

## Statutory Panellists Assurance Committee (SPC) Annual Report to Council 2018 (formerly Appointments Committee)

<b>Purpose of paper</b>	To report on the work undertaken by the Statutory Panellists Assurance Committee (SPC) throughout 2018 and the planned work for 2019.
<b>Status</b>	Open
<b>Action</b>	For noting and discussion
<b>Corporate Strategy 2016-19</b>	Performance Objective 1: To improve our performance across all our functions so that we are highly effective as a regulator.
<b>Business Plan 2018</b>	<i>2018 Priority one: Continue to build a cost effective and efficient organisation</i>
<b>Decision Trail</b>	In accordance with the General Dental Council Standing Orders for the Non-Statutory Committee of Council 2017, SPC will report to Council annually on its activities.  This report has been reviewed by SPC on 28 November 2018 at its meeting, updated and approved by the Chair.
<b>Next stage</b>	None
<b>Recommendations</b>	The Council is asked to note and discuss the 2018 SPC Annual Report.
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<b>Appendices</b>	Appendix 1 – Current Terms of Reference Appendix 2 – Workplan 2019

## Executive Summary

1. This paper sets out the work carried out by the SPC during 2018 and the planned work for 2019.
2. The Council is asked to note and discuss the SPC's annual report.

## Introduction and background

3. The key purposes of the Committee as defined in its Terms of Reference (Appendix 1) are:
  - To assist the Council in connection with the exercise of any function relating to the appointment of SPC members, including the recruitment, selection, appraisal and disciplining of Statutory Committee Members or particular Statutory Committee Members (for example, the Chair), legal, medical and professional advisors.
4. In accordance with the GDC's Standing Orders for the Appointments Committee 2017, the Committee must report annually to the Council on its progress
5. The membership of the Committee is Rosie Varley (Chair and lay member), Nigel Fisher (registrant member), Martyn Green (registrant member) and Tim Skelton (lay member). In 2018 the Committee held four meetings on: 27 February, 26 April, 3 August and 28 November.
6. At the November SPC meeting, the Committee discussed and endorsed the recommendation to re-appoint Martyn Green for a second term of four years and Nigel Fisher for a second term of two years, for decision by Council on 13 December 2018. Council will also consider the reappointment of the Chair, Rosie Varley, following her appraisal with the Chair of the Council, Bill Moyes, and consideration of Committee members' feedback.

## Chief Executive's Report

7. At each meeting, the Committee received reports and briefings from the Chief Executive. These included progress reports on *Shifting the balance*, the Estates Strategy including the future location of FtP hearings suites, the GDC's financial balances, and the risk of the effect of EU Exit on registration. Most recently, the Committee learned of proposals by the Government for regulatory reform, which were welcomed in principle but which were as yet in the early stages.

## Appointments

8. The Committee approved the following appointments during the course of the year:
9. **Appointment of Fitness to Practise (FtP) Panel Chairs**  
Six FtP Panel Chairs were appointed in late April.
10. **Training Investigating Committee (IC) Members to sit as IOC (Interim Orders Committee) Panellists**  
The IC is one of the GDC's statutory committees. Late in 2017 SPC had approved a process whereby IC members who were stood down in November 2017 could be deployed as FtP Panellists within a quality assured framework.
11. **Medical Advisers Appointments**  
At the SPC meeting in February the Committee considered and approved the appointment of two Medical Advisers.

12. **Professional Adviser Appointments**

Also in February the SPC agreed to appoint three further Professional Advisers who have the expertise to sit on Registration Appeals for certain categories of dental care professional registrants.

13. **Panellists Reappointments**

Twenty eight people were re-appointed as Panellists for a five-year term from August 2018 (at the February SPC meeting) and 20 Panellists were appointed for a second term beginning in February 2019 (ratified at the August SPC meeting). The appointments will provide continuity on the FtP Panel. The selection process had to inculcate in panellists the expectation that they engage in reflection, learning and development as part of their role. The recruitment and selection had been undertaken in accordance with the improved quality assurance process agreed by the Committee and reported to Council in December 2017. The Committee asked for that report to be shared with other regulators as an example of good practice, and this was done.

14. **Panellist Removals**

The committee considered the potential removal of a panellist due to a fitness to practise investigation. Separately it is also preparing to consider similar sanction following the completion of an investigation into the conduct of a panellist in the course of their consideration for a practise committee.

15. **Training**

The Committee received regular updates on FtP Panellists training. SPC members regularly attended and participated in events, which enabled them to witness the depth and value of the training, and the level of engagement and enthusiasm on the part of panellists. Committee members reported back on the events and any issues arising to SPC meetings.

16. Discussions around the development of e-learning continued and it was anticipated this would be taken forward during 2019.

17. **'Dedicated' Interim Orders Panel**

At its August meeting, SPC considered and approved the process whereby Investigating Committee members, who were to be stood down in November 2017, could be deployed as Fitness to Practise Panellists within a quality assured framework. Numbers would be reviewed in 2018, with expressions of interest being sought from those interested in sitting on Fitness to Practise panels dedicated to the consideration of Interim Orders hearings. This new approach to IOC cases is being piloted with the objective of more focussed and consistent decision-making. A total of seven have been appointed for a one-year term and, following training for panellists and legal advisors, the first hearings in this pilot are now taking place in Quarter 4 of 2018 and Quarter 1 of 2019.

18. An interim independent evaluation of the trial will be carried out in March 2019. Fifty percent of cases are to go through the pilot for the purposes of comparison, with the remaining fifty percent of initial IOCs retained with the full FtP panel who hear the full range of Practice Committee hearings. The first half of the year will be compared to the second (the pilot).

## **Associates' Project**

19. During the year the Committee was kept abreast of the Associates Project, at information gathering stage and as recommendations were prepared for the Executive

Management Team.

### **Investigating Committee and Case Examiner Feedback and Legal Adviser Feedback**

20. The Committee received Investigating Committee feedback reports by exception and received assurance from the Head of Adjudications that any issues identified had been addressed.
21. During the year SPC were given an overview of feedback received from committee secretaries and other hearing participants about the performance of Legal Advisers (LAs) on FtP Panels.
22. This feedback focused on the role of the Legal Advisor in the Panel's deliberations. Since feedback by individuals was subjective, it was considered in conjunction with case transcripts and decisions, to see if there was any evidence that the LA had inappropriately influenced a case in a way which would warrant referral to QAG. In some instances Jon Dillon had spoken to the LA to add that perspective to his assessment. The Chair's view, given through feedback, might also be considered.
23. Although practice varied among different regulators in relation to whether or not the LA is present during *in camera* deliberations, it was agreed that it was ultimately better and more efficient for the LA to be able to advise on points of law and ensure that potential decisions were legally sound. However, it was essential for the demarcation lines - and the Panel's independence - to be respected, and the onus fell on the Panel Chair to do that. This matter was included in Chairs' training in September where a sound line was established both on marking the restriction on their involvement in decision-making and also in making clear that the LA's role in contributing to the drafting of the determination will be at the invitation of the Chair to help with particular wording.

### **Quality Assurance Group (QAG)**

24. The Quality Assurance Group (QAG), which oversees decision-making within FtP, continued to provide assurance to the SPC that the Statutory Committee Members had the correct skills to undertake their work. In 2018 it began to be chaired by Matthew Hill, Executive Director Strategy and Communications. This had introduced greater challenge and outward focus, with attention on identifying underlying issues, in a very positive way.
25. QAG reported at each meeting, which gave the Committee the opportunity to view and challenge the work of the group and raise any concerns. As part of the quality assurance process, decision makers continued to be written to when there were concerns, with feedback well received and welcomed. It was noted that where there were concerns with particular decisions those decisions are likely to be used in Panellists' training to illustrate generic learning points.
26. Measures for the quality assurance of Legal Advisers and Professional Advisors continued in place.

### **Decision Scrutiny Group (DSG)**

27. The Committee also received a report of the Decision Scrutiny Group, with an external Chair, which had been set up at the beginning of 2018 to work alongside the QAG, by conducting a random sampling of FTP decisions. In future the Committee will receive quarterly reports from both.
28. A group of staff had been formed to ensure that themes and issues arising from QAG and DSG were synthesised and referred to relevant parts of the organisation, be it education and standards, policy, research, legal practice, or HR.

29. This touches on one of the areas of work identified by SPC as a priority for its work in 2018, namely to give greater focus to the trends and themes arising from FtP with a view to using the information to better inform future professional training and development. It also touches on its second priority, which is ensuring the quality of outcomes in the FtP practices.

### **End to End Review**

30. The Committee received regular updates on the End to End Review, through its stages of Concept, Evaluation, and Delivery and Assurance. Tom Scott summed up the key elements of the project as: doing things in a proactive and timely fashion, bringing change through technology, and bringing change through people. Any significant changes would be piloted first, in order to learn from them and refine them before rolling them out and committing to major expense. Monitoring and oversight of the programme fell within the remit of the Finance and Performance Committee, and the monitoring reports seen by FPC were shared with SPC.

### **PSA**

31. The Committee considered the reports that had gone to Council on the PSA Report into the NMC's handling of complaints about Barrow-in-Furness General Hospital, and the PSA Proposals for Revised Regulatory Standards. In relation to the first of these, the End to End Review Programme Board had commissioned a paper setting out in detail the position of the GDC's processes in relation to the PSA report's recommendations (a gap analysis). SPC noted the governance failings which had enabled the NMC's Council and Committee's to remain unaware of the problem and sought assurance that the governance processes at the GDC were sufficiently robust in this respect.
32. In relation to the need to detect high-risk cases, the Committee asked staff to explore a mechanism to trial such a system, should the GDC be selected to participate in a pilot of the new standards.

### **Committee effectiveness**

33. During the year the Committee considered its own effectiveness, and concluded that:
- The SPC's relationship to the rest of the GDC's decision-making structure had improved, with awareness of SPC among Council Members raised by Rosie Varley's attendance at Council meetings, and the work of SPC
  - Staff found the Committee very helpful in offering scrutiny and challenge and valued its input at development stage
  - The Committee in turn found staff receptive to proposals and open-minded in the face of challenge
34. The Committee wanted to explore further ways it could scrutinise outside the Committee timetable. There was also concern not to lose sight, in the End to End Review, of the need to improve the experience for all and focus on the quality of outcomes, one of the Committee's aims for 2018.

### **Risk**

35. The Committee received assurance at its meetings that risks in relation to Statutory Committee Members were being adequately managed throughout the GDC.

### **Expenditure**

36. The only other costs associated with the Committee in 2018 were the travel and subsistence of members for attendance at meetings.

## Recommendations

37. Council is asked to **note** the work of the SPC

## **Terms of Reference: Appointments Committee (Statutory Panellists Assurance Committee-SPC)**

### **Key purpose**

Ap1. To **assist** the Council in connection with the exercise of any function relating to the appointment of Statutory Committee members, including the recruitment, selection, appraisal and disciplining of Statutory Committee members or particular Statutory Committee members (for example, the chair), legal, medical and professional advisers.<sup>1</sup>

### **Delegated powers**

Ap2. To appoint (or re-appoint) persons to serve on the Statutory Committees.

Ap3. To determine the duration of the term of office of Statutory Committee members on their appointment or reappointment<sup>2</sup>.

Ap4. To appoint, from amongst the Statutory Committee members, persons to act as chairs of the Statutory Committees ("panel chairs")<sup>3</sup>.

Ap5. To approve a learning and development plan for Statutory Committee members and receive assurances from the Executive that the plan is being implemented effectively.

Ap6. To approve an appraisal process for Statutory Committee members and receive assurances from the Executive that the process is being implemented effectively.

Ap7. To deal with issues relating to the conduct and performance of Statutory Committee members in accordance with the Disciplinary Procedure.

Ap8. To suspend or remove Statutory Committee members from office in accordance with the General Dental Council (Constitution of Committees) Rules Order of Council 2009.

Ap9. To obtain external legal or other professional advice as necessary via the Executive.

Ap10. On the request of the Council, to assist with the recruitment and selection of candidates to any other office.

### **Discharge of functions**

Ap11 In carrying out its functions the Appointments Committee will:

- a. Approve (but not design) the process for appointing Statutory Committee Members of the Investigating Committee and Fitness to Practise panels;
- b. Appoint Statutory Committee Members following recommendation at the end of the process;
- c. Approve (but not design) the process for appointing legal, medical and professional advisers;
- d. Appoint legal, medical and professional advisers following recommendation at the end of the process;
- e. Approve (but not design) the appraisal system for Statutory Committee Members on assurance of embedding of training;
- f. Approve (but not design) the appraisal system for legal, medical and professional advisers;
- i. Ensure that a fit for purpose and effective training programme was provided for Statutory Committee Members;
- j. Ensure that the Council provides an adequate training programme for legal, medical and professional advisers;

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<sup>1</sup> 3.(6)(a) The General Dental Council (Constitution of Committees) Rules Order of Council 2009

<sup>2</sup> 4.(4) The General Dental Council (Constitution of Committees) Rules Order of Council 2009

<sup>3</sup> 5.(1) The General Dental Council (Constitution of Committees) Rules Order of Council 2009

- k. Deal with disciplinary and performance issues relating to Statutory Committee Members where this is within the remit of the Appointments Committee by reason of the Disciplinary Procedure, and dismiss Statutory Committee Members if necessary;
- l. Receive reports regarding the discipline, performance issues and dismissal of legal, medical and professional advisers, and advise and report to the Council as appropriate.
- m. Scrutinise the quality and efficiency of the Statutory Committees' decision making by receiving regular reports of the performance and quality of decision making of the committees and panels. To include monitoring of the Fitness to Practise PSA standards action plan in relation to the work of the Statutory Committees;
- n. Build and maintain a body of intelligence for the Council through learning points and trends that emerge from the Committee's oversight of the work of the Statutory Committee members;
- o. Report to Council on the work of the Appointments Committee and the performance of the Statutory Committees.

**Statutory Panellist Assurance Committee Work Programme 2019**

<b>1</b>	<b>Recruitment, induction &amp; training</b>	<b>27-Feb</b>	<b>30-Apr</b>	<b>4 Sept</b>	<b>06-Nov</b>
1.1	Fitness to Practise Panel training programme		Discuss		
1.2	Recruitment of Fitness to Practise Panellists		Approve process		
1.3	Appointment / Reappointment of Fitness to Practise Panellists	TBC	TBC	TBC	TBC
1.4	Fitness to Practise Panel chair number review	TBC	TBC	TBC	TBC
1.5	Fitness to Practise Panel chair appointments (assuming prior approval of the review of the process)	Approve			
1.6	Appointment / Reappointment of legal advisers	Approve process		Approve appointments	
1.7	Appointment / Reappointment of medical and professional advisers	TBC	TBC	TBC	TBC
1.8	Standing Down Panellists (Exception reporting)	TBC	TBC	TBC	TBC
<b>2</b>	<b>Learning and development</b>				
2.1	Learning and development plan for Committee Members (including future events)	Note	Note	Note	Note
2.2	Investigating Committee development review programme	Approve			
2.3	Fitness to Practise Panel development review programme	Approve			
<b>3</b>	<b>Statutory committee updates</b>				
3.1	End to End Review Update	Discuss (Workshop)	Discuss	Discuss	Discuss
3.2	Investigating Committee feedback (exception reporting)	Discuss	Discuss	Discuss	Discuss
3.3	Investigating Committee future plans (including member re-appointments)			Discuss	
3.4	Declarations of interests for SCMs and FTP associates	Discuss			
3.5	Case Examiner Updates		Discuss		Discuss
3.6	Summary of Legal Advisor Feedback		Discuss		
<b>4</b>	<b>Assurance regarding the quality of decision making</b>				
4.1	Report from the Quality Assurance Group	Discuss	Discuss	Discuss	Discuss
4.2	Report from the Decisions Scrutiny Group	Discuss	Discuss	Discuss	Discuss
4.3	Quality Assurance arrangements for Medical Advisers		Discuss		
4.4	Quality Assurance arrangements for Professional Advisers		Discuss		
4.5	Quality Assurance arrangements for Legal Advisers		Discuss		

4.6	Integrated Assurance Approach				
<b>5</b>	<b>Governance</b>				
5.1	Terms of reference				Discuss
5.2	Assessment of effectiveness of the Committee			Discuss	
5.4	Work programme 2019	Approve	Review	Review	
5.5	Work programme 2020				Approve
5.6	Report to the Council		Recommend (Mid year Report)		Recommend (Annual Report)