



CHCC COLLEGE OF HEALTH CARE CHAPLAINS



SSHA SOCIETY OF SEXUAL HEALTH ADVISERS



Unite the Union Response to the:

Health and Care Professions Council (HCPC);

A consultation on permanent changes to our Rules to hold remote

Hearings

This response is submitted by Unite in Health. Unite is one of the UK's largest trade union with 1.5 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, education, health and not for profit sectors.

Unite represents in excess of 100,000 health sector workers. This includes eight professional associations - British Veterinary Union (BVU), College of Health Care Chaplains (CHCC), Community Practitioners and Health Visitors' Association (CPHVA), Guild of Healthcare Pharmacists (GHP), Hospital Physicians Association (HPA), Doctors in Unite (formerly MPU), Mental Health Nurses Association (MHNA), Society of Sexual Health Advisors (SSHA).

Unite also represents members in occupations such as nursing, allied health professions, healthcare science, applied psychology, counselling and psychotherapy, dental professions, audiology, optometry, building trades, estates, craft and maintenance, administration, ICT, support services and ambulance services.

Introduction

Unite welcomes the opportunity to respond to the Health and Care Professions Council (HCPC); a *public consultation on permanent changes to our Rules to hold remote Hearings.*

Unite has contributed to the Fitness to Practise (FtP) Forum response. However, as a member le organisation, Unite has also used its consultative provisions throughout the organisation to hear back the views of members regulated by the HCPC. Their views are presented in this response.

Consultation questions

Unite members' responses to the consultation questions are as follows;

1. ***We would like to amend our Rules so that we can continue to hold hearings remotely once the emergency period ends, where it is fair and practical to do so.***

Do you think there are any reasons why we should not be able to hold remote hearings once the emergency period ends?

Answer: Yes

Please explain your answer.

Unite members are not opposed to the use of remote hearings in appropriate circumstances and recognise that remote hearings can be beneficial. They point out that virtual hearings may be useful in helping to address the backlog of adjudication hearings that has worsened during the pandemic. Long delays in the fitness to practise process are detrimental to all involved and can have devastating consequences for some. However, they are opposed to the HCPC having the right to impose remote hearings in all cases. Members consider that remote hearings should only take place where a registrant and their representative are in agreement with this format.

In previous Unite submissions to consultations concerning virtual hearings (available here; <https://www.politicshome.com/news/article/unite-responses-to-consultations>), Unite members expressed concern about a number of issues that continue. In particular they point out that the cases involving healthcare professionals are likely to be more emotive, high profile and contentious. Consequently, they are concerned that the impact of virtual hearings on the outcomes of substantive hearings has still not been fully assessed as a limited number have taken place and these have tended to be the less complicated cases.

Information shared at the HCPC and Nursing & Midwifery Council (NMC) Fitness to Practise (FtP) Forum meetings gives examples of a registrant attending their HCPTS hearing from their local Church as it had WiFi (which they did not have at home), registrants having to attend hearings from other people's homes due to a lack of any private or suitable quiet space within their own homes and registrants participating in hearings via mobile phone due to not owning a computer.

It is our member's experience that the lack of equipment is more likely to be an issue where the registrant has lost their job or is unable to secure employment due to the referral or the reasons for it. It is not unusual for registrants to only have a work email account which is deleted when they lose their job. Members also raise concerns around technological ability and agree that it varies from person to person. Further that some registrants are not comfortable or competent with meetings taking place via video conferencing software/hardware.

Unite members suggest there may be a risk that registrants and/or complainants and/or witnesses may feel justice has not been served because of an inability to present their case face to face. As Unite members may also be witnesses or complainants, they question how vulnerable witnesses are supported when the hearing is taking place virtually? In addition, the fitness to practise process is deeply distressing, with the link to self-harm and suicide present. There is a possibility that a distressed registrant or witness disconnects from the hearing and subsequently harms themselves. Does the HCPC have protocols for staff related to how they will deal with such a situation?

Overall, Unite members consider that the possibility that a virtual hearing may generate less favourable outcomes for certain types of hearings or certain registrants still exist. They consider therefore, that whilst members subject to fitness to practise processes may be content to have their case dealt with in this way, they should not be compelled to do so. Hence they consider registrants should be given the choice.

Q2: Do you consider there are any equality and diversity implications for groups or individuals as a result of the proposed change to our Rules?

Answer: Yes

If yes, please explain what could be done to change this.

Unite members suggest that remote hearings are more isolating and that this is likely to increase the distress experienced by registrants, who may not have someone to support them in person. As suggested in the Forum response, this is a particularly important issue for registrants with certain disabilities (such as Autism Spectrum Disorder) which may make it more difficult for them to conduct meetings by video rather than in person. Risks to persons with protected characteristics would therefore arise from the HCPC acquiring a right to impose remote hearings without a registrant's consent.

Again, the forum's experience where a number of registrants with severe dyslexia have advised that the experience of attempting to go through large evidence bundles remotely whilst simultaneously following proceedings on screen has been extremely challenging.

In the case of registrants with mental ill-health, the risk to them (as previously mentioned, the established link between fitness to practise proceedings and death by suicide) has been increased by them attending remote hearings alone rather than with the support of a team around them.

Age is also a protected characteristic. We have experienced significant variations in registrants' ability to engage with the technology required for a remote hearing and the least capable registrants have primarily been older.

Again, as previously mentioned, although poverty is not a protected characteristic, it is relevant to equality, diversity and inclusion. Financial difficulty is more likely to be a factor in registrants who have been referred to their regulator and where it exists, this will affect their ability to engage effectively and appropriately with a virtual hearing.

There is evidence that certain groups of registrants, namely BAME and male registrants are more likely to be referred to their regulator. The suggested change will therefore inevitably have more of an impact on these groups.

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