

<b>Title of report</b>	Review of opt-in hearings
<b>Public/Confidential</b>	Public
<b>Summary/purpose of report</b>	Council is asked to endorse the continuation of the use of the opt-in hearings process.
<b>Recommendations</b>	The Council is asked to endorse the contents of this report.
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<b>Responsible Officer</b>	Chris Weir, Acting Director, Regulation
<b>Link to Strategic Plan</b>	The information in this report links to: Outcome 1: People who use services are protected by ensuring the regulated workforce is fit to practise.
<b>Link to Risk Register</b>	Risk 1: We fail to ensure that our system of regulation meets the needs of people who use services and workers.
<b>Impact assessments</b>	1. An Equalities Impact Assessment (EIA) was not required. 2. A Data Protection Impact Assessment (DPIA) was not required. 3. A Sustainability Impact Assessment (SIA) was not required.
<b>Documents attached</b>	Appendix 1: Data
<b>Background papers</b>	<a href="#">Link to Council report 43/2019: Outcome of consultation on change to the fitness to practise process</a>

## **EXECUTIVE SUMMARY**

1. In October 2019 Members authorised the use of opt-in hearings. Members agreed that the Council would review the process of opt-in hearings after it had been in place for a year.
2. The opt-in hearings process began in July 2021 and the first hearing took place in late August. This report provides a review of the impact of opt-in hearings process from 1 September 2021 to 31 August 2022.

## **IMPACT OF OPT-IN HEARINGS**

### **Numbers of hearings**

3. The introduction of opt-in hearings has resulted in approximately 332 fewer hearings which adds up to 515 days of hearing time. This has also resulted in a significant saving on time from colleagues from the sector who would have to attend to give evidence in a lot of those cases as well as avoiding the stress of giving evidence.
4. The reduction in hearings has saved the Fitness to Practise department (FTP) approximately 5600 hours of staff time in preparation work. This time has contributed to the increase in case closures within the department and has mitigated the risks associated with staff turnover and the training of new staff.
5. The reduction in hearings is amounts to a saving of approximately £515,000 in panel member fees.

### **Hearing outcomes**

6. Opt-in hearings have not substantially changed the outcomes of investigations. The sanctions imposed during this time have been consistent with the three years prior. 90% of cases concluded with no further action being taken, 4% of cases ended with workers being removed and 6% of cases had some other sanction imposed. See Appendix 1 for data.
7. Opt-in hearings have not changed the amount of temporary orders that we impose each year. 5.1% of cases referred to us had a temporary order imposed over the past year which is consistent with previous years. See Appendix 1 for data.
8. We have had five cases where the worker changed their mind and asked for a hearing after they received their final decisions. In each of these cases FTP has arranged for a hearing to take place quickly and without forcing the worker to lodge a court appeal.

### **Worker engagement at hearings**

9. Engagement with hearings has increased since the introduction of opt-in hearings. Historically workers attending their hearings has been around 30%. This increased to 40% with the introduction of online hearings, and further increased following the introduction of opt-in hearings to 62%.

### **Support for and engagement with workers**

10. FTP follows up with all workers who are sent relevant paperwork to make sure they have received and understood what it means. The Regulatory Improvement and Hearings department (RIH) provides support to workers going through hearings both before and during that process.
11. In May 2022 RIH led a review of all opt-in hearings correspondence which involved engaging with stakeholders. This resulted in changes to correspondence to make them easier to understand.

## **RISKS**

12. We have a cautious risk appetite to financial management and an open risk appetite for best value initiatives.
13. We have a cautious risk appetite to the management of regulatory quality and effective regulatory functions.
14. By adopting a system of opt-in hearings we have introduced a better value system of hearings while not compromising the regulatory quality being provided.

## **IMPLICATIONS**

### **Resourcing**

15. No additional resourcing is required. Opt-in hearings has resulted in a direct cost avoidance of £515,000. It has contributed to increased performance and efficiency in the FTP department which would have otherwise required additional staffing resource to achieve.

### **Compliance**

16. We have taken legal advice and put in place safeguards to ensure compliance with human rights legislation. The sanction and imposition of temporary order rate has not significantly changed with the introduction of this process which suggests those safeguards are working. We are committed to making sure that any worker that wants a hearing will get one and we will continually review the process to make sure it remains human rights compliant.

## **IMPACT ASSESSMENTS**

### **Equalities**

17. An EIA was developed when the initial report was presented to Council.

## **CONCLUSION**

18. We are asking Council to endorse the continued use of the opt-in hearing process because of the financial benefits it provides and the reassurance that it doesn't harm outcomes for workers.