

Professional Liaison Group (PLG) - Review of the standards of conduct, performance and ethics, 19 September 2014

Thematic review: Professional conduct

Executive summary and recommendations

Introduction

The first stage of the review of the standards of conduct, performance and ethics included a number of research and consultancy activities engaging a range of stakeholders about the standards.

Professional conduct has been identified as a key theme, given the prevalence of discussion by stakeholders about the clarity of statements relating to this topic in the current version of the standards. Based on the divergent views about the meaning of professional conduct, consideration of this theme incorporates a wide range of topics including honesty and integrity; maintaining public trust and confidence; financial propriety; professional boundaries; and professional attributes such as punctuality and organisation.

This paper sets out the background, research findings, our current approach and the approaches taken by other regulators to these topics. It also provides a key recommendation from the Executive and a number of other considerations for the discussion of the Professional Liaison Group.

Decision

The Group is invited to discuss the attached paper, in particular the Executive's recommendation in section 7 and other key considerations in section 8.

Background information

None

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

9 September 2014

Review of the standards of conduct, performance and ethics

Professional conduct

1. Introduction

- 1.1 The findings from the research activities undertaken during the first stage of the review of the standards of conduct, performance and ethics have been synthesised into a number of key themes. These themes are to be considered by the Professional Liaison Group for the review of the standards of conduct, performance and ethics at its meetings between June and December 2014.
- 1.2 Drawing on feedback from this research, the theme of professional conduct discussed in this paper incorporates a wide range of topics including honesty and integrity; maintaining public trust and confidence; financial propriety; professional boundaries (including sexual boundaries); lawful behaviour; and professional attributes such as punctuality and organisation.
- 1.3 This paper sets out the background and our current approach to this topic, research findings and relevant standards set by other regulators. The final sections set out recommendations from the Executive and some key points for the Group to take account of in considering this topic.

2. Background

- 2.1 The term 'professional conduct' may be interpreted widely and could perhaps even be read across as relating to all of the standards of conduct, performance and ethics. However for the purposes of this themed discussion, we use the term 'professional conduct' to refer in particular to the statements in standards 3, 4 and 13 -- that is, behaving with honesty and integrity; acting lawfully; and maintaining service users' and the public's confidence in the profession. We also consider aspects which are not explicitly contained in the text of the standards but which may fall under these principles. Other requirements in the standards of conduct, performance and ethics also touch on issues relating to professional conduct (these are outlined below).
- 2.2 Research and stakeholder consultation activities undertaken during an earlier phase of the review of the standards of conduct, performance and ethics included discussions about professional conduct. Few concrete recommendations were made, but the commentary was nearly unanimous on the need for additional clarification and guidance on this topic. These responses are further detailed below. Based on this feedback, we consider that the topic of professional conduct warrants a specific discussion among Group members.

3. Current approach

- 3.1 Standard 3 emphasises personal conduct as being of equal importance to professional conduct with regard to affecting confidence in a profession:

‘You must keep high standards of personal conduct.

You must keep high standards of personal conduct, as well as professional conduct. You should be aware that poor conduct outside of your professional life may still affect someone’s confidence in you and your profession.’

- 3.2 Standard 13 of the standards of conduct, performance and ethics deals with honesty, integrity and public confidence:

‘You must behave with honesty and integrity and make sure that your behaviour does not damage the public’s confidence in you or your profession.

You must justify the trust that other people place in you by acting with honesty and integrity at all times. You must not get involved in any behaviour or activity which is likely to damage the public’s confidence in you or your profession.’

- 3.3 Standard 4 of the standards of conduct, performance and ethics emphasises the importance of behaving in accordance with the law as a key aspect of professional conduct:

‘You must provide (to us and any other relevant regulators) any important information about your conduct and competence.

You must tell us (and any other relevant regulators) if you have important information about your conduct or competence, or about other registrants and health and care professionals you work with. In particular, you must let us know straight away if you are:

- convicted of a criminal offence, receive a conditional discharge for an offence, or if you accept a police caution;
- disciplined by any organisation responsible for regulating or licensing a health or social care profession; or
- suspended or placed under a practice restriction by an employer or similar organisation because of concerns about your conduct or competence.

You should cooperate with any investigation or formal inquiry into your professional conduct, the conduct of others, or the care of services provided to a service user, where appropriate. If anyone asks for relevant information in connection with your conduct or competence, and they are entitled to it, you should provide the information.

We can take action against you if you are convicted of a criminal offence or have accepted a police caution. We will always consider each case individually to decide whether we need to take any action to protect the public.

However, we will consider rejecting an application for registration or removing you from the Register if you are already registered, if you are convicted of a criminal offence or accept a police caution that involves one of the following types of behaviour.

- Violence
- Abuse
- Sexual misconduct
- Supplying drugs illegally
- Child pornography
- Offences involving dishonesty
- Offences for which you received a prison sentence

This is not a full list. We will always look at any convictions or cautions we find out about, and we have arrangements in place to be told about convictions and cautions involving registrants.'

- 3.4 Additionally, standard 1, which requires registrants to act in the best interests of service users, also states that they 'must not abuse the relationship [they] have with a service user'.
- 3.5 The standards of conduct, performance and ethics are available in full on our website: <http://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>. We have also produced guidance for registrants on disclosing information about their character (including convictions and cautions) to us and our processes for considering this information: <http://www.hcpc-uk.org/assets/documents/100023F1GuidanceonconfidentialityFINAL.pdf>.
- 3.6 The standards of conduct, performance and ethics are designed to apply as broadly as possible to all of the professions we regulate. Therefore they do not cover every ethical situation a registrant may face or prescribe in detail what actions may or may not be acceptable. Standards 3 and 13 in particular contain high-level statements of principle relating to professional conduct but do not provide detail, e.g. about what is considered to be 'high standards' of conduct, or what kind of behaviour is likely to damage the public's confidence in the profession. We expect our registrants to be able to use their professional judgement in applying and upholding the standards in their practice.
- 3.7 In addition to the statements in the standards of conduct, performance and ethics outlined above, the HCPC standards of proficiency also contain

relevant statements. In particular, one of the generic standards requires registrants to ‘be able to practise within the legal and ethical boundaries of their profession’. They must ‘recognise that relationships with service users should be based on mutual respect and trust, and be able to maintain high standards of care even in situations of personal incompatibility’.

3.8 The standards of proficiency can be found on our website: <http://www.hcpc-uk.org/aboutregistration/standards/standardsofproficiency/>.

3.9 Furthermore we recognise that our standards exist alongside other professional codes of conduct, in particular from professional bodies, which cover many of the principles set out in our standards in profession-specific detail.

4. Other regulatory standards

4.1 Other health and social care regulators in the UK set standards in relation to professional conduct, many of which are more specific and detailed than the HCPC’s current standards of conduct, performance and ethics. The table below outlines the approach of each of the regulators to this area.

Regulator	Current approach
General Medical Council (GMC)	Aspects of professional conduct are dealt with in a number of standards in Good Medical Practice. With regard to collaborative working, doctors must be aware of how their behaviour may influence others within and outside of their team. They are expected to be polite and considerate. They must act with honesty and integrity and within the law, ensuring that their conduct justifies their patients’ trust in them and the public’s trust in the profession. In particular, doctors must act with honesty in financial and commercial dealings; declare conflicts of interest; and be prepared to exclude themselves from decision making. They must not offer or accept any inducement or gift which may be seen to affect the way they treat patients or commission services. Good Medical Practice states specifically that doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them. In addition to these standards, the GMC has produced supplementary guidance on financial and commercial arrangements and conflicts of interest; maintaining professional boundary with patients; and sexual behaviour and the duty to report colleagues.
Nursing and Midwifery Council (NMC)	The NMC’s code states that registrants must be open and honest, act with integrity and uphold the reputation of their profession. They must always act lawfully, both in their professional practice and their personal life. Registrants must maintain clear

	<p>professional boundaries, including clear sexual boundaries, at all times with the people in their care as well as their families and carers. They must not abuse their position and ensure their professional judgement is not influenced by any commercial considerations; this includes not accepting gifts, favours or loans which might be interpreted as an attempt to gain preferential treatment. In addition to these standards, the NMC also provides guidance on professional conduct for nursing and midwifery students.</p>
<p>General Dental Council (GDC)</p>	<p>The Standards for the Dental Team require registrants to be honest and act with integrity, making sure that their conduct, both at work and in their personal life, justifies patients' and the public's trust in them and in the dental profession. The requirement to act honestly and fairly extends to any business or education activities. Registrants must put patients' interests before their own or those of any colleague, business or organisation. The guidance accompanying this standard specifies that this means being honest with patients about their payment options and not misleading them to believe that a treatment can only be done privately, if that is not the case. Registrants must refuse any gifts or payments that could affect or appear to affect their professional judgement. They must maintain appropriate boundaries in their relationships with patients and not take advantage of their position. Guidance goes into further detail about professional conduct, stating that registrants must not make disparaging remarks about a colleague in front of patients or through social media.</p>
<p>General Osteopathic Council (GOsC)</p>	<p>The Osteopathic Practice Standards include a set of statements under the heading 'Professionalism'. Osteopaths are required to uphold the reputation of the profession through their conduct. Guidance states that this includes acting within the law, not abusing alcohol or drugs, and showing professional courtesy to colleagues. Osteopaths must interact with patients in a respectful and timely manner, even where there is a personal incompatibility. They are required to act with integrity, honesty and sincerity in their practice as well as in financial dealings, including in charging fees and declaring any interests they might have in introducing patients to other professional or commercial organisations. The guidance gives further examples of lack of integrity, such as putting their own interest above duty to a patient, putting pressure on a patient to purchase a product, or recommending a service solely for financial gain. Osteopaths must not abuse their professional standing, and in particular must</p>

	establish and maintain appropriate boundaries with patients, sexual or otherwise.
General Chiropractic Council (GCC)	The GCC Code of Practice sets out a general requirement for registrants to justify public trust and confidence by being honest and trustworthy. Honesty extends to publicising their work or practice, and registrants must not put pressure on people to use chiropractic services or exploit their lack of knowledge about health or chiropractic matters. They must not abuse their professional standing and must establish and maintain clear sexual boundaries with patients and their carers. Chiropractors must avoid acting in a way that may undermine public confidence in the chiropractic profession or bring the profession into disrepute. Additionally, they are expected to be polite and considerate to patients.
General Optical Council (GOC)	The Code of Conduct states that registrants must be honest and trustworthy and ensure that their conduct (whether or not connected to professional practice) does not damage public confidence in them or their profession. They must never abuse their professional position and must also ensure that financial and commercial practices do not compromise patient safety.
General Pharmaceutical Council (GPhC)	The GPhC standards of conduct, ethics and performance require registrants to be honest and trustworthy in order to justify the trust that patients and the public place in pharmacy professionals and to avoid damaging the reputation of the profession. They must maintain proper professional boundaries with patients and others in the course of their practice, and not abuse their position or exploit the vulnerability or lack of knowledge of others. Additionally registrants must make sure that their professional judgement is not affected by personal or organisational interests or incentives (including financial); must not accept gifts or rewards that may be seen to do so; and must declare any conflicts of interest.
Pharmaceutical Society of Northern Ireland (PSNI)	The PSNI Code of Ethics contains the same or very similar standards on professional conduct to those of the GPhC. Additionally, registrants are required to treat others with personal and professional courtesy.
Care Council for Wales (CCW)	The Code of Practice for social workers in Northern Ireland, Scotland and Wales is currently the same across all three care councils (and was previously in place for social workers in England under the General Social Care Council). The code states that social workers must uphold public trust and confidence in social care services by
Northern Ireland Social Care Council (NISCC)	
Scottish Social	

<p>Services Council (SSSC)</p>	<p>being honest, trustworthy, reliable and dependable, and by honouring work commitments, agreements and arrangements. They must not form inappropriate relationships with service users or behave in a way (in or outside of work) which would call into question their suitability for the profession. Additionally, social workers must adhere to policies about accepting gifts and money, declare any conflicts of interest, and ensure that these do not affect their professional judgement.</p> <p>The CCW has produced brief guidance in addition to the code on appropriate relationships and personal boundaries; and gifts and donations.</p>
--------------------------------	---

5. Research findings

- 5.1 A number of research and consultation activities during the first phase of this review of the standards of conduct, performance and ethics covered topics related to professional conduct. In general these have emphasised stakeholders' expectations of honesty and integrity and have also highlighted a need for additional clarity about the distinction between personal and professional conduct. There were, however, a wide range of views about what issues fall under the theme of professional conduct. A number of stakeholders also suggested merging standards 3 and 13.
- 5.2 Research undertaken by Connect, a communication disability network for people with aphasia, found that this group of service users expected health and care professionals to be punctual, reliable, organised, and dressed appropriately. Participants in the group discussions and interviews also said that they expected honesty and trustworthiness from professionals. Good professional conduct should include not breaking the law, not abusing power, and not coming to work under the influence of drugs or alcohol.
- 5.3 Research with service users and carers conducted by Shaping Our Lives found that they valued attributes in a practitioner such as transparency, politeness, friendliness, good personal appearance and cleanliness. When asked what qualities were important to a service user's best interests, participants cited honesty and integrity.
- 5.4 Participants in group discussions led by The Focus Group generally agreed that standards 3 and 13 required further definition and clarification, and also suggested that the two could be merged. Among registrants, there was concern that references to personal and professional conduct were too vague and left them open to complaints being raised even about things that have no bearing on their practice. Service users agreed that these references were vague, but did cite some aspects of conduct that could be included, such as personal hygiene, standards of dress, timeliness and efficiency.

- 5.5 Similarly, attendees at HCPC employer events suggested that standards 3 and 13 might be merged and that the wording required clarification. They thought some examples would be helpful, in particular to clarify what is meant by personal conduct and its relationship with (and relevance to) professional conduct. Employers and managers at the events also linked personal and professional conduct to appropriate use of social media and suggested that further guidance could be useful.
- 5.6 An internal survey of HCPC Fitness to Practise Department employees and panel chairs identified a need to reaffirm the importance of maintaining professional boundaries given recent cases relating to this. Additional comments were that standard 3 should have increased emphasis on professional conduct (where the wording currently seems to emphasis personal conduct).
- 5.7 Reports on some of the activities mentioned above have been provided as papers to note for the Professional Liaison Group, and can also be found on our website:
- Connect research: <http://www.hcpc-uk.org/publications/research/index.asp?id=734>
 - Shaping Our Lives consultation: <http://www.hcpc-uk.org/publications/research/index.asp?id=735>
 - The Focus Group research: <http://www.hcpc-uk.org/publications/research/index.asp?id=733>
 - Fitness to Practise Department survey: <http://www.hcpc-uk.org/assets/documents/10004530Enc06-Reviewofthestandardsofconduct,performanceandethicsresearch.pdf>
(Appendix 3)

6. Other relevant factors

- 6.1 In recent years, the Policy Department has received a number of queries about issues relating to professional conduct. Common topics have included the interaction between personal and professional conduct, and instances where a professional's personal activities may be seen to bring their profession into disrepute. Other queries have been received from registrants, employers and others about situations involving a conflict of interest and what steps should be taken in response to it.

7. Executive recommendation

- 7.1 The Executive recommends that standards 3 and 13 should be combined into a single standard covering professional conduct.
- 7.2 We consider that, given the two standards cover very similar ground, combining them would help to simplify the text and increase clarity. This was also a common view expressed during the research activities undertaken in the first phase of this review.

- 7.3 A common response across all of the research and stakeholder engagement activities outlined above is that references to professional conduct, honesty and integrity require further definition and clarification. In relation to this, we note that the text of standards 3 and 13, are noticeably briefer than most of the other standards.
- 7.4 However, we do not think that a standard on professional conduct needs to include statements about specific actions or attributes that fall under the main principles. Our reasons for this are further explained in the PLG considerations below.

8. PLG considerations

- 8.1 As stated above, the standards of conduct, performance and ethics are high-level ethical principles that set out in general terms the conduct we expect of registrants. They are designed to apply to registrants in all of the professions we regulate, as well as to a wide range of settings and service user groups. Any approach we take to revising the standards must consider these principles.
- 8.2 Standards and guidance from other regulators on professional conduct are on the whole more detailed and explicitly incorporate more topics than our standards do. In particular, most of the other regulators have standards and/or guidance in place relating to financial integrity and propriety, refusing gifts and declaring conflicts of interest. Most also specify that professional conduct includes establishing and maintaining appropriate boundaries, sexual or otherwise, with patients, carers and others. These topics were also picked up at a number of the discussions, events and interviews carried out as part of the research phase of this review.
- 8.3 In addition, many stakeholders, in particular service users and carers, have understood professional conduct to also incorporate attributes and attitudes associated with delivery of a service, such as punctuality, politeness and reliability.
- 8.4 However, a number of these issues are not equally applicable or relevant to all of the professions regulated by the HCPC. For example, issues relating to maintaining appropriate boundaries can be applied more readily to those professions which have frequent face-to-face contact with patients than to those with little regular contact with patients.
- 8.5 Additionally, some issues may be covered off by more general principles already included in the wording of the standards. For example, issues of financial propriety, conflicts of interest and accepting gifts could all be considered aspects of 'honesty and integrity', which are included in the wording of the existing standard 13.
- 8.6 Based on discussions at the first meeting of the PLG in June 2014, the Group members agreed that the revised standards should reflect the principles of

treating service users as individuals with dignity and respect; communicating appropriately; and working in partnership with service users, enabling them to make informed choices about their care. These broad principles, when added or strengthened in the text of the standards, could be interpreted as incorporating more context-specific characteristics of the interaction between professionals and service users mentioned above, such as politeness, courtesy and reliability.

8.7 In addition to the Executive's recommendation above, the PLG may wish to consider the following questions as part of their discussion on this topic:

- Does the PLG have any other comments or reflections on the existing standards relating to professional conduct?
- Are there any further principles that should be borne in mind in revising the standards?