

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

Thematic review: Infection and risk control

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 consultation activities engaging a range of stakeholders about the standards.

Infection and risk control has been identified as a key theme from the research and consultation findings, given the prevalence of discussion by stakeholders about the clarity and relevance of existing references to this topic in standard 11. These activities have brought out a wide range of views, a significant number of which advocated taking the standard out altogether.

This paper sets out the background, research findings, our current approach and the approaches taken by other regulators to this topics. The paper also provides a key recommendation from the Executive and 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 6 and additional questions posed in section 7.

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

Infection and risk control

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 The theme identified in this paper pertains to the issues covered by standard 11 of the standards of conduct, performance and ethics on dealing with the risk of infection. Related issues not mentioned in the standard, but which the Group may also wish to consider as part of its discussions, include risk assessment, infection control and standards of health and safety.
- 1.3 This paper sets out the background, current approach, research findings and relevant standards set by other regulators on dealing with the risk of infection and other relevant issues. The final sections set out a recommendation from the Executive and some key points for the Group to take account of in considering this topic.

2. Current approach

- 2.1 The current standards of conduct, performance and ethics include a dedicated standard (number 11) on infection and risk control:

‘You must deal fairly and safely with the risks of infection.

You must not refuse to treat someone just because they have an infection. Also, you must keep to the rules of confidentiality when dealing with people who have infections. For some infections, such as sexually transmitted infections, these rules may be more restrictive than the rules of confidentiality for people in other circumstances. We discussed confidentiality in more detail earlier in this document.

You must take appropriate precautions to protect your service users and yourself from infection. In particular, you should protect your service users from infecting one another. You must take precautions against the risk that you will infect someone else.

This is especially important if you suspect or know that you have an infection that could harm other people. If you believe or know that you

may have this kind of infection, you must get medical advice and act on it. This may include the need for you to stop practising altogether, or to change your practice in some way in the best interests of protecting your service users.'

2.2 The current wording incorporates a number of discrete principles within the standard:

- Fairness and non-discrimination: Registrants must not discriminate against people with infections by refusing to treat them.
- Confidentiality: Registrants must keep to the rules of confidentiality with regard to people with infections, including sexually transmitted infections.
- Protecting service users: Registrants must protect service users from the risks of infection (i.e. service users infecting one another as well as the registrant infecting service users).
- Changing or stopping practice: Registrants must seek medical advice and potentially change or stop their practice if they suspect or know they have an infection that could harm other people.

2.3 In the introduction to the standards of conduct, performance and ethics, the following caveat is included:

'The standards are written in broad terms and designed to apply to all registrants as far as possible. **However we recognise that some of the standards may not apply to all the professions that we regulate or to the practice of some registrants.** The standards that might not directly apply to all registrants include standard eleven, which says that 'You must deal fairly and safely with the risks of infection.'

The standards of conduct, performance and ethics are available in full on our website: <http://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>.

2.4 In addition, the standards of proficiency – which outline what an individual must know, understand and be able to do in order to join the Register – contain relevant standards, but the emphasis is on infection control. Generic standard 15 states that registrants must 'understand the need to establish and maintain a safe practice environment'. A profession-specific standard underneath this one (in the case of most professions) requires registrants to 'be able to establish safe environments for practice, which minimise risks to service users, those treating them and others, including the use of hazard control and particularly infection control'.¹

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

¹ The revised standards of proficiency for biomedical scientists and clinical scientists will be published in December 2014. The standards of proficiency for social workers have not yet been reviewed and restructured to match those for the other professions, and as a result do not include the statements under generic standard 15.

- 2.5 In addition to the standards outlined above, we have produced guidance on health and character, which includes relevant statements about what we expect a registrant to do if they have a health condition which may pose a risk to service users. Registrants and prospective registrants are required to tell us about any health conditions which may affect their ability to practise safely and effectively, and which may therefore affect the safety of service users. The guidance states that relevant health issues to tell us about may include carrying an infectious disease. Such a condition is unlikely to affect a registrant's fitness to practise, provided they have taken steps to manage it appropriately; they have received medical or other support; and they have made reasonable adjustments to their placement or work environment.

The guidance can be found in full on our website: <http://www.hcpc-uk.org/publications/brochures/index.asp?id=220>.

3. Background and context

- 3.1 Previous discussion at the PLG and comments from stakeholders have reflected that the current standard on the risk of infection can be considered a 'product of its time', borne out of concerns about the spread of AIDS/HIV, as well as about potential discrimination or refusal to treat service users who were infected.
- 3.2 A standard about dealing with the risk of infection was included in the first iteration of the standards of conduct, performance and ethics (published in 2003) and originated from previous requirements of the Council of Professions Supplementary to Medicine (CPSM), the predecessor to the HCPC.
- 3.3 It reflected the approaches that were prevalent during the 1980s and 1990s. Previous guidance from the Department of Health on the management of healthcare workers infected with AIDS or HIV had been designed to combat the threat of AIDS, when attitudes were very different and risks were less understood.
- 3.4 This approach has changed gradually, and particularly over the last decade. Revised guidance from the Department of Health in 2005 replaced the 1998 version and included a new policy on patient notification when a healthcare worker is found to be infected with HIV. It signalled a growing understanding of the low risk of transmission and an appreciation of the anxiety (most likely needless) caused to patients and the wider public by such disclosure.
- 3.5 In 2013, the Department of Health announced a new change in policy which meant that people living with HIV who are on effective treatment would no longer be restricted from becoming surgeons, dentists and midwives, or work in any other healthcare profession involving 'exposure-prone procedures'.²

² The results of the Department of Health's consultation, which ran from December 2011 to March 2012, can be found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229784/HIV_infected_HCW_-_Consultation_Response.pdf

This change, effective from April 2014, was the result of an evidence-based review, which showed that the risk of transmission to a patient from an HIV-infected healthcare worker on effective treatment was extremely low, if not non-existent.³

- 3.6 New healthcare workers wanting to go into a profession involving exposure-prone procedures are still tested for HIV infection and other blood-borne viruses early in the recruitment process; and have an on-going professional duty of care to patients to seek medical and occupational health advice on the need to be tested for infection and/or the need to modify their working practices if they are found to be HIV positive. Updated guidance was published by Public Health England in January 2014.⁴

4. Research findings

- 4.1 Research and stakeholder consultation activities undertaken during an earlier phase of the review of the standards of conduct, performance and ethics drew out varying views about the inclusion of a dedicated standard on infection and risk control. Feedback also highlighted a lack of clarity around the current standard 11; a sense that the standard was out-dated, at least in its current form; and a potential need to broaden the standard in order to ensure it is relevant to all professions. A significant number of participants also suggested that the standard should be removed completely. These responses are further detailed below.
- 4.2 Commissioned research carried out by The Focus Group found a common view among registrants that standard 11 requires clarification about the different aspects of dealing with infection, including confidentiality about the infection status of a service user; physically dealing with infection and risks in the workplace; working with a service user who has an infection; and dealing with the professional's own infection. The wording of the standard was seen as an out-dated reference to the risks of HIV/AIDS infection, and participants thought it should be broadened to include a more general statement about dealing with risks in the workplace. Registrants also supported the inclusion of a broader reference to personal safety and the need for risk assessments, particularly when dealing with uncontrolled environments. The service users involved in The Focus Group research on the whole had little understanding of what was meant by the standard.
- 4.3 A service user and carer consultation carried out by Shaping Our Lives found that no respondents disagreed with this standard – although use of the word 'fairly' confused some – and that there was a great deal of awareness about

³ The review was conducted by the Expert Advisory Group on AIDS (EAGA), the Advisory Group on Hepatitis (AGH) and the UK Advisory Panel for Healthcare Workers Infected with Blood-borne Viruses (UKAP). The findings and recommendations of the report 'Management of HIV-infected Healthcare Workers' can be downloaded here: <https://www.gov.uk/government/publications/management-of-hiv-infected-healthcare-workers-hcw-the-report-of-the-tripartite-working-group>

⁴ See the guidance from Public Health England at: <https://www.gov.uk/government/publications/hiv-infected-healthcare-workers-and-exposure-prone-procedures>

various measures for dealing with the risk of infection in health environments. Some service users advocated transparency about the risks of infection in a particular environment so they could make decisions about using a service; while others were clear about the onus on service users to declare their own infections.

- 4.4 Representatives of professional bodies and other stakeholders who participated at a HCPC event on the standards did not have a clear understanding of the history and context for standard 11 and questioned whether it might only apply to some, not all, professions.
- 4.5 Attendees at a number of HCPC employer events were also asked to consider the standard. They suggested that it required clarification to emphasise the problem of delaying treatment due to infection and should more explicitly cover issues of discrimination, prejudice, dignity and respect. Others suggested that the standard could be broadened to include statements about other risks, including the need for appropriate health and safety assessments, disposal, and moving and handling risks.
- 4.6 Meanwhile registrants attending a Meet the HCPC event also considered the standard to be out-dated in its implicit reference to HIV/AIDS risks and questioned whether the principles of non-discrimination and confidentiality contained in the current standard should be broadened to take account of other conditions, such as the mental health of the service user, as well. It was also noted that the risk of infection is not applicable to social workers. Some suggested the standard could be taken out altogether.
- 4.7 Finally, an internal survey of the HCPC Fitness to Practice Department found that the issues of dealing fairly and safely with the risk of infection do not appear frequently with regard to fitness to practise cases. Respondents thought the standard was out of date; was not applicable to all professions regulated by the HCPC; and should either be removed or broadened to cover dealing with risks more generally and ensuring safety of practice.
- 4.8 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.
 - 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)

5. Other regulatory standards

- 5.1 Other health and social care regulators in the UK have adopted different approaches in their respective conduct standards to the risk of infection, as well as the other principles contained in standard 11, such as non-discrimination, confidentiality, protecting service users, and stopping or changing practice. The table below outlines the approach of each of the regulators to this theme.

Regulator	Current approach
General Medical Council (GMC)	The GMC's Good Medical Practice has standards relating to risk control in general as well as to the risk of the spread of infection. In particular, doctors must consult a suitably qualified colleague if they know or suspect that they have a serious condition that could be passed on to patients or colleagues; must be immunised against common serious communicable diseases; and must be registered with a GP outside of their family. A further standard requires that patients and colleagues are treated fairly and without discrimination. This includes not denying treatment to patients because their medical condition may put the doctor at a risk; and taking all available steps to minimise the risk or making suitable alternative arrangements for providing treatment. The GMC has also produced supplementary guidance on confidentiality in the context of serious communicable diseases, aimed at fostering trust between doctors and patients, as well as ensuring appropriate information-sharing.
Nursing and Midwifery Council (NMC)	The NMC's Code does not include specific mention of the risk of infection or communicable diseases. There are however standards requiring registrants to maintain an individual's right to confidentiality; to disclose information in line with the law if someone is at risk of harm; to act without delay if an individual is being put at risk; and to not discriminate against individuals in their care in any way. The draft revised code includes similar statements and also requires registrants to minimise any health risk they may pose to patients or colleagues by ensuring they maintain good levels of health and personal hygiene, are immunised against common serious communicable diseases and are registered with a GP.
General Dental Council (GDC)	The Standards for the Dental Team require that dental professionals must put patients' interests first, including with regard to the risk of infection. Patients must be treated in a hygienic and safe environment which is compliant with the relevant laws and regulations. Dental professionals must make sure that

	they have all necessary vaccinations and follow guidance relating to blood-borne viruses. Guidance accompanying the standards states that registrants must also ensure that they do not discriminate against patients or groups of patients for any reason, including because of their health.
General Osteopathic Council (GOsC)	The Osteopathic Practice Standards state that registrants must ensure that any problems with their own health do not affect their patients; if they are exposed to a serious communicable disease and have reason to suspect they may be a carrier, they must stop practising and obtain appropriate medical advice. More generally, registrants must take all necessary steps to control the spread of communicable diseases, including ensuring proper hygiene at practice premises. Furthermore, the standards include statements about the importance of maintaining confidentiality except in cases where disclosure of information is in the public interest, for example where a patient puts themselves or others at serious risks by the possibility of infection.
General Chiropractic Council (GCC)	The GCC's Code of Practice Standards state that chiropractors must protect patients and colleagues from risk of harm, including assessing and managing infection risk. The accompanying guidance states that, although the risks of infection and spread of communicable diseases in chiropractic practice are judged to be low, certain measures should be taken to help reduce them, such as hand washing, using and disposing of gloves and aprons, and using and disposing of sharps safely. Additionally, the standards include detailed statements about the duty and expectation of confidentiality and the importance of appropriate data protection measures. The guidance does however state that disclosure of personal information may be made in the public interest, for example because the patient might cause harm to others. Registrants are advised to seek appropriate advice in such cases.
General Optical Council (GOC)	The GOC Code of Conduct does not include reference to the risk of infection or spread of communicable diseases. It does state that registrants must act quickly to protect patients from risks; and respect and protect confidential information.
General Pharmaceutical Council (GPhC)	The GPhC's standards of conduct, ethics and performance do not refer to risks of infection, though there is a general requirement to reduce risks to patients and the public; and to use professional judgement in balancing the needs of individuals with those of society. There are also statements about non-

	discrimination and confidentiality.
Pharmaceutical Society of Northern Ireland (PSNI)	The PSNI Code of Ethics contains very similar statements to those in the GPhC's standards outlined above. Professionals must exercise their judgement to take appropriate action to reduce risks to patients and the public.
Care Council for Wales (CCW) Northern Ireland Social Care Council (NISCC) Scottish Social Services Council (SSSC)	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). This code does not include any standards relating to the risk of infection or spread of communicable diseases. There is an emphasis on upholding public trust and respect for service users. Additionally, social workers must not put themselves or other people at unnecessary risk.

6. Executive recommendation

- 6.1 The Executive recommends that standard 11 should be removed. This recommendation is informed by the following considerations.
- 6.2 As outlined in section 3 above, the existing standard 11 reflects outmoded attitudes and a previous lack of understanding about the risk of transmission of HIV and other blood-borne viruses during a procedure or episode of healthcare. As evidence of the enhanced scientific understanding nowadays, new policy from the Department of Health no longer places restrictions on individuals who are infected with HIV but are receiving effective treatment from practising certain professions which involve exposure-prone procedures. As the Chief Medical Officer for England noted in announcing these changes, patients have about a one in 5 million chance of being infected with HIV by a healthcare worker. There is no record of any patient ever being infected through this route in the UK, and there have been just four cases of clinicians infecting patients reported worldwide.
- 6.3 The standards of conduct, performance and ethics are designed to apply to registrants in all of the professions we regulate, as well as to a wide range of settings and service users groups. We agree with comments from stakeholders that the existing standard 11 is not applicable to all of the professions we regulate. For example, the risk of infection is considered to be less relevant to professions where there is little or no 'invasive' contact with service users (for example, professions such as social workers and practitioner psychologists). The standards and guidance from some of the other regulators which contain a large amount of detail on this topic apply to only one or a small number of related professions which regularly involve invasive contact with service users (e.g. dentistry).

- 6.4 It is also important to note that some of the issues covered by the current standard 11 are also covered elsewhere in the standards. In particular, standard 1 includes statements relating to the protection of service users:

‘You must not do anything, or allow someone else to do anything, that you have good reason to believe will put the health, safety or wellbeing of a service user in danger...You must protect service users if you believe that any situation puts them in danger. This includes the conduct, performance or health of a colleague.’

Though not explicit, the wording of standard 1 could be (and, we would argue, should be) interpreted to include protecting service users from the risk of infection or the spread of communicable disease.

- 6.5 Standard 1 also incorporates the principle of non-discrimination (though it does not include specific mention of non-discrimination in the context of treatment of those with an infection):

‘You must act in the best interests of service users...You must not allow your views about a service user’s sex, age, colour, race, disability, sexuality, social or economic status, lifestyle, culture, religion or beliefs to affect the way you deal with them or the professional advice you give.’

- 6.6 Additionally, expectations in relation to confidentiality are covered in some detail in standard 2: ‘You must respect the confidentiality of service users.’ We have produced more detailed guidance on confidentiality for registrants, available here: <http://www.hcpc-uk.org/assets/documents/100023F1GuidanceonconfidentialityFINAL.pdf>.

- 6.7 Furthermore, requirements in relation to a registrant’s health are covered in standard 12:

‘You must limit your work or stop practising if your performance or judgement is affected by your health. You have a duty to take action if your physical or mental health could be harming your fitness to practise. You should get advice from a consultant in occupational health or another suitably qualified medical practitioner and act on it. This advice should consider whether, and in what ways, you should change your practice, including stopping practising if this is necessary.’

Arguably this standard is not specifically intended to cover risks relating to the transmission of infectious diseases. However, obligations to change or possibly stop practice if necessary are very much in line with the current wording of standard 11.

7. Other considerations for the PLG

- 7.1 If the Group decides to follow the recommendation of the Executive to remove standard 11 altogether, it will be important to consider all of the principles

contained in the current wording of the standard and to ensure that, where desired, these are not lost (see the list at 2.2).

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

- If standard 11 is removed, do any of the other standards require revision or strengthening in order to ensure that no important principles are lost?
- Does the PLG have any further recommendations in relation this topic?