

Harmonising fitness to practise sanctions: common terms November 2009

1. Introduction

1.1 A CHRE consultation in 2008 found clear support for the principle of harmonising fitness to practise sanctions across the health professional regulatory bodies, which each can apply according to their indicative sanctions guidance.¹ Based on this consultation we proposed the following set of common sanctions:

- Cautions/warnings
- Conditions of practice
- Suspension
- Erasure/removal/striking off
- Fines.

2. Patient and public views on terminology

2.1 There was no clear consensus on what term should be used for the sanction of caution/warning or that of erasure/removal/striking off. As a result, we proposed that further research be undertaken with patients and other members of the public to determine which terms the public best understood and deemed most appropriate for the type of sanction.

2.2 Recently we commissioned a piece of qualitative research to look at the perceptions of these terms amongst patients, carers and other members of the public.² This found that the term 'caution' is understood as an official rebuke, but without any disciplinary action being taken, and people did not expect it to be placed on a professional's record. It was interpreted more as a 'slap on the wrist', which may lead to a warning if they behaviour persisted or was repeated. A 'warning' was more familiar and viewed as carrying more weight and implying a formal procedure, and was seen as more severe than a caution.

2.3 The research found that 'erasure' was an unfamiliar term which did not provide people with assurance because it fails to communicate a sense of formality or control. It was felt that a professional's record would be 'rubbed out' without trace and people assumed that they might somehow be able to return to a register illegally. 'Striking off' was the preferred term and most familiar and reassured people that strong, authoritative action was being taken and viewed it as final. Many of the participants saw the term as summarising what health professional regulation is about and clearly understood that it meant a professional would be removed from the

¹ CHRE, 2008. *Harmonising Sanctions: CHRE position*. [online] Available at: <http://www.chre.org.uk/satellite/124/> [Accessed 15 September 2009]

² See appendix 1

register of those entitled to practise. Participants were also reassured by the term because they imagined that a professional's record would be in some way crossed out, but still remain visible.

- 2.4 'Removal' was seen as more flexible and comprising a broader range of options, with the possibility of restoration at a future date. It provided people with less assurance than 'struck off' and a number of participants envisaged that the professional would be moved to a different section of a register with some believing that they may continue in a different role or be demoted.

3. Conclusion

- 3.1 Following our initial consultation on harmonising the set of sanctions across the regulatory bodies and our recent research on sanctions terms, we therefore propose that there should be the following single set of sanctions available to all regulatory bodies:

- 'Warning' – appropriate in cases in which there is a need to indicate to a registrant, and more widely to the profession and the public, that their conduct or behaviour fell below acceptable standards, but when there is no need to take action to remove or restrict a registrant's right to practise.
- 'Conditions of practice' – conditions enable registrants to take steps to remedy any deficiencies in their practice while placing restrictions on the types of work that they may undertake. Conditions might be appropriate when there is evidence of incompetence or significant shortcomings in a registrant's practice, but the panel is satisfied that there is potential for the registrant to respond positively to retraining and supervision. Conditions are also likely to be appropriate when a registrant's fitness to practise is impaired by ill health, but they demonstrate sufficient insight to comply with conditions.
- 'Suspension' – the registrant is not able to practise for a specified period of time. Suspension can be used to send out a signal to the registrant, the profession and public about what is regarded as unacceptable behaviour. Suspension from the register also has a punitive effect (if not intention), in that it prevents the registrant from practising and may therefore prevent them from earning a living in that profession during the period of suspension.
- 'Striking Off' – the most severe sanction, removing the registrant from the register. When this happens there is a general expectation that it will normally be for life and that the registrant will not be able to practise again.
- 'Fines' – a contentious option, but on balance, the need to ensure that a sanction can be imposed against all types of registrant, including businesses, when there is a fall in standards has led us to conclude that fines have a place in a common sanction set.³

³ See CHRE (2008) *Harmonising Sanctions: CHRE position* for detailed information on why we believe these are the appropriate set of sanctions available at: <http://www.chre.org.uk/satellite/124/> (accessed 9 July 2009)

Appendix 1 – Research method and sample

A series of 12 qualitative workshop discussions (2 hours duration) were undertaken with the general public/patients. Each workshop included a mix of those with experience of NHS, private and independent services. Fieldwork was conducted in Edinburgh, Brighton, Bridgend, Sutton Coldfield, Tyne and Wear, and Belfast between 9 and 16 March 2009. All groups conducted by Research Works Ltd.

Three workshops with the 'well' general public:

- Mixed sex, 26-39 years, Family stagers, young children, ABC1
- Mixed sex, 40-59 years, Family stagers, older children C2DE
- Mixed sex, 60+ years, Empty nesters/retired, BC1C2D

Three workshops with carers:

- Mixed sex, 26-39 years, carers for children, C2DE
- Mixed sex, 40-59 years, carers for older people, ABC1
- Mixed sex, 60+ years, carers for a relative/partner with a chronic condition, BC1C2D

Two workshops with those with a recent interaction with healthcare services, either through their GP or local hospital:

- Mixed sex, 20-39 years, Singles/Family stagers, ABC1
- Mixed sex, 40+ years, Empty nesters/retired, C2DE

Two workshops with patients who have regular interaction with healthcare services due to ongoing, chronic conditions:

- Mixed sex; younger patients, 20-39, C2DE, with chronic conditions (asthma, diabetes etc)
- Mixed sex; older patients, 40+, ABC1, with chronic conditions (asthma, diabetes, arthritis, osteoporosis etc)

Two workshops with patients who have recently had experience of acute care, but are otherwise well:

- Mixed sex; younger patients, 20-39, ABC1, who have recently had experience of acute care (hospital), but are otherwise well
- Mixed sex; older patients, 40+, C2DE, who have recently had experience of acute care (hospital), but are otherwise well