

Response to the General Chiropractic Council consultation on publication and disclosure policy

February 2020

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
- Oversee the ten health and care professional regulators and report annually to Parliament on their performance
 - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice.

2. General comments

- 2.1 We welcome the opportunity to respond to the General Chiropractic Council (GCC) consultation on their draft publication and disclosure policy.
- 2.2 In general, the policy appears clearly laid out and easy to follow. It may be useful for the GCC to refer more explicitly upfront in the policy to the value of transparency in promoting public confidence in regulatory processes and that unless there are good reasons for not being transparent this should be the default for regulators.
- 2.3 In relation to length of time for publication of fitness to practise (FtP) sanctions we refer the GCC to our comments made in *Right-touch reform* on this issue. Here we stated that it may be helpful for health professional regulators to work together to bring some level of consistency to the length of time that fitness to practise (FtP) sanctions are published on the register as the variation between different bodies can be confusing to the public.¹ We note that the current reforms being taken forward by Government to the regulators' fitness to

¹ *Modernising Registers*, in *Right-touch reform*, 2017. Available at: <https://www.professionalstandards.org.uk/publications/detail/right-touch-reform-a-new-framework-for-assurance-of-professions>

practise legislation may provide an opportunity to seek further alignment in this area.

- 2.4 Although we recognise that the purpose of the policy is to outline the GCC's approach to publication and disclosure of specific information in line with their overarching duty and other relevant legislative constraints and requirements, the policy doesn't appear to refer to disclosure of relevant information to specific relevant parties, e.g. disclosing outcomes & determinations of hearings to the registrant, complainant and the Authority. Although this may be covered in other documentation or implied by the policy, it may be helpful to be more explicit on this point or to cross reference to other guidance. This would help to provide a more rounded and clearer overview of the GCC's approach to disclosing relevant information to those who need to receive it.
- 2.5 We have also made some specific comments on various parts of the policy, primarily relating to publication of FtP sanctions, which we hope will be helpful to the GCC when finalising the policy.

3. Specific comments

Publication of sanctions

- 3.1 We welcome the intention to continue to publish removals from the register for at least 5 years. This is in line with our advice on maximising the contribution of registers to public protection.²
- 3.2 We note however that the GCC are proposing to remove the original determination leading to a chiropractor being removed from the register after a decision has been made to restore the individual to the register. Our 2010 advice recognises the need to balance registrant rights with the public protection value of providing information about registrants' FtP histories. However, in line with the principle of regulators operating transparently it gives greater weight to the rights of patients to access information than professionals and suggests taking a proportionate approach to publication of FtP histories on the register.
- 3.3 The current proposal appears to allow the possibility of the apparently anomalous situation where if a registrant was suspended for a year the determination would be published for three years (duration of the suspension + 2 years) whereas if they were struck off, they could apply for restoration 10 months later and if their application was successful no information about their FtP history would be published from that point. Although the individual would only be restored if the panel was satisfied that the individual's fitness to practise was no longer impaired, this still suggests an inconsistent approach which doesn't appear to be proportionate to the severity of the sanction in each respective case. We would suggest the GCC may wish to review this

² *Health professional regulators' registers - Maximising their contribution to public protection and patient safety*, 2010. Available at: <https://www.professionalstandards.org.uk/publications/detail/maximising-the-contribution-of-regulatory-bodies-registers-to-public-protection>

proposal in line with the other proposed time periods for publication of sanctions and the potential value of publishing this information for longer.

Publication of Interim Suspension Orders

- 3.4 In the Annex, the length of time that an Interim Suspension Order (IO) will be published for is described as: 'for the duration of the substantive proceedings to which the order relates'. Although we understand that no set length of time can be provided as IOs fall away at a substantive hearing once a sanction is imposed (or following an IO review hearing where the panel may decide to revoke the IO) it may be helpful to clarify the wording as this may not be apparent to a member of the public reading the policy.

4. Further information

- 4.1 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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