Council meeting 9 June 2011

Public business

Investigating Committee: annual report

Purpose
To note the Investigating Committee’s annual report.

Recommendation

i. The Council is asked to note the Investigating Committee annual report at Appendix 1.

1.0 Introduction

1.1 Presently the Investigating Committee (IC) is required, under rule 4 of the General Pharmaceutical Council (statutory Committee and their Advisers Rules) order of Council 2010, to provide an annual report to the Council in respect of each calendar year. This requirement is set out in Rule 4. Council has specified that all annual reports should cover the period from 1st April to 31st March.

1.2 The report covers the period from 27 September 2010 to 31 March 2011. It is the first report from the Investigating Committee (IC) to the Council. The report consists of statistical data, a brief commentary and a short conclusion.
2.0 **Key Considerations**

2.1 In essence this report can be regarded as a sub set of the fitness to practise report. The IC does not make any findings on fact; as the Chair points out in the report its role is that of a filtering committee.

2.2 The IC’s comments are helpful and they demonstrate an insight into the use of warnings and undertakings which may help the Council in its deliberations on the future of Fitness to Practise matters.

**Recommendation**

i. **The Council is asked to note the Investigating Committee annual report at Appendix 1.**

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17th May 2011*
FIRST REPORT FROM THE CHAIR OF THE INVESTIGATING COMMITTEE TO THE GENERAL PHARMACEUTICAL COUNCIL

Introduction

This is my first report as Chair of the General Pharmaceutical Council’s Investigating Committee, following my appointment in December 2010. The General Pharmaceutical Council (the Council) has specified that this first report covers the period from 27 September 2010 to 31 March 2011 (the reporting period). The second report will cover the period 1 April 2011 to 31 March 2012, and will be presented to the Council in June 2012.

Obviously, given the above circumstances, this is very much a short transition report as the new processes settle in.

At the beginning of my report, I should like to express my appreciation to all my colleagues who sit on the Investigating Committee and also the hardworking staff. Without the perseverance and flexibility of the staff, this work could not be taken forward in the way it has been.

Role of the Investigating Committee

As this is a new process, it may be of some benefit for the role of the Investigating Committee (IC) in the regulatory process to be set out. The IC is not a final hearing Committee. It does not make any findings of fact. Rather, it meets in private and reaches its conclusions on papers alone. In consequence, it cannot resolve conflicts of evidence in any file. In consequence, these types of cases may well be referred to the Fitness to Practise Committee (FtPC), where oral evidence may be taken from witnesses and the evidence totally aired and tested. It would not be unreasonable therefore to consider the IC’s role to be that of a filtering Committee. The test which the IC has to apply on the allegations and papers before it is often referred to as “the real prospect test”. That is, if the allegations were proved, would there be a real prospect of the Registrant’s fitness to practise being found to be impaired.

Cases Considered by the IC during Reporting Period

30 Full cases
4 Health cases
18 Recommendation cases
6 Applications for Rescission

* 13 cases were removed from listings due to legacy disposal, registrants being struck off by FtP in relation to other matters or at the request of the case manager.

During the reporting period the IC met six times and considered 52 cases and six applications for rescission were listed for IC’s consideration. An addition 13 cases listed for consideration by IC were dealt with by other means including application of the legacy disposal and being removed by the Fitness to Practise Committee in relation to other matters. 4 of the 6 applications for rescission were rescinded and the other two were declined. 16 of the 52 cases considered were referred to the FtPC.
Caseload – Outcomes

Referred to FtP Ctte: 16
Warnings: 28
Referred back to Council (for further info): 6
Advice: 3
Postponement: 2
Undertakings: 1

* The number of cases and the number of outcomes may not correlate as there may be instances where cases have more than one registrant. Also where a case has been previously adjourned and then relisted it will have the adjourned outcome and a final outcome. Consideration of 52 cases and 6 applications for rescission resulted in 56 outcomes. The number of cases and the number of outcomes may not correlate as there may be instances where cases have more than one registrant. In addition, if a case has been adjourned and then reconsidered it will have two outcomes – adjourned and the final outcome. Sixteen cases were referred to the Fitness to Practise Committee, 6 were referred back to the Council (for additional information) and 2 cases were postponed.

28 letters of warning were issued. The IC considered factors including the co-operation with the Council’s inspectors and investigators, clear insight into the consequences of the allegation and relevant changes to professional practise, including the implementation of advice from the Council's Inspector.

3 letters of advice were issued. In each case IC considered that there would be no real prospect of a finding by the FtPC that the registrant’s fitness to practise is impaired. The same factors as those considered in cases were warning letters were issued. The differentiating factor between disposal by way of a letter of advice as opposed to a letter of warning was the gravity of the allegation.

One case was disposed of by agreeing undertakings with the registrant.

Cases awaiting consideration:

24 full cases
2 health cases
17 recommendation cases
2 applications for rescission

Of those 5 full cases and 1 recommendation case are awaiting listing.

Section on trends patterns and Learning Points

As indicated in the introduction, it is still too early with the new processes to draw any substantive conclusions on emerging trends. Some initial points, however, are worthy of comment.

- The issuing of an undertaking is a very useful tool particularly (but not exclusively) in health cases to take the matter forward. In achieving the proper balance between sustainable risk management to protect the public on the one hand; and fairness and proportionality towards any registrant, the issue of monitoring arises. The IC has noted in several recent hearings the variance both in content and length of medical reports from some GPs. Consideration is being given to devise (if possible) some sort of standardised requests so that the IC has adequate information before it.
In recommendation situations, at present many more warnings are issued compared to disposals with no action or letters of advice.

As time progresses with the new procedures, it may be of assistance at some stage in the future to revisit the IC’s referral criteria in the light of emerging case experience.

A meeting of all members of the Investigating Committee has been arranged for May 25th 2011 to discuss emerging trends and learning points to take such issues forward.

Conclusion

I look forward to working alongside colleagues on the Investigating Committee and in the GPhC to take the new regulatory process forward. Undoubtedly, many more challenges will have to be faced in the future but given the level of commitment demonstrated by everyone in the process in even my short time as Chair, I have no doubt that those challenges will be successfully addressed.

Alex Coleman
Chair of the Investigating Committee
16th May 2011.