

The Performance Review Standards

Standards of Good Regulation

January 2016

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise. We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation². We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce. We are committed to being independent, impartial, fair, accessible and consistent.

More information about our work and the approach we take is available at www.professionalstandards.org.uk.

Our aims

The Authority 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

Our values 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 partners. We are committed to being:

- Focused on the public interest
- Independent
- Fair
- Transparent
- Proportionate.

¹ The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence.

² Professional Standards Authority. 2010. Right-touch regulation. Available at <http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation>

Right-touch regulation

Right-touch regulation means always asking what risk we are trying to regulate, being proportionate and targeted in regulating that risk or finding ways other than regulation to promote good practice and high-quality healthcare. Right-touch regulation means using the minimum regulatory force required to achieve the desired result.

The proposals contained within this consultation are based on the principles of right-touch regulation as set out below:

- Identify the problem before the solution
- Quantify the risks
- Get as close to the problem as possible
- Focus on the outcome
- Use regulation only when necessary
- Keep it simple
- Check for unintended consequences
- Review and respond to change.

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1. The Standards of Good Regulation

Introduction

1.1 Our *Standards for Good Regulation* cover the regulators' four core regulatory functions.

These are:

- Setting and promoting guidance and standards for the profession(s)
- Setting standards for and quality assuring the provision of education and training
- Maintaining a register of professionals
- Taking action where a professional's fitness to practise may be impaired.

1.2 The *Standards for Good Regulation* is the basis of our performance review process. They describe the outcomes of good regulation for each of the regulators' functions. They also set out how good regulation promotes and protects the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession.

Using the Standards of Good Regulation in the Performance Review

1.3 Each year, we consider a number of sources of information about the performance of the regulator, and assess how this information demonstrates how the regulator is meeting each of the Standards. To help the regulators understand what we may consider ways in which they are meeting the Standards, we have suggested examples of the type of evidence that we may consider. The suggested evidence may change over time. We will also provide an evidence template for the regulators to complete.

1.4 Once we have considered the evidence and information we have collected, we assess each regulator's performance against the Standards by:

- Identifying where a regulator's performance has remained the same or improved
- Identifying any areas where a regulator's performance needs to improve.

1.5 We then undertake a review of the areas we have identified in our assessment where we require further assurance of how the regulator is meeting the Standards.

1.6 More information on the process we following for assessing and reviewing each regulator's performance can be found in the performance review section of our website.

The Standards of Good Regulation document has been updated in light of the changes brought about by the Health and Social Care Act 2012.

2. Section One: Guidance and standards

Introduction

- 2.1 All of the regulators are responsible for publishing and promoting standards of competence and conduct. These are the standards for safe and effective practice which every health professional and social worker³ should meet to become registered and to maintain their registration. They set out the quality of care that patients and service users should receive from health professionals in the UK and social workers in England.
- 2.2 Regulators also publish additional guidance to address specific or specialist issues. These complement the regulators' standards of competence and conduct.

The standards of good regulation relating to guidance and standards

1. Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care
2. Additional guidance helps registrants apply the regulators' standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centered care
3. In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulators' work
4. The standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed.

How does good regulation through standards and guidance promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Provides a clear framework that health professionals and social workers should meet when providing care, treatment and services to patients and service users
- Provides a clear framework so that members of the public, service users and patients can hold registrants to account by raising concerns when the standards and guidance are not followed
- The standards and guidance meet the needs of relevant stakeholders.

³ The Health and Care Professions Council are responsible for the regulation of social workers in England only and consequently we only have oversight of the regulation of social workers in England.

The Standards of Good Regulation document has been updated in light of the changes brought about by the Health and Social Care Act 2012.

What evidence could be provided?

2.3 We need to know:

- How the regulators have met the Standards of Good Regulation
- How they have evaluated the impact of their work in this area.

2.4 The following evidence could be provided:

- The standards of competence and conduct and information on how they reflect up-to-date practice and legislation, prioritise patient and service user safety and patient and service user centred care
- Guidance produced or being developed and how this will help registrants apply the regulators' standards of competence and conduct to particular issues
- Plans for reviewing or developing guidance and standards, including what stakeholders were approached and how their views and experiences were taken into account alongside external events and learning from other areas. The outcomes of the revision or development and how the learning from this work is used within and outside of the standards and guidance function
- Details of how the regulators ensure that the documents are understandable and accessible. For example, publication in different languages, easy read, plain English and circulation in GP practices and Citizen Advice Bureaux
- Evidence of work undertaken to take account of the developments in European and international regulation
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

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3. Section Two: Education and Training

Introduction

- 3.1 The regulator has a role in ensuring that students and trainees obtain the required skills and knowledge to be safe and effective. They also have a role in ensuring that, once registered, registrants remain up-to-date with evolving practices and continue to develop as professionals.
- 3.2 As part of this work, the regulators quality assure and, where appropriate, approve educational programmes which students must complete in order to be registered. Some also approve programmes for those already on the register who are undertaking continuing professional development, a particular qualification or specialist training.

The standards of good regulation relating to education and training

1. Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process
2. The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration
3. Action is taken if the quality assurance process identifies concerns about education and training establishments
4. Information on approved programmes and the approval process is publicly available.

How does good regulation through education and training promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that those who are registered have and/or continue to meet the regulator's standards
- Assures the public that those providing education and training to students, trainees and registrants give them the required skills and knowledge so that they can practise safely and effectively
- Effective stakeholder involvement in the education and training process increases everyone's trust, confidence and knowledge of health professional and social work regulation.

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What evidence could be provided?

3.3 We need to know:

- How the regulators have met the Standards of Good Regulation
- How they have evaluated the impact of their work in this area.

3.4 The following evidence could be provided:

- The standards to be met by students and how they link to the standards of competence and conduct for registrants
- Where available, evidence of the regulator's mechanisms, which enable them to be aware of action taken by training establishments against students on fitness to practise issues and a system for learning from these outcomes, for example, are outcomes taken into account in the quality assurance process and revision of standards
- The standards to be met by education and training providers, how these reflect patient and service user centred care and protect the public, and how they link to standards of competence and conduct for registrants
- Guidance given to education and training establishments to help ensure that disabled students do not face unnecessary barriers to successful careers in health
- The plans for reviewing or developing standards for students and education and training providers, including what stakeholders were approached, how their views and experiences and other areas of learning are taken into account. The outcomes of this work and how the learning from this work is used within and outside of the education function
- Details of the monitoring and approval processes for the education and training providers including how the views and experiences of stakeholders and other quality assuring bodies are taken into account
- Details of how many assessments were undertaken, how many concerns were identified through the quality assurance process and what action was taken to address these concerns
- Details of how stakeholders can access the regulator's final assessments of education and training providers and the regulator's approval process. For example, through publication on its website.

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4. Section Three: Registration

Introduction

- 4.1 In order for a health professional to practise legally in the UK and a social worker to practise legally in England, they must be registered with the relevant regulator. The regulators only register those professionals who meet their standards. The regulator is required to keep an up-to-date register of all the professionals it has registered. The register should include a record of any action taken against a registrant that limits their entitlement to practise.

The standards of good regulation relating to registration

1. Only those who meet the regulator's requirements are registered
2. The registration process, including the management of appeals, is fair, based on the regulators' standards, efficient, transparent, secure, and continuously improving
3. Through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice
4. Employers are aware of the importance of checking a health professional's and social worker's registration. Patients, service users and members of the public can find and check a health professional's and social worker's registration
5. Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk based manner.
6. Through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise

How does good regulation through registration promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that professionals are regulated and are required to meet certain standards before they are able to provide care, treatment or services to them
- Informs the public of any limits imposed on the way a registrant is allowed to practise
- Helps the public and others to identify and report those who practise illegally.

What evidence could be provided?

- 4.2 We need to know:
- How the regulators have met the Standards of Good Regulation

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- How they have evaluated the impact of their work in this area.

4.3 The following evidence could be provided:

- Details of the checks carried out by the regulator to ensure that only those who are fit to practise are registered including revalidation/CPD checks
- Details of the registration process, including the management of appeals and how the regulator ensures that applications are processed efficiently
- Evidence of activity undertaken to ensure that only EEA and international registrants that meet the regulators' standards, within the legal framework, are registered
- How many registration applications were considered? How many appeals were considered? How many appeals were upheld?
- How the case management system/process enables the collection and analysis of reliable data to ensure that there is no bias in the process, with evidence of this testing being carried out by the regulator
- How the processes and procedures in place are fair, objective and free from discrimination
- The level of detail included on the register and the reasons for this, for example, a Council decision, legislation, rules or the regulators' disclosure policy
- Evidence of the regulators' compliance with its information security policies and with the relevant legislation. How many data loss/breach incidents have occurred?
- Details of the regulator's revalidation proposals
- Details of how the regulator ensures that continuing professional development is targeted towards the registrant developing their skills and knowledge in their areas of practice and that public protection is prioritised. For example, how many audits were carried out, were issues identified and how were these addressed?
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.
- The activities undertaken to communicate to employers the importance of checking that a professional is registered. Evidence of employers informing the regulators that a professional is no longer registered or not registered
- How the regulators make their registers available to the public, patients and service users. Evidence of the amount of contacts from public, patients and service users about the regulators' registers
- Activities undertaken to identify non-registrants using a protected title or undertaking a protected act. Details of proportionate and risk based action taken to reduce the risk of harm to the public and damage to public confidence in the profession of non-registrants using a protected title or undertaking a protected act. For example, increasing public awareness of the importance of health professional and social worker registration and regulation, sending cease and

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desist letters, and fostering relationships with organisations that have a shared interest in preventing title misuse

- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

5. Section Four: Fitness to Practise

Introduction

- 5.1 Anyone, including members of the public, employers and the regulators themselves can raise a concern about a registered health professional's or social worker's conduct or competence that calls into question their fitness to practise. The regulators are required to take action under their fitness to practise procedures where they receive such concerns. This can lead to a variety of outcomes including no further action, a health professional or social worker being prevented from practicing or restrictions being imposed on their practice.

The standards of good regulation relating to fitness to practise

1. Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant
2. Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks
3. Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation
4. All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel
5. The fitness to practise process is transparent, fair, proportionate and focused on public protection
6. Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders
7. All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process
8. All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession
9. All final fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders
10. Information about fitness to practise cases is securely retained.

How does good regulation through fitness to practise promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that action is taken against those professionals whose fitness to practise is impaired
- Assures the public that those whose fitness to practise is impaired are not able to continue practising or practising unrestricted
- Helps the public to understand why action is and is not taken to limit a health professional's or social worker's practice
- A joined up approach to fitness to practise mitigates the risk to public protection from regulators working independently of each other
- Effective involvement of all parties in the fitness to practise process increases trust, confidence and knowledge of health professional regulation.

What evidence could be provided?

5.2 We need to know:

- How the regulators have met the Standards of Good Regulation
- How they have evaluated the impact of their work in this area.

5.3 The following evidence could be provided:

- Activities undertaken to publicise how all individuals, including those with particular health or language needs, and organisations can raise concerns about the fitness to practise of health professionals and social workers and the evaluation of this work. For example, publication of public information/employer leaflets, information available via the telephone or email and liaison with other organisations
- Examples of where the regulator has raised and taken forward a fitness to practise concern itself. For example, the number of cases taken forward and the reasons for this
- Examples of the regulator's work with other relevant bodies on when to refer fitness to practise complaints. For example, evidence of liaison with other organisations and feedback from those organisations on the effectiveness of this help
- Examples of information that has been shared between the regulators and other relevant bodies, within legal requirements, on the fitness to practise of individuals and the results of this work. For example, exchange of information through memoranda of understanding and, where possible, discussion on what use was made of this data
- Examples of where serious cases have been identified, prioritised and, where possible, referred to an interim orders panel. For example, the number of cases identified and the process for how this is carried out

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- Examples of how the case management system and case management process helps prevent excessive delay and manages identified delays. Information on current timeframes and/or delays in the system
- Examples of how the regulator ensures that all parties are regularly updated on progress of the fitness to practise case. How many complaints are received about lack of update notification?
- How the case management system/processes enables the collection and analysis of reliable data to ensure that there is no bias in the process, with evidence of this testing being carried out by the regulator
- How the processes and procedures in place are fair, objective and free from discrimination
- Activities undertaken to meet the individual needs of parties to the fitness to practise process, particularly those who are vulnerable, and the outcomes of this work. For example, use of video link facilities, witness support arrangements, participant feedback surveys and number of complaints from participants about lack of support
- The appointment and appraisal process for committee members, panelists and advisors to fitness to practise cases. Relevant training, guidance and feedback provided to committee members, panelists and advisors to fitness to practise cases. How this has helped improve decision-making
- Evidence of steps taken to identify and mitigate risks in fitness to practise decisions, for example, outcomes of the regulators' quality assurance of decisions, number of appeals and their outcomes. How learning from this process is used to improve decision-making
- The regulator's disclosure policy in relation to fitness to practise proceedings and the disclosure of fitness to practise information to third parties
- The regulator's information security policies and compliance with the relevant legislation. How many data loss/breach incidents have occurred?
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

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