1.4 Allegations by route to registration



Allegations by home country

Table 1.6 Allegations by home country

Home country	2005–06	2006–07	2007–08	% of complaints in 2007–08
England	281	279	358	84
Scotland	10	19	24	6
Wales	3	13	17	4
Northern Ireland	10	7	9	2
Other	12	4	16	4
Total	**316**	**322**	**424**	**100**

We received the majority of our allegations against health professionals whose registered address is in England. The distribution of allegations by home country is broadly similar to that in 2005–06 and 2006–07.

Allegations by gender

Fifty-seven per cent of allegations are made about male registrants and 43 per cent are made about female registrants. The Register is made up of 76 per cent female registrants and 24 per cent male registrants. In terms of particular profession, the table below sets out the percentage of allegations according to profession.

Table 1.7 Allegations by gender

	Percentage of allegations		Percentage of the Register	
Profession	**Male**	**Female**	**Male**	**Female**
Arts therapists	81	19	18	82
Biomedical scientists	54	46	36	64
Chiropodists / podiatrists	53	47	28	72
Clinical scientists	83	17	51	49
Dietitians	8	92	4	96
Occupational therapists	27	73	8	92
Operating department practitioners	79	21	38	62
Orthpotists	33	67	6	94
Paramedics	87	13	75	25
Physiotherapists	52	48	20	80
Prosthetists / orthotists	67	33	65	35
Radiographers	44	56	19	81
Speech and language therapists	14	86	3	97
Total	**57**	**43**	**24**	**76**

Convictions

The professions regulated by the HPC are exempt from the Rehabilitation of Offenders Act. This means that convictions are never regarded as 'spent' and can be considered in relation to a registrant's character. We receive notification when a registrant is convicted or cautioned of an offence and also when the offence is disposed of via a conditional discharge.

The offences we have been informed about in 2007–08 have included:

- assault;
- attempted murder;
- battery;
- breach of the peace;
- common assault;
- driving under the influence of alcohol;
- gross indecency;
- possession of controlled drugs;
- possession of indecent or pseudo-indecent images of children;
- sexual assault;
- rape; and
- vandalism.

Investigating Committee panels

The role of an Investigating Committee Panel (ICP) is to investigate any allegation referred to it and to consider whether there is a 'case to answer'.

An ICP is a paper-based exercise at which the registrant does not appear. The function of this preliminary procedure is to help ensure that a registrant is not required to answer an allegation at a full public hearing unless there is a 'realistic prospect' that the Council will be able to establish that the registrant's fitness to practise is impaired.

ICPs meet in private and consider all the available information, including any information sent to us by the registrant in response to the allegation.

If a panel decides that there is a case to answer, it is at this point that information enters the public domain and is disclosable. This means we have to inform the four UK Health Departments and can provide information on what the allegation is about. The allegation will be displayed on our website four weeks prior to the final hearing.

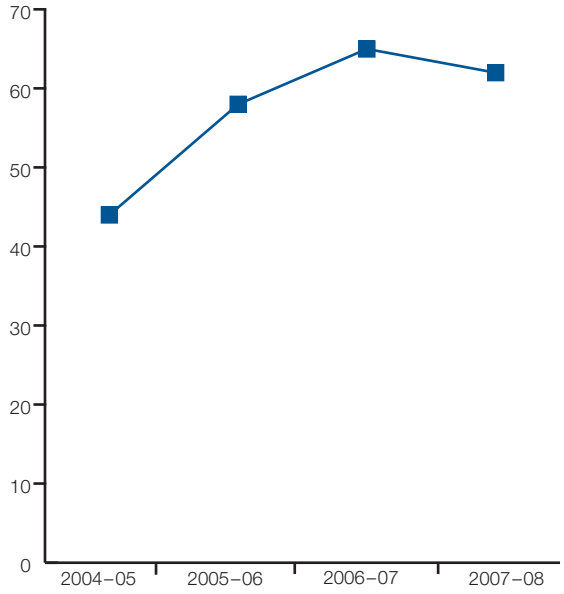
In 2007 – 08 panels of the Investigating Committee met four times a month and considered 299 cases to determine whether there was a case to answer in relation to the allegations received. This number includes some cases that had been heard twice in that year, as the panels had requested further information.

In 2007 – 08 there was an increase in the number of cases considered by a panel. The number of allegations where a panel determined there was a case to answer has fallen slightly this year. The table below shows the percentage of allegations where a case to answer decision was reached.

Table 2.1 Allegations where a case to answer decision was reached

Year	Percentage of allegations
2004 – 05	44
2005 – 06	58
2006 – 07	65
2007 – 08	62

Graph 2.1 Case to answer rate



Decisions by panels

Table 2.2 shows decisions made by panels of the Investigating Committee.

Case to answer by profession

The overall case to answer rate is 62 per cent. Table 2.2 indicates that there are eight professions where this rate is higher than the current average.

Table 2.2 Investigating Committee panel decisions

				Committee			
Profession	**Total allegations heard**	**No case to answer**	**Further information requested**	**Conduct and competence**	**Health**	**Investigating**	**% case to answer**
Arts therapists	11	3	0	8	0	0	73
Biomedical scientists	14	4	0	10	0	0	71
Chiropodists / podiatrists	31	19	1	10	0	1	35
Clinical scientists	6	1	1	4	0	0	67
Dietitians	9	4	0	5	0	0	56
Operating department practitioners	24	3	0	21	0	0	88
Occupational therapists	29	9	2	18	0	0	62
Orthoptists	2	1	0	0	1	0	50
Paramedics	62	17	1	44	0	0	71
Physiotherapists	56	29	0	27	0	0	48
Prosthetitists / orthotists	4	4	0	0	0	0	0
Radiographers	41	11	0	28	2	0	73
Speech and language therapists	10	3	0	7	0	0	70
Total	**299**	**108**	**5**	**182**	**3**	**1**	**62**

Specific allegations that have resulted in a case to answer decision have included the following issues:

- sexual misconduct;
- fraudulently producing references;
- attending work under the influence of alcohol;
- failure to comply with reasonable instructions, and harassment of other staff;
- performing an examination on another member of staff without a valid referral;
- failure to adequately assess patients;
- fraudulently claiming overtime;
- use of controlled drugs;
- failure to attend patient call-out when instructed;
- investigation of an ionising radiation incident;
- general competency issues;
- theft of a patient's property;
- assault on a colleague;
- failure to disclose convictions;
- false mileage claims;
- borrowing money from a patient and failure to repay;
- bullying of co-workers; and
- poor record keeping and the management of clinical risk in client handovers.

Allegations that have resulted in a no case to answer decision have involved the issues set out in the table over the page.

Type of issue	Reason for no case to answer
Incorrect trimming of toenail	No evidence to support allegation, clipping of toenail can be difficult and can cause risk of infection
Misrepresented self as former member of the armed services	Patient safety or care not an issue
Poor time-management and presentation skills	No evidence to support allegation
Drink-driving conviction	Not work related
Failure to report an accident	Isolated incident and had no bearing on patient safety
Recommended incorrect treatment	No evidence to substantiate the allegations – this was supported by an Independent Review Panel
Inappropriate restraint / tone to patient in waiting room	Complainant account not found to be credible
Manipulating journey times to obtain unauthorised breaks	No evidence to show deliberate manipulation
Participated in a public event whilst off sick	No evidence to support allegation
Poor note keeping, and inappropriate intervention	No credible evidence to support allegation
Claiming for hours not worked	Allegation related to business dispute between two parties
Falsely stated first language as English in order to gain entry to the Register	No evidence to support allegation
Refusal to engage in supervisory sessions	No credible evidence to support allegation
Poor quality of advice and treatment caused further injury	No likelihood of case being proved at final hearing

In most instances panels determined that there was no case to answer in relation to drink-driving convictions which did not involve any aggravating factors. In such cases, panels will take into account whether a registrant was on call, on their way to or from work and the level of alcohol in the blood. They also take into account the penalty imposed by the courts.

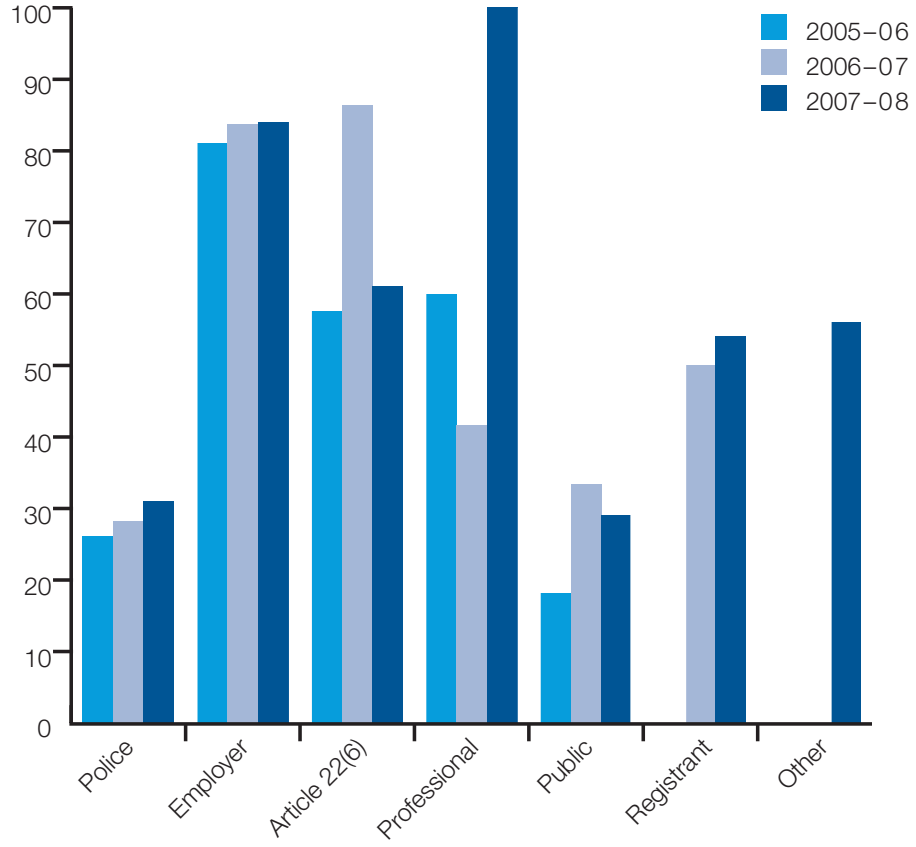
Case to answer by complainant

The average case to answer rate for 2007–08 was 62 per cent. However, table 2.3 indicates that certain complainant groups have a higher case to answer rate than this. This is most noticeable in allegations that we receive from employers. These allegations tend to have been dealt with by the employer at a local level and the registrants involved provided with a level of support from their employer. A number of allegations were considered from employers about misuse of drugs, falsely claiming sick pay or expenses and failure to meet the standards of proficiency.

Table 2.3 Case to answer by complainant

Complainant	Case to answer	No case to answer	Further information requested	Total	% case to answer
Police	8	16	2	26	31
Employer	120	22	1	143	84
Article 22(6)	27	16	1	44	61
Professional	1	0	0	1	100
Public	18	44	1	63	29
Registrant	7	6	0	13	54
Other	5	4	0	9	56
Total 2007–08	**186**	**108**	**5**	**299**	**62**

Graph 2.2 Percentage case to answer, comparison of 2005–06, 2006–07 and 2007–08



The case to answer rate for allegations made by members of the public has fallen slightly since 2006–07.

We take a number of steps to gather all possible information about the allegations that we receive. This may include asking members of the public for access to their medical records. This can clarify some of the points raised in allegations. We are now able to take details of allegations over the telephone which may, in some cases, improve the quality of information that is presented to the panel.

The case to answer rates for allegations from police and employers has remained relatively consistent over the past three years.

Case to answer and representation

Tables 2.4 and 2.5 provide information on the case/no case to answer correlation by representation. We received a response in 70 per cent of cases. This is an increase from 2006–07.

In the majority of cases (81.5%) where a panel found there was no case to answer the registrant provided a response to the allegation, either personally or through a representative.

Table 2.4 Case to answer and representation

Type of complainant	Case to answer	No response	Response from registrant	Response from representative
Article 22(6)	27	8	18	1
Employer	120	48	63	9
Police	8	5	3	0
Professional	1	0	1	0
Public	18	4	7	7
Registrant	7	1	6	0
Other	5	1	3	1
Total	**186**	**67**	**101**	**18**

Table 2.5 No case to answer and representation

Type of complainant	No case to answer	No response	Response from registrant	Response from representative
Article 22(6)	16	7	7	2
Employer	22	6	14	2
Police	16	2	11	3
Professional	1	0	1	0
Public	44	4	39	1
Registrant	6	0	6	0
Other	3	1	2	0
Total	**108**	**20**	**80**	**8**

Time taken from receipt of allegation to investigating panel

Table 2.6 shows how long it took for allegations to reach an investigating panel.

Table 2.6 Weeks to investigating panel

Number of weeks	Number of allegations
4 – 10 weeks	22
11 – 20 weeks	86
21 – 30 weeks	78
31 – 40 weeks	30
41 – 50 weeks	40
51 – 60 weeks	18
61 – 70 weeks	9
71 – 80 weeks	7
Over 80	4

On receipt of an allegation, the case will be allocated to a case manager. The case manager will look into the matter further and gather relevant information – for example from the police or the employer. In some instances we may need to take witness statements.

We will write to the registrant and provide them with the information we have received. We will allow the registrant 28 days to respond before we present the case to an Investigating Panel. There may however be some delays in this process. The reasons for delay include requests for extension of time from the registrant and delays in receiving the information that we have requested.

It is important to note that the HPC has powers to demand information if it is relevant to the investigation of a fitness to practise issue. We use this power to obtain information from, for example, the police and employers.

We may also delay our investigation until any proceedings undertaken by the employer have been concluded or when a criminal trial is pending.

It may also be necessary to delay our processes when we receive another allegation about the same registrant or the same allegation about more than one registrant. However, every case will be treated on its own merits. If the allegation is so serious as to require immediate public protection, we can consider applying for an Interim Order. More information about Interim Orders is provided later in this report.

We are obliged to manage our case load expeditiously and we try to ensure that we have the processes in place for us to do so. We need to balance the need to move complaints forward – in order to protect the public – with the need to gather the information necessary for the registrant to respond to the case.

The average length of time taken for a case to reach an Investigating Panel is 32 weeks. This is an increase of six weeks from 2006 – 07. In 2008 – 09 we aim to ensure that cases will be considered by an Investigating Panel within 30 weeks of confirmation of an allegation.

At the end of March 2008, 198 cases were awaiting consideration by panels of the Investigating Committee.

Incorrect entry to the Register

The HPC can consider allegations about whether an entry to the Register has been made fraudulently or incorrectly. Decisions about such cases are within the remit of the Investigating Committee. If a panel decides that an entry to the Register has been made fraudulently or incorrectly they can remove or amend the entry or take no further action.

During 2007–08 panels of the Investigating Committee considered 19 cases. In all these cases the panel found that the entries of all the registrants had been incorrectly made. The panel accepted that the mistaken entries resulted from administrative errors on the part of the HPC.

The allegations against eighteen of the registrants were brought by the HPC and were identical in nature. The allegations concerned registrants who had applied for registration through the 'grandparenting' process, which was open between 9 July 2003 and 8 July 2005.

The panel found that although the entries of all the registrants had been incorrectly made, public interest was best served by the registration of these registrants being maintained. Accordingly, the panel took no further action in relation to these allegations.

Interim orders

In certain circumstances, panels of our practice committees may impose an 'interim conditions of practice order' or an 'interim suspension order' on health professionals who are the subject of a fitness to practise allegation. This power is used when the nature and severity of the allegation is such that, if the health professional remains free to practise without restraint, they may pose a risk to the public or to themselves. Panels will only impose an interim order when they feel that the public or the registrant involved require immediate public protection. Panels will also consider the potential impact upon public faith in the regulatory process should a registrant be allowed to continue to practice without restriction whilst subject to an allegation.

The power to impose an interim order can be used prior to a decision about a case being reached or when a decision has been reached to cover the period of the appeal.

Case managers from the Fitness to Practise Department acting in their capacity of presenting officers regularly present applications for interim orders and reviews of interim orders. This is done so as to ensure resources are used to their best effect.

Table 4.1 shows the number of interim orders granted by profession and indicates the number of cases where an interim order has been reviewed or revoked. We are obliged to review an interim order six months after it is first imposed and every three months thereafter.

Table 4.1 Number of interim orders received by profession

	Applications considered	Applications granted	Applications rejected	Reviewed	Revoked
Arts therapists	1	1	0	3	0
Biomedical scientists	4	3	1	4	0
Chiropodists / podiatrists	1	1	0	5	1
Clinical scientists	0	0	0	4	0
Dietitians	0	0	0	0	0
Occupational therapists	2	1	1	1	0
Operating department practitioners	6	5	1	12	1
Orthoptists	0	0	0	0	0
Paramedics	5	5	0	11	0
Physiotherapists	1	1	0	7	0
Prosthetists / orthotists	0	0	0	0	0
Radiographers	2	2	0	5	1
Speech and language therapists	0	0	0	0	0
Total	**22**	**19**	**3**	**52**	**3**

Table 4.2 Historic interim orders 2004 – 05 to 2007 – 08

Year	Applications granted	Applications reviewed	Revoked	Number of allegations	Percentage of allegations where interim order was imposed
2004 – 05	15	n/a	n/a	172	9
2005 – 06	15	12	1	316	5
2006 – 07	17	38	1	322	5
2007 – 08	19	52	3	424	4
Total	**66**	**102**	**5**	**1,234**	**5**

The percentage of cases where an interim order was granted compared to the total number of allegations received is at its lowest level since the HPC began operating.

Types of case where an interim order is granted

In 2007– 08, 19 applications for interim orders were granted. In three instances the panel felt that it was more appropriate to impose an interim conditions of practice order. In one other case the panel reviewed the interim suspension order and subsequently decided that an interim conditions of practice order would adequately protect the public.

In two instances, panels revoked the interim order that was imposed because the circumstances leading to the order being granted in the first place had dramatically changed. In the 13 other cases where an interim order was granted, the panel felt it was appropriate to suspend the registrants concerned.

In seven cases the registrants concerned had either been charged with or convicted of serious sexual offences including indecent assault, rape, and in some cases the possession and distribution of indecent photographs of children. In six cases an interim order was imposed where the allegation concerned inappropriate behaviour of a sexual nature involving patients and/or colleagues. In two cases an interim order was granted following concerns raised about misuse of alcohol in the work place.

We can also apply for an interim order after the 'final disposal hearing' has taken place in a case. This is because when a final sanction is imposed, the registrant has a 28-day period in which they can appeal the decision to the courts. The tables above do not include these statistics.

Public hearings – Panels of the Conduct and Competence and Health Committees

The HPC has to hold hearings in the home country of the registrant concerned and in 2007–08 we continued to hold hearings at locations throughout the United Kingdom.

In 2007–08 our practice committees approved a practice note setting out the factors panels should consider when deciding where to hold a hearing. The factors that are taken into consideration by panels when asked to provide directions regarding the venue of the hearings are:

- the personal circumstances of the registrant concerned;
- the needs of witnesses;
- the effect the location of the hearing may have on the quality of evidence given by witnesses at the hearing;
- the number of witnesses and their locations; and
- the financial implications to both HPC and the registrant concerned.

We normally hold our hearings in public, as this is required by the Health Professions Order 2001. However, we can hold a hearing in private in some circumstances. If a hearing is held in private, we are still obliged to announce in public the decision, and any order made in relation to the case. In cases where the decision is well founded, we publish this information on our website. In 2008–09 we anticipate that at least two hearings will take place every working day.

The table below demonstrates the increase in number of cases where a hearing has been held.

Table 5.1 Number of public hearings

Type of hearing	Number of cases considered			
	2004 – 05	2005 – 06	2006 – 07	2007 – 08
Interim order and review	25	28	55	71
Final hearing	66	86	125	187
Review hearing	11	26	42	66
Total	**102**	**140**	**222**	**324**

What powers does a panel have?

Any action taken by our panels is intended to protect the public, not to punish registrants. Panels will also consider the individual circumstances of a case and take into account what has been said by all those at the hearing before deciding what to do. Panels firstly have to consider whether the allegation is proven. They have to decide whether the incident happened as alleged, whether this amounts to the 'ground' set out in the allegation (for example, misconduct or lack of competence) and whether as a result, the registrant's fitness to practise is impaired. If the panel decide that it is, they will go on to consider whether it is appropriate to impose a sanction. In hearings of the Health Committee, or where the allegation relates to lack of competence, the panel will not have the option to strike off a registrant at the first hearing. This is because the law recognises that in cases where ill-health has impaired fitness to practise, or where competence has fallen below expected standards, it is possible for the situation to be remedied over time. The registrant may seek treatment or training and may be able to return to practice if the panel is satisfied that this is safe.

A number of options (known as 'sanctions') are available to final hearing panels. These sanctions are:

- Take no further action.
- Send the case for mediation.
- Impose a caution order. This means that the word 'caution' will appear against the registrant's name on the Register.
- Place some sort of restriction or condition on the registrant's registration. This is known as a 'conditions of practice order'. This might include, for example, requiring the registrant to work under supervision or to undertake further training.
- Suspend registration. This may not be for longer than one year.
- Order the removal of the registrant's name from the Register, which is known as a 'striking off order'.

Time taken from allegation to hearing

Of the cases that reached and were concluded at a final hearing in 2007–08, it has taken an average of 75 weeks from the receipt of the allegation for the final hearing to be held. From the date of the decision made by the Investigating Committee Panel, it has taken an average of 50 weeks for the case to be listed for final hearing. In 2006 – 07 the average was 67 weeks and 48 weeks respectively.

Costs

The HPC is funded by registration fees. The budget for the Fitness to Practise Department in 2007–08 was approximately £3.5m, which is about 29 per cent of the HPC's overall operating costs. In 2006–07 the Fitness to Practise Department's budget was approximately 25 per cent of the HPC's operating costs and in 2008–09 it is anticipated that the figure will rise to 35 per cent. In order to ensure we are effectively managing our costs we have implemented a number of new initiatives. These include using case managers to present cases in their capacity of presenting officers and the implementation of case directions to ensure the effective management of hearings. We also try to hold multiple cases on the same day wherever possible. More information on case directions can be found in the policy section of this report.

For each case, the HPC is obliged to cover the costs of:

- venue hire (and associated costs);
- a shorthand writer;
- a legal assessor (fee and expenses);
- panel members (fees and expenses);
- witness travel and associated expenses;
- photocopying costs (bundles and exhibits); and
- legal services (costs incurred in preparing and presenting the case).

Of the cases that reached final hearing in 2007–08 and where a final disposal decision was reached, the highest amount spent on an individual case to cover external legal costs was approximately £29,875. The total legal costs incurred in the case were £30,945. This hearing took 6 days to conclude.

It is difficult to provide an average cost per case because some cases have only recently been instructed on, whereas others were instructed on prior to 2007–08.

Length of hearings

Panels of the Conduct and Competence Committee, Health Committee and Investigating Committee (when considering incorrect entries) met on 252 days to consider cases that had been referred by Investigating Committee Panels. Cases took approximately 1.5 days to conclude.

Action taken at final hearings

Table 5.2 is a summary of the disposal decisions taken by panels of the Health and Conduct and Competence Committees. It does not include cases where the allegation was not well-founded or those cases that were part heard or adjourned.

All well-founded HPC decisions are published on our website at www.hpc-uk.org. A list of those cases can be found in Appendix one of this report.

Media coverage

There were a number of media reports about fitness to practise cases in 2007–08. One of our key obligations is to inform and educate registrants, and inform the public about our work. Media coverage of our cases is important because it increases awareness about the work of the HPC and shows that our processes are transparent.

We had press coverage of fitness-to-practise cases in:

- the *Daily Mail;*
- the *Daily Mirror;*
- the *Daily Telegraph;*
- *The Guardian;*
- *News of the World;*
- *The Sun;* and
- *The Times.*

We also received significant coverage in a number of regional and local newspapers, and via online news services including BBC News Online and the Press Association.

Health Committee panels

Panels of our Health Committee consider allegations that a registrant's fitness to practise is impaired by reason of their physical or mental health. We can take action when the health of a registrant may be impairing their ability to practise safely and effectively. For example, if the registrant lacks insight into and understanding of their condition then this may impact upon the safe practice of their chosen profession.

If the allegation is proven then a 'caution', 'conditions of practice order' or a 'suspension order' can be imposed. We cannot strike someone off the Register in health cases except where the registrant in question has been suspended for two or more years. The sanctions available to panels of the Health Committee are not intended to punish the registrant but to protect the public. For example, a suspension order may allow the registrant to address their health issues before returning to practice. An appropriate conditions of practice order may be imposed by the panel. For example, a registrant may be required to undergo an alcohol rehabilitation programme.

The Health Committee considered six health cases in 2007–08. In five of the cases considered by panels of the Health Committee, it was determined that the registrant's fitness to practise was impaired and suspension orders were imposed for a period of one year in each. In the other case the panel determined that the allegation was not well-founded.

Panels of the Health Committee deal with a range of issues. Due to the sensitive nature of the cases considered, all five cases were dealt with in private. When cases are heard in private the panel is still required to issue the 'notice of decision' and 'order' in public.

In one of the five cases considered the registrant attended the hearing and was represented by a member of their trade union.

All the other cases proceeded in the absence of the health professional. In all five cases the panel considered relevant medical evidence and/or evidence from the registrant's employer in both written and oral form. Over the year, evidence was considered from an educational psychologist, a consultant psychiatrist and a consultant neuropsychologist. A registered medical practitioner also sits on all panels of the Health Committee.

At the end of March 2008 there were four outstanding cases for consideration by panels of the Health Committee.

Conduct and Competence Committee panels

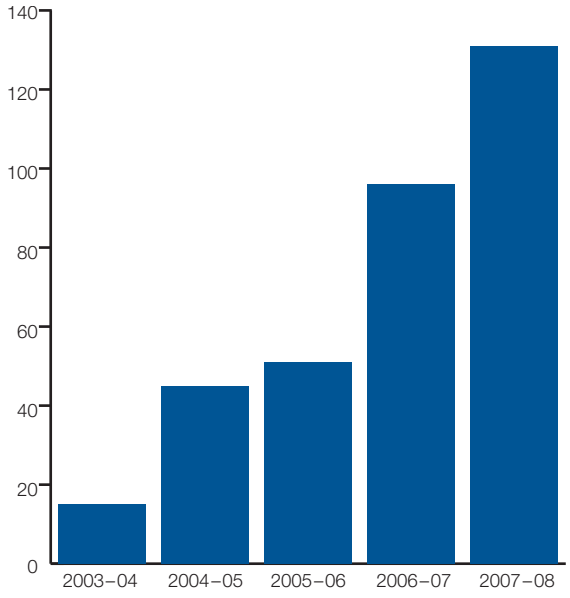
Panels of our Conduct and Competence Committee consider allegations that a registrant's fitness to practise is impaired by reason of their misconduct, lack of competence, a conviction or caution, or a determination by another regulator.

Table 5.2 and Graph 5.1 show the number of cases considered by panels of the Conduct and Competence Committee where a final 'disposal decision' was reached.

Table 5.2 Conduct and competence hearings

Year	Disposal decisions reached
2003 – 04	15
2004 – 05	45
2005 – 06	51
2006 – 07	96
2007–08	131

Graph 5.1 Conduct and competence hearings



Outcome and type of allegations

The next section of the report outlines the types of case considered by the Committee where it was found that the registrant's fitness to practise was impaired. Information on allegations which were not well-founded is provided later in the report. Table 5.3 sets out action taken by type of allegation, in relation to cases considered in 2007–08.

Table 5.3 Outcome by type of allegation

Type of allegation	Outcome						
	Struck off	Suspension	Conditions of practice	Caution	No further acton	Not well-founded	Total
Misconduct	26	15	6	21	3	20	**91**
Lack of competence	0	10	1	4	0	2	**17**
Conviction/ caution	11	4	0	5	0	3	**23**
Health	0	5	0	0	0	1	**6**
Incorrect/ fraudulent entry	0	0	0	0	19	0	**19**
Total	**37**	**34**	**7**	**30**	**22**	**26**	**156**

Convictions/cautions

Twenty-three cases were considered by panels where the registrant had been convicted or cautioned for a criminal offence. In 20 of the cases the panel determined that the registrant's fitness to practise was impaired by reason of their conviction or caution. In 2006–07, 17 such cases were considered.

The range of offences that were considered by the panels included:

- common assault;
- driving whilst over the alcohol limit;
- grievous bodily harm;
- making indecent photographs of children;
- making indecent pseudo-images of children;
- manslaughter;
- murder;
- possession of a Class A controlled drug;
- possession of indecent images of children;
- theft from employer;
- theft from a patient;
- theft of controlled drugs; and
- theft of NHS property.

In some cases the panel considered more than one conviction recorded against a registrant. In total the panels considered two convictions for failure to provide a specimen of breath, three convictions for driving whilst over the alcohol limit and four convictions for possessing indecent images of children.

Struck off

In eleven of the cases the offences committed were of such a serious nature that in order to protect the public, the registrant was struck off the Register.

In a case concerning a paramedic, the Registrant was struck off having been convicted of driving whilst over the alcohol limit. The conviction was aggravated by the fact that the registrant was carrying out his duties as a paramedic when he was arrested for the offence. He was struck off the Register as it was considered that his conduct in driving and attending to his duties while under the influence of alcohol put at risk the safety of patients, colleagues as well as other road users.

A radiographer was struck off the Register following his conviction for murder. The fact that he was serving a life sentence did not affect the obligation of this Panel to consider whether he should be permitted to practice were he at liberty to do so. Similarly, an operating department practitioner was struck off following his conviction for manslaughter.

Three paramedics were struck off the Register for the possession of indecent images of children. One biomedical scientist was struck off for making indecent pseudo-images of children and one operating department practitioner was struck off for making indecent images of children. The panel in each case considered that in the interests of public protection, the reputation of the respective professions and maintaining confidence in the regulatory process, striking off was the appropriate sanction. Another paramedic was struck off the Register having been sentenced to 12 months imprisonment following his conviction for theft from patients, including three counts of theft and one of attempted theft from deceased patients.

In another case involving a conviction for theft, an operating department practitioner was sentenced to 51 weeks imprisonment having been convicted of stealing a quantity of opiate drugs from his employer.

Following a conviction for grievous bodily harm, a chiropodist was struck off the Register. The panel considered that there was a low risk of repetition and that the attack arose in circumstances unconnected with her professional practice. However, the panel decided that in order to ensure confidence in the profession, and to ensure that the HPC's regulatory process is maintained, the only sanction it could impose was one of striking-off.

The cases above demonstrate that convictions for violence, sexual offences and dishonesty are the types of conviction that are likely to result in a registrant being struck off the Register. They are also the type of issues that may prevent an applicant being granted registration.

Suspension

In four cases the registrant was suspended following a finding of impairment in relation to their conviction or caution.

Two registrants were suspended following convictions for offences of theft. In one case an operating department practitioner had been sentenced to eight months' imprisonment having pleaded guilty to:

– five counts of theft of property from his employer;

– two counts of false accounting in relation to controlled drug registers;

– three counts of making a false instrument in relation to controlled drug registers; and

– three counts of possessing Class A controlled drugs.

The panel had no evidence that any patient had been harmed or put at risk, but his misconduct had damaged the reputation of his profession. The panel also had regard to the public interest and the need to maintain public confidence in the regulatory process.

In the other case a paramedic was convicted of seven counts of theft from his employer. The offences related to the stealing of various items, including training manuals, and selling them on the internet. The panel noted that he had repaid the sum of £2,470 to his employer and that he had served his Community Punishment Order. The panel concluded that although the conviction was serious, there was little prospect of repetition and striking off was not merited.

A physiotherapist was suspended following his conviction for failing to provide a specimen of breath for analysis. The panel noted that in disposing of the criminal case the Magistrates' Court considered it appropriate to impose a significant period of community supervision, a drink drivers' program requirement and a lengthy period of disqualification from driving. The panel were concerned that the registrant had not engaged in any way in this process. The panel were therefore unable to assess the risk of recurrence. The panel therefore found that a suspension order was the appropriate sanction.

A panel also considered the case of a biomedical scientist who had been convicted of making four indecent photographs and being in possession of two indecent photographs. The panel gave consideration to striking off the Registrant. However, there was evidence of cooperation with the probation service and their assessment was that there was a low risk of the registrant re-offending.

Conditions of practice order

There were no cases where a 'conditions of practice' order was considered appropriate following a conviction or caution. Conditions of practice orders are the least common outcome in terms of sanctions imposed by panels, across all types of allegation. It is therefore not unusual that no conditions of practice orders were imposed on registrants who were convicted or cautioned of an offence.

Cautions

There were five cases where a registrant was cautioned by the HPC following a criminal conviction or police caution. The criminal offences for which cautions were given were:

– common assault;

– failure to provide a breath specimen for alcohol analysis;

– driving whilst over the alcohol limit;

– possession of a class-A controlled drug; and

– theft of NHS property.

In all five cases the panel decided that a caution order was a proportionate sanction and would adequately protect the public.

Misconduct

In 2007–08, 91 final disposal decisions were made in cases involving allegations to the effect that a registrant's fitness to practise was impaired by reason of their misconduct. In some cases, the allegation was one of lack of competence and misconduct.

Some of the issues considered included:

– accessing inappropriate websites at work;

– attending work under the influence of drugs and alcohol;

– falsifying records;

– fraudulent use of employer's postal system and misuse of employer's property;

– inappropriate behaviour and treatment of a patient;

– inappropriate behaviour towards colleagues;

- issuing incompatible blood and attempting to destroy the evidence of doing so;
- making false statements on a curriculum vitae;
- misreading blood tests, leading to death of patient;
- misuse of drugs;
- sexual harassment;
- unauthorised absence from work; and
- working while claiming sick pay.

Below are some more detailed examples of the most common misconduct alleged.

Misuse of drugs

In 2007–08, nine cases considered by the Conduct and Competence Committee concerned allegations relating to the misuse of drugs, and in some cases also alcohol. These cases often involved the theft of the drugs from the employer.

All but two of the cases concerned paramedics and operating department practitioners, which is consistent with the cases that were considered in 2006–07. Both professions have regular access to controlled drugs during the course of their work. The remaining cases involved a biomedical scientist and a radiographer.

In six cases, panels struck the registrant off the Register. The remaining three cases were made subject to a caution order. In some cases an interim order was imposed while the case was under investigation to protect the public and the registrants themselves.

In the cases where the panel imposed a caution order, the registrants were in attendance at the hearing. The cautions imposed were for periods of between one and two years. In these cases the panel took into account mitigating circumstances and the fact that in two cases it was an isolated incident and had not occurred while the registrants were on duty. The panels were assured that the registrant was not a risk to the public.

The cases that resulted in the registrants being struck off the register concerned two paramedics, two operating department practitioners, one radiographer and one biomedical scientist.

In one case involving an operating department practitioner, quantities of Tylex, co-codamol and Codyramol were stolen from a hospital and the registrant was later convicted of the offence and received a conditional discharge. The registrant was also convicted of two other offences, between 2001 and 2003, for assault and failing to provide a breath specimen for alcohol analysis.

In another case concerning an operating department practitioner, quantities of Profopol and syringes were taken and self-administered by the registrant. The registrant admitted the allegation and had been dismissed by her employer. There had been more than one occasion indicating a continuing problem and the panel decided that striking off was the only option that would adequately protect the public.

In one case involving a paramedic, the registrant consumed isopropyl alcohol and kaolin and morphine whilst on duty on a number of occasions over a five-year period. He was found collapsed on one occasion and there were concerns over his driving ability. There were also empty ampoules of Oromorph found in the ambulance used by the registrant, with no explanation as to its use. In deciding to strike off the registrant, the panel noted that he lacked insight and had failed to address his conduct.

In the other paramedic case, the registrant self-administered Entonox whilst on duty on numerous occasions over a six-month period. In coming to their decision to strike this paramedic off the register, the panel took account of his lack of insight and failure to address his shortcomings.

In the case concerning a radiographer who was struck off, the registrant admitted that he removed a syringe containing un-used midazolam from a 'sharps bin' – a container for the disposal of used sharp medical instruments – whilst on duty. He then self-administered 1ml intravenously, disposing of the midazolam and placing the used needle and syringe into his bag. He also admitted that earlier that night, whilst on duty, he had taken a Voltarol tablet prescribed for his mother. There were concerns about the registrant's handling of his clinical case-load following the incident. The panel commented on the unsafe practice demonstrated by the registrant regarding working under the influence of drugs, use of a partially used syringe and failure to dispose of clinical waste appropriately.

In the final case concerning the misuse of drugs, a biomedical scientist attended work on a number of occasions under the influence of alcohol and cannabis. There was no evidence that the registrant's behaviour had changed and the only sanction the panel considered would sufficiently protect the public was a striking off order.

Accessing inappropriate websites at work

There were three cases considered by the Conduct and Competence Committee where the allegations related to accessing inappropriate websites at work. The cases concerned two chiropodists and one occupational therapist and the sanctions imposed by the panels were a caution, a suspension, and a striking off.

The case where the panel imposed a caution involved a chiropodist who accessed pornographic websites at work and downloaded images onto his work computer. In coming to its decision the panel took account of the fact that no one else had viewed the images and the registrant had previously demonstrated good character.

Where the panel decided to strike the registrant off the register, the case again concerned a chiropodist who excessively accessed non-work-related websites whilst at work. There were also other elements of the registrant's behaviour that caused concern, including showing her colleagues sexually explicit photographs of her partner, talking on her mobile phone and swearing in front of patients, demonstrating martial art techniques on her colleagues in the patient waiting room and performing a mock-Nazi salute. The panel took the decision to strike the registrant off the register, not because of the gravity of any particular act but because of the totality of the behaviour and her failure to acknowledge and address her shortcomings.

Patient records

A number of cases considered in relation to registrants' misconduct and/or lack of competence, involved an element relating to patient records.

In one case a dietitian was struck off the register having destroyed a page of a client's patient notes and later substituted it with a new page which contained an amended version of the entry which she traced from a colleague's prior entry. The panel concluded that altering patient notes in this way, for whatever reason, was dishonest. The registrant knew the correct procedure and deliberately ignored it. The panel took the view that maintaining the integrity of patients' records is vital and that any deliberate falsification of records is a serious matter, and compromises public trust in the profession.

In another case, an operating department practitioner was cautioned following an incident in which he made a false entry in a log book stating he had assisted in the treatment of a patient. When asked for the supporting documentation, he completed records using the name of a patient who had died two months earlier. The false entry allowed him to alter his hours of work and entitled him to additional time off. The panel considered this to be a single lapse which did not pose a risk to patients.

Lack of competence

The types of competency issues that were considered by panels in 2007–08 included:

- failure to meet the required standard of competence;
- failure to meet the requirements of managing a neurological case load;
- failure to provide adequate basic medical assessment;
- failure to meet the required level of English-language proficiency; and
- failure to provide appropriate care.

Sanctions imposed

Table 5.4 shows the sanctions that have been imposed by panels of the Conduct and Competence Committee in 2007–08 by profession. Table 5.5 shows the type of sanction imposed against the type of allegation considered by panels.

Table 5.4 Sanctions imposed by profession

Profession	Struck off	Suspension	Conditions of practice	Caution	No further acton	Not well-founded
Art therapists	0	0	0	1	0	0
Biomedical scientists	6	2	0	3	0	2
Chiropodists / podiatrists	2	0	1	2	0	5
Clinical scientists	1	0	0	0	0	0
Deititians	1	0	0	0	0	1
Occupational therapists	0	12	0	5	0	3
Operating department practitioners	5	3	0	3	0	1
Orthoptists	0	0	0	0	0	0
Paramedics	12	7	3	8	2	9
Physiotherapists	3	7	2	1	20	1
Prosthetists / orthotists	0	0	0	0	0	0
Radiographers	5	2	0	7	0	3
Speech and language therapists	2	1	1	0	0	1
Total	**37**	**34**	**7**	**30**	**22**	**26**

Table 5.5 Sanctions imposed by type of allegation

	Outcome						
Allegation	Struck off	Suspension	Conditions of practice	Caution	No further acton	Not well-founded	Totals
Misconduct	26	15	6	21	3	20	91
Lack of competence	0	10	1	4	0	2	17
Conviction / caution	11	4	0	5	0	3	23
Health	0	5	0	0	0	1	6
Incorrect/ fraudulent entry	0	0	0	0	19	0	19
Total	**37**	**34**	**7**	**30**	**22**	**26**	**156**

Representation of registrants

All registrants are entitled to attend the final hearing and be represented if they choose. Some registrants decide not to attend, some represent themselves and some have professional representation. Panels may proceed in the registrant's absence if HPC has served them with notice of the hearing and the panel is satisfied that, in all the circumstances, it is appropriate to do so. The role of the legal assessor at hearings is to ensure the proceedings are fair and conducted in an impartial manner and this includes ensuring the panel considers whether adequate notice has been served.

Table 5.6 shows the proportion of registrants that are represented at hearings. In 2006–07, 58 per cent of registrants were either represented or attended the hearing to represent themselves. This figure has risen slightly in 2007–08 to 62 per cent.

Table 5.6 Representation at final hearings

Representation	2006–07	2007–08
Registrant	13	17
Representative	46	80
None	43	59
Total	**102**	**156**

Table 5.7 Outcome and representation

Outcome	Represented self	Representative	None
Not found	5	16	5
Caution	5	21	4
Conditions of practice	0	7	0
No further action	1	20	1
Strike off	5	5	27
Suspension	1	11	22
Total	**17**	**80**	**59**

The table below shows that the chiropodists have the greatest percentage of representation (90%) either by the registrant themselves or a representative, with physiotherapists second highest, with 76 per cent of registrants represented.

Table 5.8 Representation by profession

Profession	Represented self	Representative	None	% of representation
Arts therapists	0	1	0	1
Biomedical scientists	3	4	6	54
Chiropodists / podiatrists	2	7	1	90
Clinical scientists	0	0	1	0
Dietitians	0	0	2	0
Operating department practitioners	1	1	10	17
Occupational therapists	1	10	9	55
Orthoptists	0	0	0	0
Paramedics	7	20	14	66
Physiotherapists	1	25	8	76
Prosthetists / orthotists	0	0	0	0
Radiographers	2	9	6	65
Speech and language therapists	0	3	2	60

Not well-founded

The HPC has the burden of proving that a case is well-founded.

In 2007–08 there were 26 instances where panels did not find cases well-founded. Our legislation prevents us from publishing details of these cases, unless specifically requested to do so by the registrant concerned. However, we are obliged to provide the Council for Healthcare Regulatory Excellence (CHRE) with information about the cases that have been considered by panels of the Conduct and Competence Committee. More information about the role of CHRE can be found later in this report.

The table below indicates the number of cases that were not well-founded. This includes cases considered by the Health Committee.

Table 5.9 Cases not well-founded

Year	Cases not well-founded	Total number of concluded cases	% not well-founded
2004–05	3	45	6.7
2005–06	1	51	2
2006–07	18	96	19
2007–08	26	156	16.7

The table below illustrates the professions of registrants whose cases were not well-founded.

Table 5.10 Cases not well-founded by profession in 2007–08

Profession	Number of cases not well-founded
Biomedical scientists	2
Chiropodists / podiatrists	5
Occupational therapists	3
Operating department practitioners	1
Paramedics	9
Physiotherapists	1
Radiographers	3
Speech and language therapists	1

The majority of cases (85%) considered to be not well-founded were based on allegations of misconduct and lack of competence. Three cases were based on a conviction or caution and one on matters of ill-health.

In a number of cases which were not considered to be well-founded, registrants displayed to panels that they recognised their failings or acts that led to allegations made against them. Furthermore, they illustrated steps taken to address issues forming the basis of allegations made against them. In other cases evidence did not support the allegations or it was demonstrable that there was no issue of current impairment of fitness to practise.

It is important to note that once a panel of the Investigating Committee has made an initial 'case to answer' decision in relation to a case, the HPC is obliged to proceed with the case.

We continually strive to ensure consistency in decision-making and review these cases to ensure that this takes place. We hold regular training sessions for all panel members and staff. Information about cases that are not

well-founded is used in this training, with a view to informing future decision-making.

The following three summaries are examples of cases where panels found there was no case to answer in 2007 – 08.

Registrant A

Registrant A was a biomedical scientist whose original hearing date was cancelled due to the ill-health of the main HPC witness, the complainant. At a subsequent date the hearing continued although the same witness remained unwell. The registrant challenged some documents submitted by the absent witness and the hearing was adjourned once more to allow the appearance of the absent witness to respond to these challenges.

Upon resuming the case, the HPC's witness gave evidence on six allegations based upon Registrant A's fitness to practice being impaired through misconduct and/or lack of competence. The allegations included falsification of records, incomplete record-keeping, using incorrect testing methods, failure to train/supervise a colleague, and running tests without proper controls.

The registrant also gave evidence, as did an additional witness who was the area manager for the services provided by the registrant. The registrant gave descriptions of the working environment and deficiencies experienced within it. The area manager informed the panel that the complainant had been criticised for poor management of the workplace where the registrant was employed and that the complainant had since been dismissed.

The panel, after hearing evidence from both sides, decided that four of the allegations could not be proven on the balance of probabilities. The remaining two allegations had been admitted by the registrant. However, the panel felt that neither constituted misconduct or a lack of competence in the circumstances described.

Registrant B

Registrant B attended the hearing and was represented by a solicitor. Allegations had been made that Registrant B – a chiropodist – had failed to maintain proper and effective communication with a patient. This included failing to inform the patient that the treatment for in-growing toenails could cause discomfort. Registrant B's fitness to practise was alleged to be impaired by reason of misconduct or lack of competence in relation to the allegations, which the Registrant denied.

The Presenting Officer for the HPC explained that the patient who made the allegations had since indicated he no longer wished to be involved in the HPC process and that he would not appear as a witness. The presenting officer reported that every effort had been made to get the patient to assist in the proceedings. The patient's witness statement was read in his absence. Registrant B's solicitor opposed the application to admit the witness statement on the grounds that they would not be able to cross-examine the witness on disputed evidence and that it contained a large amount of 'hearsay' (second-hand evidence). The legal assessor advised the panel before they decided that they would admit the patient's statement. The panel made it clear that they had not yet decided the weight they would give to evidence contained within it.

The Presenting Officer read the patient's statement into the record of proceedings which detailed a visit to the patient's home where treatment was received for in-growing toenails. The patient described how the procedure caused him excruciating pain and also raised concerns about the sterility of the care given. The patient went to hospital because of the pain he was suffering. No other witnesses were called by the HPC to give evidence.

Registrant B then gave evidence of the mobile chiropodist care provided and described what happened when the visit occurred. The registrant described writing up patient notes

later that evening of care given. The treatment, communication given and the atmosphere of the visit were described. Registrant B was not aware that the patient was in such pain, but did mention expecting this treatment to cause some pain. Registrant B described how the patient would have been told to expect some discomfort.

After considering all the evidence carefully the panel announced their decision on the facts of the allegations. They described Registrant B's evidence to be reliable. They repeated that allegations they had to consider were those of a lack of communication and that on hearing the registrant's evidence, they were satisfied that satisfactory communication had been made. The panel found neither of the facts of the allegation proven and therefore announced that the case was not well-founded and closed the hearing.

Registrant C

Registrant C – a paramedic – attended the hearing with no legal representative. There were three allegations made which concerned an occasion when Registrant C attended a road-traffic accident. The registrant was alleged to have verbally and physically assaulted a member of the public, physically assaulted a member of the police, and acted in an unprofessional manner that was inappropriate and unacceptable. The registrant denied the charges of assault, but admitted actions that had been inappropriate, unprofessional and that constituted professional misconduct.

The hearing heard that the member of the public and the police officer were not available to give evidence, despite efforts being made to ensure that they were. Their evidence was in the form of statements taken by a manager who undertook an internal disciplinary investigation into the allegations. Because the statements had not been composed by the individuals who saw the incident first hand, they were considered to be 'hearsay' evidence. The panel had to consider what weight they gave to evidence contained within them. The manager did appear at the hearing to confirm details of the internal investigations undertaken. The Registrant also gave first-hand evidence of the incident.

The panel was not satisfied, on the balance of probabilities, that evidence presented proved the allegations of verbal and physical abuse. They did accept that Registrant C's actions at the accident had been inappropriate and unprofessional and that they breached standards 3 and 16 of the Standards of conduct, performance and ethics.

The panel then heard evidence that this was an isolated incident and that there was no issue in relation to Registrant C's clinical capability in dealing with the incident, as the Registrant's main concern was for the patient throughout. The panel also considered a medical report produced by the Registrant which confirmed the behaviour was stress-related and that subsequently appropriate treatment was received. Taking all of these factors into account, the panel was not satisfied that the misconduct impaired the Registrant's current fitness to practise. Therefore they found that there was no case to answer and the matter was closed.

Suspension and conditions of practice review hearings

When a conditions of practice order has been imposed, it must be reviewed by another panel before it is due to expire. It may also be reviewed if the registrant makes an application to the panel. A registrant might want to do this if they are experiencing problems complying with any condition imposed by the original panel, or when new information relating to the original order becomes available. The HPC can also review a conditions of practice order if it appears that the registrant has breached any conditions imposed by the panel.

When a conditions of practice order is reviewed, the review panel will look for evidence that the conditions imposed by the original panel have been met.

If a suspension order was imposed, a review panel will look for evidence that the issues that lead to the suspension have been dealt with.

A review panel will look to ensure that the public continue to be adequately protected. If they are not satisfied that someone is fit to practise they may:

– extend an existing conditions of practice order;

– further extend the period the registrant was suspended for; or

– remove the registrant from the Register (striking off order).

In 2007–08 there were 66 review hearings. The registrants had all been subject to a conditions of practice order or suspension order.

Table 6.1 Number of review hearings

Year	Number of review hearings
2004 – 05	11
2005 – 06	26
2006 – 07	42
2007 – 08	66

The table above shows a steady increase in the number of review hearings over the last four years. This trend is likely to continue as the volume of cases increases. The cost of a review hearing in 2007 – 08 was in the region of £3,000. This amount includes the costs of the panel, shorthand writer, legal costs and, in some cases, the cost of an external venue.

Highlighted below is the range of sanctions panels have imposed when reviewing cases. These range from revoking a conditions of practice order to a striking off order.

In 37 cases the panel extended the order of suspension. This can occur in cases concerning a registrant's competence. It can also occur in health cases where suspension is the highest sanction available to a panel. The sanction procedure is not intended to be punitive but tries, as far as possible, to rehabilitate the registrant.

A panel will normally continue an order of suspension when this is the only way public protection can be assured.

Struck off

2007– 08 saw ten cases where the panel struck the registrant off the register following a review hearing.

In one case concerning a radiographer, the original panel determined that his fitness to practise was impaired by reason of his misconduct. He had attended work under the

influence of alcohol, had taken unauthorised absence while on duty and had a history of unpredictable behaviour at work. The review panel struck the Registrant off the Register in the absence of any new information and the Registrant's failure to engage in the regulatory process was seen to demonstrate a lack of insight into his problems.

In a case concerning a biomedical scientist, the Registrant was originally suspended following a finding that her fitness to practise was impaired by reason of her lack of competence and misconduct. The review panel were concerned by the lack of contact with the Registrant since before the original hearing. The panel were concerned by her failure to engage in the regulatory process and her unwillingness to resolve the concerns about her fitness to practise.

The original panel in the case of an occupational therapist determined that the Registrant's fitness to practise was impaired because of her police cautions for shoplifting. The registrant had not provided the review panel with information to show that she had addressed any of the issues that had lead to her suspension. It was therefore considered that striking off was the appropriate sanction.

In the case of another occupational therapist the original panel suspended her following her two convictions for driving a motor vehicle with excess alcohol. Both incidents involved a collision and the second offence was committed whilst being disqualified from driving. Since the original order of suspension the Registrant had made no contact with the HPC. As a result of this there was no evidence that the registrant had addressed the situation and taken any steps towards rehabilitation and she was struck off.

A biomedical scientist was suspended by the original panel following his conviction and imprisonment for five years, for an offence of wounding with intent to do grievous bodily harm. This followed an assault on his partner. In the absence of clear and compelling evidence of his efforts to address the problem reflected in the offence, the panel determined that striking off was the appropriate order.

In another case concerning a chiropodist/podiatrist, the Registrant was originally suspended following his two cautions for the offence of assault occasioning actual bodily harm. The cautions followed an assault on both of his parents. The panel had no evidence that the Registrant had addressed any of the issues identified by the previous panel and determined that he should be struck off the Register.

Another case concerning a biomedical scientist centred on the Registrant's lack of competence. When reviewing the case the panel noted that the registrant had not provided any information following two periods of suspension and that striking off is the appropriate sanction in circumstances where a finding of this seriousness has not been remedied.

In another case, a biomedical scientist was originally subject to a suspension order having attended work under the influence of alcohol and consuming alcohol while at work. The panel, when deciding to strike her off were mindful of the fact that she had again attended work under the influence of alcohol. This occurred while she was suspended by the HPC but was engaged in a role that did not require registration with the HPC. This incident occurred before the first hearing of the review panel and the registrant did not bring it to the attention of the panel. The panel felt that the registrant had failed to address her lack of judgement and saw striking off as the only appropriate sanction.

A paramedic was originally suspended following a finding that his fitness to practise was impaired by reason of his lack competence. When reviewing the case the panel noted that the registrant had failed to take the opportunity afforded to him to remedy

the failings that led to his suspension, nor did he provide any explanation for this failure. They considered that in these circumstances a striking off order was the appropriate sanction.

An operating department practitioner was originally suspended following a finding that his fitness to practise was impaired by reason of his misconduct. The registrant had taken quantities of controlled drugs from his employer. When reviewing the suspension order for the first time the panel recommended that the registrant provide medical evidence that he was fit to practice. At the second review the panel considered that the Registrant had not engaged with advice given in the decision of the panel on 3 September 2007 and concluded that it was appropriate to strike his name off the register.

Conditions revoked

Conditions of practice are used by a panel when it is felt that failure or deficiency is capable of remedy. They are used when the panel is satisfied that there is no risk in allowing the registrant to remain in practice. Any conditions imposed must be realistic and verifiable.

In 2007–08, the panels revoked the conditions in eight cases and allowed the registrant's to return to unrestricted practice. In all of these cases the registrants had complied with the conditions of practice order. They had demonstrated insight into, and remorse for, the actions that lead to the panel finding that their fitness to practise was impaired.

Appendix two to this report lists the cases where a review hearing has taken place and there has been either a suspension order in place, or a suspension order was imposed.

The majority of review hearings are now being presented in-house by case managers acting in their capacity of presenting officers. It is anticipated that the number of hearings presented by case managers will increase further in 2008–09.

High Court cases and the role of the Council for Healthcare Regulatory Excellence

The Council for Healthcare Regulatory Excellence (CHRE) is the body that promotes best practice and consistency in the regulation of healthcare professionals for the nine UK healthcare regulatory bodies.

The CHRE can refer a regulator's final decision in a fitness to practise case to the High Court (or in Scotland, the Court of Session). They can do this if it is felt that a decision by the regulatory body is 'unduly lenient' and that such a referral is in the public interest.

In 2006 – 07 one HPC case was referred to the High Court by the CHRE. At the High Court hearing, all parties were in agreement that the case should be remitted back to a panel of the HPC's Conduct and Competence Committee. This hearing is scheduled for June 2008.

In 2007 – 08 the CHRE has not referred any HPC cases to the High Court. This suggests that the fitness to practise process, from the receipt of an allegation to the conclusion of the final hearing, has become more robust and that appropriate sanctions are being applied by the panels. This is a significant step forward when it is considered that there has been an approximate 50 per cent increase in the number of final hearings since 2006 – 07.

Registrants can also appeal the decisions made by panels to the High Court, or the Court of Session. In 2007 – 08 three such cases were appealed.

Policy developments

Publications

2007–08 has seen the preparation and publishing of a number of updated brochures by the Fitness to Practise Department. The following documents are now available:

– The Fitness to Practise Process: a guide for employers (published November 2007)

– How to make a complaint about a health professional (published March 2008); and

– What happens if a complaint is made against me? (published March 2008).

Standard of acceptance of allegations

A 'standard of acceptance' (the way in which an allegation has to be made before it can be considered by the HPC) and provisions to take complaints over the telephone are now in place. These processes will be reviewed as part of the workplan for 2008–09. Work has also been done to allow us to take complaints in languages other than English. This facility will be available in 2008–09 and will be continually monitored as part of the workplan.

Implementing case directions

Since June 2007 standard 'case directions' have applied automatically to all cases in which it has been decided that there is a case to answer. This information is now included in standard letters, is published on the website, and is included in the brochure called What happens if a complaint is made against me? This has also been communicated to those who represent registrants, through meetings with professional bodies and trade unions.

CHRE learning points

One of CHRE's functions is to ensure best practice in regulation. Following their consideration of fitness to practise cases, CHRE may highlight areas for improvement in decision making. CHRE learning points continue to be disseminated to panels and legal assessors where appropriate. The learning points include panels providing clearer reasons for their decisions and, in cases where an order of suspension is imposed, suggestions for what evidence the registrant should put before the reviewing panel.

Review days for legal assessors and panel chairs

'Review' days for legal assessors and panel chairs took place in June 2007 and again in January 2008. Equality and Diversity training was provided in January 2008. Other points of discussion at these meetings included decision-making, the hearing process and regulatory case law updates. The review days were well attended by both legal assessors and panel chairs and will continue through 2008–09.

Review of Fitness to Practise processes

The Fitness to Practise Department continues to review and refine the existing processes. Work is ongoing into the conclusion of cases by way of consent.

Fitness to Practise Department structure

In January 2008 the Fitness to Practise Department was reorganised into two distinct functions; case management and adjudication. There is a Head of Case Management and three teams, each of which has a Lead Case Manager. The adjudication function is a single team headed by the Hearings Manager.

Reduction in reliance on external lawyers

Case managers now present the majority of Article 30 review hearings, interim order applications and interim order reviews. February 2008 saw the final hearing in a conviction case presented by a case manager. It is expected that case managers will present more of these cases in 2008 – 09.

How to make a complaint

If you want to complain about a health professional registered by the HPC, please write to our Director of Fitness to Practise at the following address:

Fitness to Practise Department
The Health Professions Council
Park House
184 Kennington Park Road
London SE11 4BU

If you need any more help, or feel your complaint should be taken over the telephone, you can also contact a member of the Fitness to Practise Department on:

tel +44 (0)20 7840 9814
fax +44 (0)20 7582 4874

You may also find our 'Reporting a concern' form useful, available at www.hpc-uk.org

List of tables and graphs

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Publication code 20080728bF2PPUB (amended February 2016)
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