
Student fitness to practise

Should the regulators receive every outcome?

February 2010

About CHRE

The Council for Healthcare Regulatory Excellence promotes the health and well-being of patients and the public in the regulation of health professionals. We scrutinise and oversee the work of the nine regulatory bodies¹ that set standards for training and conduct of health professionals.

We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals. We are an independent body accountable to the UK Parliament.

Our aims

CHRE aims to promote the health, safety and well-being of patients and other members of the public and to be a strong, independent voice for patients in the regulation of health professionals throughout the UK.

Our values and principles

Our values and principles act as a framework for our decision making. They are at the heart of who we are and how we would like to be seen by our stakeholders.

Our values are:

- Patient and public centred
- Independent
- Fair
- Transparent
- Proportionate
- Outcome focused

Our principles are:

- Proportionality
- Accountability
- Consistency
- Targeting
- Transparency
- Agility

Right-touch regulation

Right-touch regulation is based on a careful assessment of risk, which is targeted and proportionate, which provides a framework in which professionalism can flourish and organisational excellence can be achieved. Excellence is the consistent performance of good practice combined with continuous improvement.

¹ General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), Health Professions Council (HPC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI), Royal Pharmaceutical Society of Great Britain (RPSGB)

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1. Executive Summary

- 1.1 In our 2008/2009 performance review report we said that we would consider whether the regulators, in their work to protect the public, should receive every outcome of student fitness to practise committees. Only one health professional regulator has a direct relationship with students on pre-registration education programmes, and student fitness to practise issues are usually handled locally by the education provider. The GOC have registered students on optometry and optics courses since 2005 and as a result manage fitness to practise complaints against students.
- 1.2 Regardless of the exact nature of their relationship with students, regulators have a clear interest in the outcomes of pre-registration education as the organisations charged with keeping registers of health professionals and protecting the public. All the regulators expect education providers to have processes available to investigate concerns that may be raised about a student's fitness to practise during the course of their pre-registration studies. Some regulators provide specific guidance to education providers about the administration and procedures for student fitness to practise, and standards that students should follow and against which allegations can be judged.
- 1.3 Recent research looking at data on individuals' fitness to practise before and after registering with medical regulators in the USA provides an interesting angle that informs our thinking. It has been reported that 'unprofessional behaviour' in medical school is subsequently associated with medical regulators taking action on fitness to practise issues at a later point in an individual's career. This suggests that there is value and benefit in terms of public protection in regulators considering student fitness to practise outcomes.
- 1.4 At the point of registration with a regulator, each applicant has to demonstrate their fitness for practise as a professional. This is assessed through a consideration of their education and training, their character and health. The outcomes of student fitness to practise committees may be of interest to the health professional regulator because a statement of good character (or its equivalent) is required for registration.
- 1.5 Regulators take different approaches to the management of data about student fitness to practise. Some receive the details of any sanctions from the education provider once any appeal has been concluded. Others do not receive any formal notification from education providers about individual fitness to practise cases. Regulators may hear from students about the outcomes of fitness to practise committees when they apply for registration. The GMC told us that they encourage early disclosure by medical students who have adverse fitness to practise outcomes against them because of the additional time that may be necessary to process their application. Some regulators remarked that they may find themselves fulfilling an informal advisory role and on occasion they have been contacted by education providers about individual cases.
- 1.6 Apart from information about individual cases and outcomes, regulators gain an insight into how issues around student fitness to practise and student support are handled by education providers through their work in approving and quality assuring education. This information can be used to guide policy development, to

promote consistency in decision making within and between education providers, and to inform guidance and support, all with the aim of sharing and promoting good practice.

- 1.7 The GCC told us that they have not experienced any issues in asking education providers to share outcomes of student fitness to practise committees with them. However other regulators raised a number of potential barriers and related issues:
- Education providers may refuse to share information
 - Sharing this information is disproportionate and may not benefit public protection
 - It could be seen as double jeopardy
 - There is considerable variation in how education providers manage student fitness to practise
 - Sharing outcomes could create undue concern among students.
- 1.8 We take the view, in the light of research findings and previous advice we have published, that it is in the interests of public protection to share an individual student's fitness to practise sanctions with a regulator. We are guided by the need to be proportionate in our recommendations, and mindful of the overriding objective to promote public protection and patient safety in our work. Having examined the different approaches, in the interests of public protection, we make the following recommendations:
- The applicant and the education provider should declare information about student fitness to practise sanctions to the regulator. It is for regulators to decide how and when they seek this information prior to registration.
 - Regulators should collect aggregated data about student fitness to practise in their role in quality assuring the provision of pre-registration education and training. This should be used to improve standards of education and training and to improve the provision of guidance to students about professional conduct and competence.
 - Regulators should work with education providers to share good practice in the management of student fitness to practise issues.

2. Introduction

- 2.1 In our 2008/2009 performance review report² we said that we would give further consideration to whether the regulators, in their work to protect the public, should receive every outcome of student fitness to practise committees. This proposal arose from discussion with the regulators during the performance review. The GCC strongly believe that this information should be shared with the regulators. However, others have questioned the value of such a feedback mechanism because course providers will only approve students that have passed clinical competence elements of the course and demonstrated the relevant conduct requirements.
- 2.2 Focusing on patient safety and public protection, we consider the following questions in this report:
1. What information do the regulators collect on the applicant's education history?
 2. If the regulators received every outcome of student fitness to practise cases what should/could they do with that information and would public protection be enhanced?
 3. What would be the barriers to introducing such a feedback mechanism?

² CHRE, 2009. Performance Review of Health Professional Regulatory Bodies 2008/09. CHRE: London. Available at: <http://www.chre.org.uk/media/18/142/> [accessed 15 January 2010] paragraph 12.30

3. Background

- 3.1 Students show their fitness for practise as future health professionals through their academic and practical studies. The nature of education and training courses means that students may spend considerable time in practice environments and involved in the delivery of care to patients and the public:

The willingness of patients to allow students to be involved in their treatment is based on trust that students will behave professionally (and that trained professionals will supervise them appropriately).³

- 3.2 In their work to protect the public, the health professional regulators may identify specific standards that students should demonstrate during training. Concerns will arise if a student's performance or behaviour does not meet these standards. A minority of students may have serious and persistent performance issues which could cast doubt on their suitability to stay on the course or join the profession in the longer term. The types of issues that would prompt this concern could include:

- Plagiarism
- Dishonesty
- Drug or alcohol misuse
- Criminal convictions or cautions
- Unprofessional behaviour such as
 - Demonstrating persistent disregard for regulations or requirements of the course
 - Ongoing rudeness or disrespect to patients or colleagues
 - Breaching patient confidentiality
 - Failure to observe appropriate boundaries with patients

- 3.3 Recent research looking at data on individuals' fitness to practise before and after registering with medical regulators in the USA showed that 'unprofessional behaviour' in medical school was associated with medical regulators taking action on fitness to practise issues at a later point in an individual's career.⁴ This study and others that followed⁵ provided evidence about particular areas of concern in student behaviour, such as unprofessionalism, unreliability, lack of initiative, and lack of self improvement. These research results demonstrate how student fitness to practise can be of interest to health professional regulators.

- 3.4 In the UK, only one health professional regulator has a direct relationship with students on pre-registration education programmes. The GOC have registered

³ David TJ, Bray SA. 2009. Healthcare student fitness to practise cases: reason for referral and outcomes. *Education Law Journal*. 196-203

⁴ Papadakis MA, Hodgson CS, Teherani A, Kohatsu ND. 2004. Unprofessional behavior in medical school is associated with subsequent disciplinary action by a state medical board. *Academic Medicine* 79: 244-249

⁵ Teherani A, Hodgson CS, Banach M, Papdakis MA. 2005. Domains of unprofessional behavior during medical school associated with future disciplinary action by a state medical board. *Academic Medicine* 80 (Suppl) S17-S20

students on optometry and optics courses since 2005 and as a result manage fitness to practise complaints against students. Any breach of the GOC Code of Conduct or fitness to practise allegation has to be referred to the regulator. Issues of misconduct under university regulations, for example plagiarism, would normally be dealt with first by the education provider. However if there was a finding following a university procedure which was relevant to their ability or suitability to practice the GOC would be informed and they would also consider formal fitness to practise proceedings. In 2008/09, 14 of 150 fitness to practise complaints received by the GOC were about students.⁶

- 3.5 Apart from optics and optometry courses, education providers usually manage student fitness to practise issues themselves, either through their disciplinary procedures or under specific processes. The regulators expect education providers to have processes available to investigate concerns that may be raised about a student's fitness to practise during the course of their pre-registration studies. Some regulators provide specific guidance to education providers about the administration and procedures for student fitness to practise, and standards that students should follow and against which allegations can be judged. Examples of these documents are listed in Appendix 2. The fitness to practise procedure can be similar to that used by the regulators themselves to consider impaired performance or conduct of registrants, although education providers may use their own disciplinary procedures. If a student's fitness to practise is found to be impaired, then the education provider can impose sanctions (for example, conditions, suspension or expulsion from the course) or a warning.
- 3.6 Regardless of the exact nature of their relationship with students, regulators have a clear interest in the outcomes of pre-registration education as the organisations charged with keeping registers of health professionals and protecting the public. To maintain the integrity of their registers, the regulators develop standards for the delivery of education and training that must be met by education providers, and standards of conduct and competence that applicants must demonstrate before being accepted on to the register.
- 3.7 At the point of registration with a regulator, each applicant has to demonstrate their fitness for practise as a professional. Successful applicants who join the register will have satisfied the regulator that they have completed a programme of education to the required standard and that there is nothing else, such as character or a health condition that would be seen to impair their fitness to practise.
- 3.8 Regulators can draw on a number of sources of evidence as part of applications. For example, often the applicant is required to declare any issues with respect to convictions, past disciplinary matters and their health. Alongside this, references are sought from education providers or other people of good standing to confirm the individual's good character and in some cases references are sought about health status. These checks provide an opportunity for regulators to consider student fitness to practise issues, if they are declared. However, a character reference does not always have to be supplied by someone involved in the education programme with knowledge of how the student has performed throughout their training.

⁶ General Optical Council, 2009. Annual Report, 2008/09. Available at: <http://annualreport08-09.optical.org/ouryear/> [accessed 25 January 2010]

- 3.9 The outcomes of student fitness to practise committees may be of interest to the health professional regulator because a statement of good character (or its equivalent) is required for registration. In recent work CHRE proposed a common approach to good character across the health professions.⁷ This work identified four key elements that form the basis for good character. These are whether an applicant has acted, or there is reason to believe that they are liable in the future to act:
- In such a way that puts at risk the health, safety or well-being of a patient or other member of the public
 - In such a way that his/her registration would undermine public confidence in the profession
 - In such a way that indicates an unwillingness to act in accordance with the standards of the profession
 - In a dishonest manner.
- 3.10 When it comes to making a judgement on good character, we suggested that the regulators can only affirm that, given the evidence available to them, they are not aware of any factor that would call into question the applicant's good character. Clearly this is a judgement about the future that is based on past experience. In this respect, evidence such as student fitness to practise outcomes would be useful in helping to reach a decision, but it should not be seen as conclusive. Therefore, in our report on good character, we stated that each regulator should be flexible in assessing evidence, considering the risk it poses in relation to practising the particular profession. They should view good character as a dynamic concept, and in the light of the issue of student fitness to practise, they should allow an individual to demonstrate evidence of rehabilitation in the light of any previous actions. We stated that we would expect regulators to publish clear guidance for applicants, education providers and registration assessors on making these judgments.
- 3.11 One education provider's experience of student fitness to practise has been described in recent publications from the University of Manchester.⁸ In 2007 the University established a dedicated team to advise and manage cases where the fitness to practise of healthcare students was questioned. This built on earlier work to establish fitness to practise procedures for medical students in 2000. Table 1 below shows issues raised in the first 50 cases handled under the new approach:⁹

⁷ CHRE 2008. A common approach to good character across the health professions regulators. Available at: <http://www.chre.org.uk/satellite/126/> [accessed 25 January 2010]

⁸ David TJ, Bray SA. 2009. Fitness to practise procedures for undergraduate healthcare students. *Education Law Journal*. 102-112; David TJ, Bray SA. 2009. Healthcare student fitness to practise cases: reason for referral and outcomes. *Education Law Journal*. 196-203

⁹ Ibid

Table 1¹⁰

Category of problem	Number of cases
Plagiarism	15
Dishonesty	9
Criminal conviction	8
Mental health problems	7
Other health problems	2
Other problems	9
Total	50

3.12 Details of the outcome of 50 student fitness to practise referrals are in Table 2 below. Seventeen cases resulted in a fitness to practise hearing. Eleven students left the university, either voluntarily or because of university action. Of those six students who left voluntarily, it is not possible to say how many would have been expelled if fitness to practise hearings had been held.¹¹ This information helps to illustrate the kinds of issues and the experience of one healthcare education provider in the area of student fitness to practise, but without more data from other education providers, any wider comments or conclusions can be drawn.

¹⁰ Ibid

¹¹ Ibid

Table 2¹²

Outcomes of 50 student fitness to practise referrals	Number of cases
Advice alone, no further action taken	13
Reprimanded for alleged cheating, but exonerated on appeal	1
Still under investigation	10
Fitness to practise committee hearing held: Suspended (1 case); expelled (1 case); allowed to continue (15 cases); two subsequently left, one expelled because of examination failure, one left voluntarily for personal reasons	17
Voluntarily left the course before fitness to practise hearing	6
Expelled by Student Discipline Committee	1
Excluded because of repeated examination failure	2

¹² Ibid

4. What information do the regulators collect?

- 4.1 Currently, as the 2008/2009 Performance Review reported, regulators take different approaches to the management of data about student fitness to practise. Some receive the details of any sanctions from the education provider once any appeal has been concluded. In contrast, others do not receive any formal notification from education providers about any individual fitness to practise case.
- 4.2 As we reported, the GCC currently receive fitness to practise outcomes from education providers as they occur. Guidance on student fitness to practise has recently been published by the RPSGB and PSNI. Through this, these two regulators will expect pharmacy schools to provide information about any sanction, other than warning or finding of no case to answer, to the regulator 'as soon as is practical'.
- 4.3 In line with the discussion of good character above, regulators may hear from students about the outcomes of fitness to practise committees when they apply for registration.¹³ For example, pharmacy students will be expected to declare any fitness to practise sanctions to the regulator, alongside details of any cautions or convictions. When applying for full registration with the GOC, applicants are asked to answer the following:
- Please provide details of any adverse finding or current investigation by the GOC or any other body which regulates a health or social care profession either in the UK or abroad, including a NHS primary care organisation (PCO) or health board. You should give details of the date, the regulatory body/PCO and the sanction or investigation.*¹⁴
- 4.4 The GMC told us that they encourage early disclosure by medical students who have adverse fitness to practise outcomes against them because of the additional time that may be necessary to process their application. They told us they were reluctant to formalise this arrangement any further, not least because in their view some student fitness to practise outcomes would have no bearing on registration.
- 4.5 In contrast, the HPC told us that the arrangements made by education providers to assess students' fitness to practise should ensure that students who cannot demonstrate that they are fit to practise do not pass the programme, or instead exit the programme with an award that does not confer eligibility to register. Given this, they did not seek any information about the outcomes of student fitness to practise committees for use in making decisions about registration.
- 4.6 Beyond any formal requirements they may have around registration, some regulators remarked that they may find themselves fulfilling an informal advisory role and on occasion they have been contacted by education providers about individual cases. The HPC informed us that if they receive 'information about an individual prior to their application for registration which may be relevant to a future

¹³ Medical students apply to the GMC for provisional registration in the first instance; pharmacy students apply to join pre-registration training through the RPSGB/PSNI in the first instance.

¹⁴ General Optical Council application form, available at: http://www.optical.org/goc/filemanager/root/site_assets/registration_forms/individual_registration_2009-10.pdf [accessed 12 January 2010]

registration decision, we hold this on a “watch list” so this might be considered prior to registration.’

4.7 Apart from information about individual cases and outcomes, regulators gain an insight into how issues around student fitness to practise and student support are handled by education providers through their work in approving and quality assuring education. Some regulators collect data about student fitness to practise to monitor trends and volume in this process. For example, the GMC will collect the following information from medical schools this year as part of their quality assurance monitoring:

- The student’s year of study
- The type of fitness to practise concern, for example, uncommitted to work, drug abuse
- How the concern was raised, for example by a student’s GP or tutor, fellow student or patient
- The stage the concern reached, including all formal and informal actions, pastoral care, student support, investigations, hearings, and appeals and their outcomes
- The outcome including decisions, warnings and sanctions applied
- Whether the student was represented at the hearing and what form this representation took
- The timeline from when the concern was raised to final outcome.

This information will be used to guide policy development, to promote consistency in decision making within and between schools, and to inform guidance and support across this topic, all with the aim of sharing and promoting good practice between medical schools.

5. How could regulators use student fitness to practise outcomes?

- 5.1 Outcomes of student fitness to practise cases could be used to inform assessments of good character of individual applicants, alongside other evidence such as CRB checks. One regulator suggested that student fitness to practise information would help to protect ‘the integrity of the register’ as it helps regulators to make registration decisions when in possession of all the facts. This would have benefit for public protection.
- 5.2 Some regulators saw value considering student fitness to practise outcomes as part of their quality assurance of education providers. One regulator suggested that if sanctions appeared to be unduly lenient or harsh, they might wish to take further interest in the provider. It was also suggested that if there was apparently high incidence of a particular type of problem this may be followed up with enquiries as to whether there are systemic problems, either in the education provider or in the clinical practice setting.
- 5.3 Monitoring aggregated data would be useful in discussions about improving students’ fitness to practise in general terms, for example, if there were problems across all education providers or a lack of consistency between providers. Sharing outcomes with regulators would help in prioritising the development of supporting material for students, trainees and tutors. Building on this, there would be value in wider analysis, considering whether there are any associations between student fitness to practise and the outcomes of registrants’ fitness to practise committees.
- 5.4 However, there was not unanimous support among regulators for sharing all fitness to practise committee outcomes. The decision that student fitness to practise could be used to inform is whether or not to register an individual, equivalent to striking a professional from the register. Some regulators indicated that receiving each and every outcome would be unnecessary and disproportionate as it could represent a vast amount of information that in most cases may not affect an applicant’s ability to register.

6. What would be the barriers to sharing student fitness to practise outcomes?

- 6.1 The GCC told us that they have not experienced any issues in asking education providers to share outcomes of student fitness to practise committees with them. The RPSGB and PSNI are introducing the expectation that education providers will share student fitness to practise outcomes with them (see 4.2 above). However, they and other regulators raised a number of potential barriers and related issues.

Concerns from education providers about sharing information

- 6.2 In their response the RPSGB indicated that the principal barrier was reluctance among education providers to share this information, because of concerns about confidentiality. While schools of pharmacy were often anxious to share fitness to practise data with the RPSGB and contacted them proactively about this, their parent institutions were more reluctant, citing confidentiality and data protection issues. Other regulators remarked that the education providers' concerns about confidentiality were a barrier to sharing the outcomes, despite the benefits to public protection.
- 6.3 One regulator suggested that there might be scope within the Health and Social Care Act 2008 to specify, in regulations, a duty to cooperate between different kinds of organisations with an interest in healthcare and public protection. In its current form, s121 allows ministers to make regulations requiring specified bodies to share information relating to health care workers whose conduct or performance could threaten the health and safety of patients. It is not currently clear whether this duty would extend to education providers. A consultation document is expected in early 2010 on the details of these regulations. The full text of s121 is provided in Annex 1.

Disproportionate sharing of information

- 6.4 As described above, some regulators did not believe that sharing outcomes would deliver proportionate benefits to public protection because of the amount of extra information that, in their view, would need to be recorded, processed and interpreted at or before the point of registration. Associated with this were concerns that information may be misinterpreted if registration assessment frameworks did not allow an applicant to demonstrate evidence of subsequent rehabilitation.
- 6.5 However, it is evident that some regulators currently consider fitness to practise outcomes at the point of registration, demonstrating that it is possible to reflect on this information and use it to inform any decision on an individual application in the interests of public protection. As we reported above, the GMC said they were reluctant to make changes to arrangements that currently work well:

We have found this approach works well and see no reason to formalise the arrangement for medical schools of the students themselves to tell us earlier, not least because some fitness to practise outcomes would have no bearing on registration.

‘Double jeopardy’

- 6.6 One regulator expressed a concern that they would need to resolve whether taking student fitness to practise outcomes into account at registration was ‘double jeopardy’ and that reconsidering allegations was a breach of natural justice. We are not suggesting that regulators would re-examine a case, but rather use the fact of a sanction as part of reaching a decision about registration.

Education providers’ management of student fitness to practise

- 6.7 Regulators must have confidence that the process that education providers are running and that the outcome data they receive is reasonably consistent across different providers. This includes ensuring that students appearing before panels were aware of the standards expected of them, and that they understood their rights.
- 6.8 Variation within and across education providers can arise for other reasons. Research comparing arrangements for medical student fitness to practise across 31 UK medical schools found that 19 schools had a committee dedicated to medical students, three had a committee that dealt with medical and dental students, one had a committee that dealt with medical and veterinary students, and eight had committees that dealt with medical students along with students from at least two other health or social care programmes. The authors identified local university regulations around student discipline, plus those in place in clinical training environments as factors that contribute to the variety in approach.¹⁵
- 6.9 Despite the guidance for education providers and for students that the regulators produced on the matter of student fitness to practise, we heard concerns that the outcomes may not be comparable. Different approaches, levels of tolerance of concern, and experience in handling fitness to practise concerns may result in two similar cases being handled in different ways, leading to different outcomes at different education providers. This could theoretically challenge the usefulness of the data, especially for those regulators who work with a large number of education providers. Furthermore, if this is not addressed in time, a barrier may emerge if the inconsistencies around student fitness to practise continue and consequently sharing the outcome with the regulator is seen as disproportionately unfair towards some students.
- 6.10 Equally, these inconsistencies may make it difficult to draw conclusions and identify improvements across a group of providers in one discipline. In any analysis of aggregated information, steps should be taken to avoid errors in interpreting data, for example assuming that low numbers of cases implied a good school or a high number of cases indicated a poorly performing provider, as it may have a detrimental effect on the regulator–provider relationship.

Creating undue concern among students

- 6.11 One regulator suggested a wider concern about the impact that sharing may have on students. A fear of fitness to practise action and any subsequent effect on

¹⁵ Aldridge J, Bray SA, David TJ. 2009. Medical student fitness to practise committees at UK medical schools. *BMC Research Notes* 2:97

registration, they said, may stand in the way of students' willingness to admit mistakes and in the long term work against the spirit of professionalism.

- 6.12 However, through the provision of clear and unambiguous guidance on the standard that students are expected to demonstrate, and the approach that education providers should adopt in manage student fitness to practise issues and allegations would hopefully dispel some of these fears. Furthermore, it could be argued that raising the profile of fitness to practise and professional conduct among students in training could have a positive benefit in the long term.

7. Discussion and recommendations

- 7.1 The range of current thinking and practice among the regulators provides useful insights as we consider this issue. When considered alongside the research described in section 3 it suggests that there is value and benefit in terms of public protection in regulators considering student fitness to practise sanctions. As the guardians of the register, and with responsibility for maintaining public confidence in the professions, the regulators should be interested in indicators of poor practice that may point to issues in the future. While it has been argued that it is unfair to make judgements about future fitness to practise based on behaviour, conduct and competence while training, it is difficult to sustain an argument that this information should not be considered by regulators when there is evidence that suggests an association between certain types of unprofessional behaviour displayed before and after registration.
- 7.2 We conclude, in the light of research findings and previous advice we have published,¹⁶ that it is in the interests of public protection to share an individual student's fitness to practise sanctions with a regulator. We take this view in the interests of public protection while acknowledging that there may be some limits in this data, due to reported variation in approach to student fitness to practise taken by different education providers within the same profession, and because of the inherent issues with reporting concerns.
- 7.3 Accepting that information should be available, the question becomes when and how this should be shared. We are guided by the need to be proportionate in our recommendations, and mindful of the overriding objective to promote public protection and patient safety in our work. Current practice suggests a range of approaches across the regulators. Some expect the education provider to share the information when the case is concluded. Some expect the information to be available when applying to join the register, or to become provisionally registered, or to enter pre-registration training, depending on the profession. Some collect information through quality assurance of education providers. Having examined these approaches, we outline our recommendations below.

Sharing outcomes for the benefit of registration

- 7.4 The responsibility for the decision about fitness for practise at registration is one held by the regulator. We believe it is important to maintain the distinction between the decisions made by the education provider to grant an award and those made by the regulator to grant registration and thereby entry to the profession. We heard arguments that the applicant would need to satisfy fitness to practise requirements in order to receive their pre-registration qualification, and that therefore implicit in the education providers' assessment of an individual is a summative assessment of their fitness for practise. However, when application forms include a separate section referring to good character (or its equivalent), it is clear that a regulator is acknowledging that an issue may arise that sits outside a formal award of a degree (or equivalent) that may prevent a successful application for registration. When

¹⁶ CHRE 2008. Advice on student registration. Available at: <http://www.chre.org.uk/satellite/120/> [accessed 25 January 2010]; CHRE 2008. A common approach to good character across the health professions regulators. Available at: <http://www.chre.org.uk/satellite/126/> [accessed 25 January 2010]

some regulators assess registration applications information about student Fitness to practise is considered in its own right, independently of the award,

- 7.5 Although education providers have a role in public protection, ultimately the responsibility for this lies with the regulator. It would benefit public protection if relevant information about student fitness to practise was available when a decision is taken about registration. Admission to the register should not neglect any information which may have a bearing upon an assessment of fitness to practise. Research by Papadakis et al has shown this can be associated with subsequent fitness to practise concerns, and therefore we believe it is relevant to assessments of registration applications and sanctions should be shared in the interests of public protection.
- 7.6 Student fitness to practise sanctions are useful data in assessing character or fitness for practise at the point of registration. This does not mean that all sanctions automatically prevent an individual from practising as a health professional. In line with our advice on a common approach to good character we would expect that regulators would exercise their judgement in considering whether someone had taken action to remedy past actions, based upon an established and transparent assessment framework.
- 7.7 Registration applications should ask students to declare any sanctions, and any sanctions should be discussed in character references from education providers that accompany applications. This recommendation applies whether or not students are already registered with a regulator, as an issue may still be considered by an education provider in these circumstances, and there may be relevant data that the regulator could be unaware of. Application forms should encourage self-declaration by including wording that focuses on action that may have been taken by education provider during training, for example:

*Have you been disciplined **during the course of your education and training** or in the past by a professional or regulatory body or your employer?*

- 7.8 Alongside this we would support opportunities for education providers to disclose any student fitness to practise sanctions to regulators, either on a case by case basis, or through character references at the point of application for registration. We believe that the education provider should have an opportunity to offer their view based on their experience of the applicant's practice and competence. Given that this may add time to the processing of applications students with fitness to practise sanctions against them may wish to apply as early as possible to avoid delays that may affect training and post-registration applications, as suggested by the GMC in their current approach (see 3.4 above).

Recommendation – the applicant and the education provider should declare information about student fitness to practise sanctions to the regulator. It is for regulators to decide how and when they seek this information prior to registration.

Sharing outcomes for the benefit of education and training

- 7.9 Sharing student fitness to practise issues and outcomes between education provider and regulators would help with development of standards around education and training, potentially highlighting where further work is needed by regulators and/or education providers to deliver trained professionals who are fit to

practise. We could expect a similar impact on revisions of standards of conduct set by regulators for students.

- 7.10 Through establishing fitness to practise as an integral element of the delivery of health professional education and training, and quality assuring this provision through monitoring, regulators are able to fulfil their duty to maintain the integrity of the register. Guidance helps students to understand what it means to be a professional and offers a framework within which they can monitor their behaviour.

Recommendation – regulators should collect aggregated data about student fitness to practise in their role in quality assuring the provision of pre-registration education and training. This should be used to improve standards of education and training and to improve the provision of guidance to students about professional conduct and competence.

- 7.11 Education providers involved in training the health professionals of the future have a role and responsibility in public protection. Given this, the reported variation in approaches to student fitness to practise among education providers is a concern. Improving consistency in the use of regulators' guidance documents is essential and there may be value in exploring an inter-regulatory approach to this issue to foster sharing of experience and good practice. We are aware that some regulators have already done work in this area, individually and collectively, and we would encourage and support further efforts to share and develop good practice in handling student fitness to practise.

- 7.12 It has been suggested that education providers that are able to address student fitness to practise issues across disciplines and courses may be in a position to develop expertise more rapidly than those providers who arrange student fitness to practise committees on the basis of individual courses. The cross-healthcare approach, such as that adopted by the University of Manchester 'concentrates a great deal of work on a small number of individuals but allows for the development of expertise that cannot come from an arrangement which only deals with 1-2 cases per year.' The resources needed to invest in a cross-disciplinary approach has yielded additional benefits: 'The process of investigating a student case in minute detail often shows up "systems" issues, which can be fed back to schools and rectified. Although it is not a primary aim of the exercise, fitness to practise work has become part of the quality management of educational programmes.'¹⁷

Recommendation – regulators should work with education providers to share good practice in the management of student fitness to practise issues.

Sharing outcomes for the benefit of future public protection

- 7.13 If it is in the public interest that a student is not allowed to continue on a course, then intuitively there should be some means of managing this information for the benefit of public protection in the future. A concern arises where students are expelled from courses following a fitness to practise investigation, and there is a need to prevent reapplication to other institutions offering similar courses.¹⁸ Allied to

¹⁷ David TJ, Bray SA. 2009. Healthcare student fitness to practise cases: reasons for referral and outcomes. *Education Law Journal* 2:196

¹⁸ While we have focused on education and training in the UK in this report, similar concerns may also arise if students are expelled from UK education providers and subsequently apply to and graduate from education providers elsewhere in the EU with an automatic right to work in the UK under EU Directive 2005/36.

this is the unease, which was raised by more than one stakeholder, about the threat to patient safety of ex-students whose practice had been questioned but who left the course before a hearing was convened. Concerns were expressed that individuals in this situation could work in unregulated health and social care occupations, for example, ex-nursing students working as healthcare assistants in care homes, or ex-dispensing optics students working as optical assistants.

- 7.14 The regulators are not in a position to address these issues in a formal manner. There may be value in the regulator having an informal role and holding a 'watch list' but it is difficult to see how this could be formalised in the absence of student registration with regulators. CHRE has previously advised against widening student registration and we do not see a reason to change that position at present. We would expect that education providers would have provisions for managing any re-applications by those who had dropped out so they may satisfy themselves as to whether there had been any concerns about student conduct in the past, and that they had mechanisms for managing any dishonest applications. In the interests of public protection we would welcome education providers notifying regulators of any student expelled from a course for fitness to practise reasons. This information could be useful in managing registration applications in the future.
- 7.15 It is possible that this particular outcome of student fitness to practise could be tackled through wider health and social care legislation, and the forthcoming consultation on the 'duty of cooperation' provisions of the Health and Social Care Act 2008 may present a useful opportunity to explore this further.

Conclusion

- 7.16 We appreciate that ultimately the benefit to public protection depends on the honesty of an individual student declaring any sanction that may have been imposed. If such openness and honesty is not demonstrated, it would call into doubt the individual's commitment to professionalism that is essential for patient safety. The regulators' contribution to public protection is grounded in informed decision-making, in this case during the registration process. Regulators need to reassure the public that they are taking all reasonable steps when deciding whether or not an individual is fit to practise. Implementing the recommendations made in this report will help to demonstrate this.

Appendix 1: Acknowledgements

We are grateful for the input and expertise of the health professional regulators who responded to our call for information. We are also grateful for discussions with Professor Timothy David (University of Manchester).

Appendix 2: Guidance provided by regulatory bodies on student fitness to practise

Regulators influence approaches to student fitness to practise through their wider work in the provision of standards and guidance for registrants and in setting standards for the delivery of education programmes. Beyond this, some regulators have provided students and education providers with specific guidance relating to student fitness to practise. These documents are listed below. The GDC will be publishing guidance early in 2010.

Regulator	
GMC	Medical students: professional values and fitness to practise (2009) Available at: http://www.gmc-uk.org/education/undergraduate/professional_behaviour.asp
HPC	Guidance on conduct and ethics for students (2010) Available at: http://www.hpc-uk.org/publications/brochures/index.asp?id=219
NMC	Guidance on professional conduct for nursing and midwifery students (2009) Available at: http://www.nmc-uk.org/aArticle.aspx?ArticleID=3620 Good health and good character: guidance for educational institutions (2008) Available at: http://www.nmc-uk.org/aArticle.aspx?ArticleID=3226
PSNI	<i>Guidance shared with RPSGB</i>
RPSGB	Guidance on Student Fitness to Practise Procedures in Schools of Pharmacy (2009) Available at: http://www.rpsgb.org.uk/pdfs/studftpsopguide.pdf Code of Conduct for Pharmacy Students (2009) Available at: http://www.rpsgb.org.uk/pdfs/ccpharmstudentsguide.pdf

All URLs were accessed 1 February 2010.

Annex 1: s121 of Health and Social Care Act 2008

121 Co-operation between prescribed bodies

(1) The appropriate Minister may by regulations make provision for or in connection with requiring a designated body to co-operate with any other designated body in connection with—

- (a) the sharing of information which relates to the conduct or performance of any health care worker and which may show that that worker is likely to constitute a threat to the health and safety of patients,
- (b) the provision of information in response to requests for information from any other designated body about the conduct or performance of any health care worker,
- (c) the consideration of any issues which arise as a result of the acts mentioned in paragraphs (a) and (b), and
- (d) the taking of any prescribed steps following such consideration.

(2) Regulations under this section may make provision requiring a designated body to disclose the information referred to in subsection (1)(a) and any information disclosed under subsection (1)(b) to any other designated body in prescribed circumstances, or in circumstances where it appears to that body that the prescribed conditions are satisfied, whether or not the disclosure of information has been requested.

(3) Regulations under this section may—

- (a) create offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale, and
- (b) create other procedures for enforcing any provisions of the regulations.

(4) Regulations under this section may require a designated body to have regard to any guidance given from time to time by the appropriate Minister or any other prescribed person.

(5) In making regulations under this section the appropriate Minister must have regard to the importance of avoiding unfair prejudice to health care workers against whom unsubstantiated allegations are made.

(6) In this section—

“the appropriate Minister” means the Secretary of State except that, in relation to co-operation by a Welsh health body or a Welsh social services body, it means the Welsh Ministers;

“designated body” means—

- (a) any body which is a designated body for the purposes of Part 5A of the Medical Act 1983 (c. 54), and
- (b) any other body prescribed for the purposes of this section;

“health care” has the meaning given by section 45A(8) of the Medical Act 1983;

“health care worker” means—

- (a) any person who is a member of a prescribed profession concerned with the physical or mental health of individuals, or
- (b) any person who—
 - (i) is employed by a designated body,
 - (ii) provides services to a designated body, or

- (iii) is employed by a person who provides services to a designated body, for purposes connected with the provision of health care;
- “prescribed” means prescribed by regulations under this section;
- “Welsh health body” means—
- (a) a Welsh NHS body, as defined by section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), or
 - (b) any other person providing or arranging for the provision of health care in Wales;
- “Welsh social services body” means—
- (a) the council of a county or county borough in Wales, or
 - (b) a body engaged in the provision of Welsh local authority social services, as defined by section 148 of the Health and Social Care (Community Health and Standards) Act 2003.

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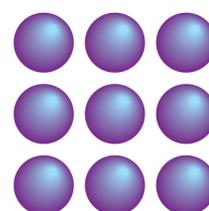
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