

Scrutiny Committee meeting

Minutes of meeting

8 December 2010



Minutes of Scrutiny Committee meeting, 8 December 2011

Present

Sally Irvine (Chair)
Ann Curno
Ian Hamer
Harry Cayton (CE)

In Attendance

Rosalyn Hayles
Tim Bailey
Lisa Foley

1. Apologies

1.1 There were no apologies received.

2. Minutes of the meeting held on 1 September 2010

2.1 The minutes were agreed as an accurate record of the meeting.

3. Matters arising

3.1 Para 5.2 – Members found the review and report of the Medical Council of New Zealand very useful for CHRE.

3.2 Para 6.3 – A meeting had been held with the Parliamentary and Health Services Ombudsman who expressed strong support for CHRE to have a role in Section 28. She provided helpful advice on framing the legislation and was also strongly supportive of right-touch regulation.

3.3 Para 8.1 – At the last Regulators Forum, Council members asked regulators whether they felt the system of notification by police and courts when a registrant is found guilty of a criminal offence worked effectively.

3.4 Each regulator had different systems and while some felt theirs was effective, others did not. Committee members agreed that this should be reflected in the performance review and that recommendations should be made to the Government regarding the issue. The Chief Executive would look into this further.

ACTION: HC

4. Section 29 statistics

- 4.1 The Committee reviewed statistical data gathered from CHRE's work on Section 29 cases from 1 April to 30 September 2010. Members requested that further graphs be included in future reports and that the number of registrants for each regulator should be added for reference.

ACTION: RH

- 4.2 Members were asked to note that the number of decisions for consideration under CHRE's section 29 jurisdiction had been increasing significantly year on year, from around 600 in 2004/2005 to an expected figure of almost 2,000 in 2010/2011. This was putting pressure on staff resources within the Scrutiny & Quality team.
- 4.3 It was agreed that some consideration should be given in future as to whether or not each decision should continue to be reviewed or whether an alternative "right-touch" approach could be adopted.

5. A review of CHRE's use of its powers under Section 29

- 5.1 The Committee was asked to review a paper that had been compiled at the request of the Department of Health. Members noted that the paper provided a helpful explanation about CHRE's use of its section 29 powers. The paper explains that the number of appeals lodged by CHRE peaked in the first two years of operation of the section 29 jurisdiction. During that period the courts' decisions in the first section 29 appeals helped to clarify previous uncertainties around the interpretation of section 29 (including the relevance of under-prosecution or failures in the hearing process). The paper also explains the ways in which recent landmark court judgments in appeals by registrants against fitness to practise committee decisions have impacted on the exercise of CHRE's section 29 jurisdiction.
- 5.2 Members felt that it would be helpful to review the issues discussed in the paper in more depth at a future date.
- 5.3 It was agreed that the paper would be provided to Council at its next meeting.

6. Section 29 – a summary of cases considered at case meetings during 2010

- 6.1 The Committee were asked to review a summary of all Section 29 cases which had been considered at case meetings in 2010, to confirm that the correct decisions had been made by the decision-makers who had attended each case meeting. Members were also updated in relation to a case meeting that had taken place earlier on 8 December 2010.
- 6.2 Members confirmed that they were content with the decisions made at all case meetings and with the process that had been followed. Specific learning points would be raised with the regulators with regard to individual cases that had not been referred to the High Court.

- 6.3 Members were encouraged to attend regulators' fitness to practise panels as these were open to the public.
- 6.4 The Committee asked to be provided with copies of the indicative sanctions guidance used by each regulator.

ACTION: RH

7. Update on progress on current section 29 appeals

- 7.1 The Committee reviewed the cases that CHRE had appealed to the courts during 2010. At the date of the meeting, five appeals were ongoing, two of which had been lodged relatively recently (in November 2010), and two of which were in the process of being settled.
- 7.2 The fifth appeal was due to be heard in the High Court on 11 February 2011.

8. Scrutiny & Quality team activities for December 2010 – March 2011

- 8.1 The Scrutiny and Quality team were in the process of completing the 2010 audits. A final report was expected to be published in February/March 2011.
- 8.2 The team were also planning the 2011 initial stages audit process. One objective that had previously been identified was to alter the timing of the "audit year" so that the audit process would be complete by the time the performance review process begins (in October each year). If that could be achieved, it would mean that the learning identified during the audit process could be taken into account in the performance review process. Consideration was also being given to whether the initial stages audit process should be adapted in 2011, to take account of the findings of the 2009 and 2010 audits..
- 8.3 In early 2011 the team would also need to start preparing for new activities - following publication of the Department of Health's Command Paper. Additional work for the team might also arise as a result of any necessary update on the NMC's performance following publication of the progress review and/or as a result of any special investigations that might take place.
- 8.4 Any future proposals about changes to either the initial stages audit process and/or to the section 29 process to focus CHRE's limited staff resources more closely on areas of highest risk would need to be considered by Council. Members confirmed that they were willing to provide input to such proposals at an early stage, if that would assist staff.

ACTION: RH

9. Scrutiny Committee's programme for 2011

- 9.1 The Committee reviewed its work programme for 2011. As previously agreed, the meeting in April would focus on the initial stages audit, the September meeting on the performance review, and the December meeting on the Section 29 work.

- 9.2 Members felt it would be useful to have a discussion around themes that might arise in the next performance review at its next meeting in April. Members also considered that the Committee should discuss the arrangements for dealing with the potential increase in CHRE's workload that would be associated with the transfer of the GSCC's functions to the HPC (from 2012).

ACTION: LF

10. Any other business

- 10.1 There was no other business raised.

Approved by Scrutiny Committee on 7 April 2011