

Title of Report	Fitness to Practise Committee updates
Public/Confidential	Report - Public Appendices - Confidential
If Confidential – date of publication	24 August 2024
Summary/purpose of report	The purpose of the report is to recommend individuals into various roles related to Fitness to Practise Panels.
Recommendations	<p>Council is asked to:</p> <ol style="list-style-type: none"> 1. approve the appointment of 10 lay members to the Fitness to Practise Committee 2. approve the appointment of nine social service panel members to the Fitness to Practise Committee 3. approve the reappointment of five existing legally qualified chairs to the Fitness to Practise Committee 4. approve the reappointment of three legally qualified chairs to the Quality Assurance Sub-committee 5. endorse the approach of the Quality Assurance Sub-committee.
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Link to Strategic Plan	<p>The information in this report links to:</p> <p>Outcome 1: Trusted People who use services are protected by a workforce that is fit to practise.</p>

Link to Risk Register	Risk 1: We fail to ensure that our system of regulation meets the needs of people who use services and workers.
Impact Assessment	An Impact Assessment (IA) was not required.
Documents attached	<p>Appendix 1: Confidential list of lay and social service panel members whose appointment to the Fitness to Practise Committee is being proposed.</p> <p>Appendix 2: Confidential details of existing legally qualified chairs whose reappointment to the Fitness to Practise Committee is being proposed.</p> <p>Appendix 3: Confidential list of legally qualified chairs whose reappointment to the Quality Assurance Sub-committee is being proposed.</p> <p>Appendix 4: Statistics related to the work of the Quality Assurance Sub-committee.</p>
Background papers	<p>Item 15 report 09/23 - AAC 28.01.2023</p> <p>Item 23 report 32/21 - Council 27.05.2021</p> <p>Code of Corporate Governance</p>

EXECUTIVE SUMMARY

1. On average we hold 12 Fitness to Practise hearings per month (excluding case management meetings). Each full hearing requires one lay member, one social service member and one legally qualified chair (LQC) to sit on the Panel.
2. We have six lay and four social service members coming to the end of their maximum seven-year term in 2024. To ensure we can continue to run hearings as required, we propose appointing a further cohort of lay and social service members as detailed in at paragraphs 4-7. In addition, we have six legally qualified chairs (LQCs) approaching the end of their current term of appointment. Proposed reappointments are detailed in paragraphs 8-9.
3. At its meeting on 27 May 2021, Council approved amendments to the Code of Corporate Governance, creating a Quality Assurance Sub-committee to implement the quality assurance of Fitness to Practise Panel decisions. Paragraphs 10-20 set out proposals to reappoint Sub-committee members, and the planned continued approach of the Sub-committee.

APPOINTMENT OF FITNESS TO PRACTISE COMMITTEE MEMBERS

4. We carried out a recruitment exercise to appointment approximately 10 lay and 10 social service panel members to the Fitness to Practise Committee. We advertised the posts in February 2024.
5. We received 88 social service member applications and shortlisted 24 for interview. Interviews took place throughout March 2024, with 10 preferred candidates selected as detailed in Appendix 1.
6. We received 43 lay member applications and shortlisted 18 for interview. Interviews took place throughout March 2024 with nine lay member candidates selected as detailed in Appendix 1.
7. If Council approves the appointment of the candidates in Appendix 1, they will be appointed for a period of three years with an option to extend for a further period not exceeding four years.

REAPPOINTMENT OF FITNESS TO PRACTISE COMMITTEE MEMBERS

8. We appoint LQCs for a period of three years with an option to extend for a further period of up to four years.

9. The chairs detailed at Appendix 2 have reached the end of their first term of appointment. There have been no unsatisfactory appraisals of these members. All LQCs detailed have expressed an interest in reappointment. The proposed length of each reappointment is detailed in Appendix 2.

QUALITY ASSURANCE SUB-COMMITTEE

The running of the Quality Assurance Sub-committee (QA Sub-committee)

10. Arrangements to implement a QA Sub-committee were approved by Council in May 2021. Council approved the appointment of three LQCs to the QA Sub-committee, one as chair and two as members.
11. The QA Sub-committee members worked with us to develop the guidance and resources required for the Sub-committee. The QA Sub-committee began reviewing Notices of Decisions in May 2022 with the aim of reviewing at least 10% of decisions per year. More details are contained at Appendix 4.
12. The QA Sub-committee began observing hearings in January 2023 with the aim of observing at least 10% of hearings per year. More details are contained at Appendix 4.
13. Following review of a Notice of Decision, a report is prepared by the reviewing committee member which is shared with the LQC who drafted the decision. Training points relevant to the wider pool of LQCs or panel members are shared via email and/or the quarterly panel newsletter.
14. Following observation of a hearing, a report is prepared by the observing committee member. Training/learning points are shared directly with the individual panel members and via the quarterly panel newsletter as appropriate.
15. The work of the QA Sub-committee has led to a variety of improvements such as: consistency of Notices of Decision including a focus on the use of plain English, use of affirmative language, reduction in length of Notices of Decision; etiquette during online hearings.

Approach of the QA Sub-committee going forward

16. We intend for the QA Sub-committee continue to review Decisions and observe hearings as set out in paragraphs 11 and 12.
17. We intend to continue to share the learning from the QA Sub-committee to promote consistency and improve learning, as set out in paragraphs 12 to 14.

18. In the report presented to Council in 2021, the intention was to seek authority to appoint social service members to the Sub-committee to carry out observations of social service members, after the first year. Each hearing requires the social service member to have experience of the part of the Register on which the worker is registered. Ensuring observation by another social service member with experience on this part would be difficult to manage. In addition, we would still have to have a legally qualified chair member observe to report on the lay member and LQC. The primary purpose of observation of hearings is to ensure the conduct of panel members is in accordance with the Code of Conduct for Panel Members rather than specific to sector advice given. We therefore do not intend to seek to appoint social service members to the Quality Assurance Sub-committee.

Reappointment of QA Sub-committee members

19. We appointed LQCs to the Sub-committee for a period of three years with the option to extend for up to a further two years.
20. The chairs detailed at Appendix 2 have reached the end of their first term of appointment. All chairs detailed have expressed an interest in reappointment. The proposed length of each reappointment is detailed in Appendix 2.

CONSULTATION

21. QA Sub-committee members assisted with the drafting of the documents used in the Sub-committee process. All members were consulted in their drafting. The ongoing quality assurance process constitutes appraisal for all panel members, as is required in their terms of appointment. Satisfactory appraisals are an essential requirement for continuing appointment as a panel member.

RISKS

Legal Risks

22. We have an averse appetite towards regulatory and legal compliance and a cautious appetite towards the effective management of our regulatory function.
23. We must run Fitness to Practise panel hearings in order to fulfil our statutory function of protecting the public. We require a sufficient number of panel members to achieve this. Without the appointment of further

legally qualified chairs, we will be unable to timeously hold hearings required.

24. We must ensure the quality of decisions being made in the name of the SSSC. We require a sufficient number of members of the QA Sub-committee to achieve this. Without the reappointment of these members, we will be unable to quality assure decision-making.
25. We have a cautious appetite towards exposure to scrutiny. To stand up to scrutiny, we must carry out the appointment of panel members in a way that is impartial and free from apparent bias. We carried out a blind shortlisting exercise, with all names and other personal details removed from the application forms. We had an independent member on each interview panel to ensure impartiality.

IMPLICATIONS

Resourcing

26. Payment to panel members for hearings work, and for QA Sub-committee work is included within the existing budget allocated to Regulatory Improvement and Hearings.

Compliance

27. If Council does not approve the appointments and reappointments to the Fitness to Practise Committee, we will have insufficient legally qualified chairs, lay and social service members to hold the required Fitness to Practise hearings. This would compromise the safety of people using services and their carers.
28. If Council does not approve the reappointments of member to the QA Sub-committee, and endorse the proposed continued approach, the QA Sub-committee will be unable to continue with its work. Council would have no mechanism in place to give assurance that decisions are of sufficient quality. In addition, it would prevent panel members from receiving appraisal, an essential requirement of their terms and conditions of appointment.

IMPACT ASSESSMENT

29. An Impact Assessment was not required because the outcome of this report is an operational matter which does not directly impact any of the three requirements of Public Sector Equality Duty or protected groups either positively or negatively, or have any other impacts as set out in the Assessment. Recruitment has followed appropriate practices to ensure a fair process.

CONCLUSION

30. We recommend:
- a. the approval of the appointment of 10 lay members to the Fitness to Practise Committee
 - b. the approval of the appointment of nine social service panel members to the Fitness to Practise Committee
 - c. the approval of the reappointment of five existing legally qualified chairs to the Fitness to Practise Committee
 - d. the approval of the reappointment of three legally qualified chairs to the Quality Assurance Sub-committee
 - e. endorsement of the approach of the Quality Assurance Sub-committee.