

Public and patient perspectives on future fitness to practise processes

RESEARCH REPORT



Research commissioned to explore with patients and the public their perspective on future fitness to practise processes where hearings are not held.

Research objectives were to explore:

- ① Perceptions of the **potential impact** of the emerging future approach to fitness to practise on **public confidence**
- ② Views on **how they would wish to be involved** in the emerging future fitness to practise model
- ③ Views on **oversight** of the new arrangements



Why did we commission this research?

Background/context

Fitness to practise is the health/care professional regulators' process for handling concerns and complaints about professionals on their registers.





The most serious cases are referred to formal hearings in front of fitness to practise committee/panels.

Currently we have the power to review final decisions made by these panels and we can refer them to Court if we decide the decisions do not protect the public properly.



However, under current government proposals there could be a move away from public hearings and an increase in dealing with cases behind close doors.

As part of our ongoing research, we commissioned this report to get perspectives on these proposals from members of the public and patients – this research will inform our views on regulatory reform, especially around the regulators' fitness to practise processes.



THE STARTING POINT

the participants had:

Tendency to base confidence in health professionals on own experience



Professional wrongdoing is not top of mind with the exception of a few examples (high-profile news cases)

Little knowledge of health and social care regulators



Evident empathy for health professionals



KEY FINDINGS

Overall proposed changes resonate but scepticism and concerns are quick to emerge.

Agreement with the general principle

Reduced number of hearings is welcomed – a 'daunting' element of the process has been removed.



Scepticism about motives

Is cost cutting driving or influencing the changes?
Is it an attempt to reduce the backlog of cases or 'massage the figures'?

Concern about implementation, monitoring and accountability

Questions raised about the robustness of the emerging model.



Strong call for measured approach – piloting and/or evaluation of the impact of any changes.

BENEFITS

- Reduced stress for all involved.
- Reduced case length.



CONCERNS

- Will registrants feel pressure to accept a decision
- No opportunity for cross examination
- Will the process be robust and independent
- What does it mean for transparency



REDUCED OVERSIGHT

Participants highlighted three key questions



What does/should oversight entail?

- Is it:
- Encouraging high standards?
 - Auditing processes. Reviewing and challenging decisions?



How will this impact on regulators' behaviour?

- Will regulators be more accountable and scrupulous, or be more tempted to be lenient with registrants?



Do regulators have an inherent bias?

- Perception that regulators have an interest in retaining health and social care professionals.
- Awareness that representatives from the profession may be one of two case examiners.

INVOLVING THE PUBLIC

Participants - patients, the public and carers had no consensus on whether complainants should have a say in how cases are dealt with or the appropriate sanctions.

Participants highlighted that regulators should:



Raise awareness of complaints channels.



Facilitate having a say.



Keep communicating.

Participants thought the fitness to practise process should allow:

- ◆ Complainants to give their side of the story



◇ Regulators to take account of complainants' views



On balance, however, most felt that complainants should not have a say on methods for dealing with cases or sanctions, though they qualified this by saying that the investigation process needed to be rigorous and evidence from the complainant, and others had to be carefully considered.



Some felt that impact statements would be a good way of conveying the emotional impacts of what has happened, but, others felt that this type of evidence should be brought out already if the investigation phase was thorough and felt that an impact statement would not necessarily add any value.



“And some people just want to be heard, just want to be heard in an official capacity. It may be that actually they don't want to go through all of this really, they just want somebody to listen to them.” (General public/patients, Cardiff)



“I think it's important to get first-hand accounts from the people that actually had that thing happen to them. I think something gets lost when it's just been transcribed or written down on paper, maybe people skim over bits and it's like 'okay, maybe that's not really important', but it's like it might be really important but you won't know from just reading some words.” (Complainant, England)

CONFIDENCE LEVELS

Mixed views on whether confidence affected at all given low levels of awareness of regulation

- Speed of process.
- May encourage more people to complain.
- Supports registrants and complainants by reducing stress and anxiety.

- Potential lack of transparency in how decisions are made.
- Potential lack of opportunity for independent review of both the decision-making process and outcomes.
- Concerns that not holding a hearing may be less robust in some instances as may be less

HEARINGS



No consensus about fixed criteria for deciding which cases go to a hearing. Many, but not all, felt that the following cases should do so...

- ◆ Cases involving the death of a patient.
- ◆ Cases involving physical or sexual abuse.
- ◆ Cases that are high profile or which have affected large numbers.
- ◆ Cases involving registrants who have previously been through fitness to practise.
- ◆ Cases involving multi-disciplinary teams or systemic failings.
- ◆ Cases that involve removing the registrant from the register.
- ◆ Cases that are 'in the balance' or are particularly complicated.

CONCLUSIONS

Overall changes are felt to be a positive and pragmatic response



But reassurance required about:

- motivation for changes
- the public still having a voice
- evidence being scrutinised
- possible inherent bias towards registrants
- negative impact of decisions behind closed doors.

Perceived risks of simultaneous move to reduced hearings and reduced scrutiny

- strong call for retention of oversight and system of checks and balances, together with piloting and monitoring.

