Professional Standards Authority
for Health and Social Care

professional standards authority

An overview of our work and its contribution to protecting the public







ABOUT THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

We are an independent body, accountable to the UK Parliament and Devolved Authorities – the Northern Ireland Assembly, the Scottish Parliament and the Welsh Assembly. We exist to protect the public by improving regulation and registration of health and care professionals.

We oversee the work of 10 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 regulation.

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 safe practice in the mobility of the health and care workforce.

- integrity
- transparency
- respect
- fairness
- teamwork

These are our values and we strive to ensure that they are at the core of our work

At the heart of everything we do is one simple purpose: protection of the public from harm

Contents

Setting the scene
our work in context

WHY ARE WE HERE?

The Authority was established due to an identified need to hold professional regulators to account and to improve the quality of regulation following the Royal Bristol Infirmary Inquiry into children's heart surgery.

In the Government's response in 2002 it said it would create:

- an oversight body to strengthen and co-ordinate the system of professional self-regulation
- reform arrangements for the regulation of individual healthcare professions so that patients will be at the heart of professional regulation.

In 2003 we began work. Our role was extended in 2008 following the Shipman Inquiry reports and again in 2012 with the Health and Social Care Act 2012.

> "Clearly, the independence of the regulators of the health professions is very important and I have always been keen to protect it. The PSA has a crucial role and I think it does a great job"
>
> Lord Hunt of Kings Heath

HOW DO WE WORK?

- Our Performance Review team undertakes annual performance reviews of regulators, looking at their regulatory functions: registration, quality assurance of higher education, setting standards and fitness to practise
- Our Section 29 team enacts our powers to review the decisions of final fitness to practise hearings, and to take action by Court referral where we do not believe that a decision protects the public. The team provides feedback to regulators to improve practice even where we do not take formal action
- Our Policy and Research team provides advice to governments on regulatory matters, commissions research, develops and promotes our thinking on regulatory reform and publishes policy work on good regulation
- Our Accredited Registers team runs the programme to accredit registers for those health and care occupations which are not subject to statutory regulation
- Staff across the teams are trained to deliver international commissions, including performance reviews of regulators in other countries and other regulatory advice
- Our Governance and Operations team supports all our work.

VALUE FOR MONEY

We carry out this work as a small organisation of 40 people. The cost of our oversight is small compared to the overall costs of regulating the health and care sector and especially, we hope, when compared to the impact of our work.

Our expenditure in 2018/19 was £4,578,000.

This is 1.53% of the overall cost of statutory regulation including our oversight in the sector (£300,119,262). The cost of our oversight was approximately £2.84 per statutory registrant in 2018/19.

Our expenditure in 2018/19 on the Accredited Registers programme was £365,000 and covered 26 registers and around 88,000 practitioners.

EXAMPLES OF WHAT WE DO

- Defining standards for statutory professional regulators and for accredited registers
- Driving up standards and transparency of regulatory practice through our annual performance reviews which are always published
- Protecting the interests of patients and service users through our Section 29 reviews of thousands of final fitness to practise hearings
- Holding regulators to account to ensure that the most serious regulatory concerns are encapsulated in charges in fitness to practise cases as part of our Section 29 work
- Driving up standards of decision-making and recording by regulators through learning points and feedback, even where we do not take formal action as part of our Section 29 work
- Encouraging good governance and transparency by issuing guidance on good practice on making appointments to councils and advising the Privy Council on appointments to the regulators' governing bodies
- Explaining and exploring regulation through our policy and research work and contributing a substantial body of policy and research work to enhance the evidence base for good regulation
- Supporting discussion, debate and dialogue through our programme of events, in particular our annual academic and research conference
- Encouraging our stakeholders to rethink regulation, arguing for a shift in focus from post-hoc correction to seeking opportunities for preventative action
- Promoting the concept of right-touch regulation and contributing to international dialogue about regulation and its role in patient safety
- Strengthening public protection through the Accredited Registers programme by bringing over 88,000 practitioners into a framework of assurance, raising standards and improving governance
- Creating a body of work about good practice internationally through our published international reviews.

ARE WE A CRITICAL FRIEND OR AN INQUIRING MIND?

We think we are both and need to have this dual function. Our oversight of the professional regulators and the accredited registers entails reviewing their performance and measuring it against our Standards. This means we need to give feedback, sometimes negative, though hopefully always constructive – especially if a regulator or register is not meeting one of the Standards.

However, in addition to this aspect of our role, we also believe that we need to always have an inquiring mind, be intellectually curious, continuously asking questions that are not always easy to answer: “what?” and “why?”.

By doing this we increase knowledge and create an evidence base for effective regulation which we share widely. We also benefit from the sharing of information by, and with, the regulators and academic institutions.

For example, some of our recent research has highlighted: the continuing challenges to embedding the professional duty of candour; that regulation has a minimal direct effect on professional identity except in a crisis or out-of-the-ordinary circumstances; and that both professionals and the public believe there is a potential direct impact on patient safety when health professionals cross sexual boundaries with their colleagues.

Increasing knowledge, sharing information and creating an evidence base by asking the “whats?” and “whys?”.

- Is regulation of healthcare professionals the only way to manage risk?
- What evidence is there that regulation works?
- What influence do regulators exert over their registrants?
- What is public confidence and how might it be lost?

RIGHT-TOUCH REGULATION AND REGULATORY REFORM

'Right-touch' regulation and our related publications have become a valuable source of information for regulators in the UK and overseas.

Developing the concept of right-touch regulation has enabled us to have an international dialogue about regulation and its role in patient safety. Building upon its principles, we called for reform of regulation (alongside many others in the health and social care sector, including the statutory regulators) highlighting that the regulators' piecemeal and outdated legislation hinders the effective regulation of a modern workforce.

THE STORY BEHIND THE STATISTIC

Using statistics to tell the story of our work and how it contributes to protecting the public

Every organisation can throw around statistics – we all have them and sometimes we can forget that behind every statistic sits a human story, whether that of patients, their families, the health and care professionals subject to regulation, or staff within the regulators trying to deliver effective regulation. There is much to celebrate in our health and social care system, but some of the stories behind the statistics are complicated and distressing. They may involve harm to patients, errors, lack of competence or poor conduct such as dishonest or sexually motivated behaviour. They may involve loss – a family losing a loved-one, or a health professional losing their career. The important thing is that we can learn from these stories and make sure that they lead to regulators improving their systems and professionals improving their skills and conduct.

The statistics we are using to tell our story cover the last three years (1 April 2016-31 March 2019) and financial information is from our most recent annual report (2018/19).

Over the next few pages we have picked out some of our key statistics and told the story behind them to illustrate our work and how it contributes to public protection and improving regulation.

Protecting the public

Reviewing the regulators' final fitness to practise decisions

WHAT IS SECTION 29?

Section 29 is how we refer to our power to appeal the regulators' final fitness to practise decisions if we believe they are insufficient to protect the public. The power to do this comes from Section 29 of the National Health Service Reform and Health Care Professions Act 2002. This means we review all the health professional regulators' final fitness to practise decisions.

Our appeals to the High Court may seem far removed from the everyday practice of health professionals and the everyday experience of their patients. They take place in Court, are argued by barristers and their outcome is decided by a judge. However, our successful challenges lead to decisions that are more effective at protecting the public, maintaining public confidence in the professions and/or upholding professional standards.

CREATING CASE LAW

Our successful challenges also create case law that clarifies the purpose and scope of fitness to practise, and of the power and responsibilities of the regulators, their fitness to practise panels and the Authority itself.

***CHRE v NMC & Grant*: Panels should generally consider not only whether the practitioner continues to present a risk to the public, but also whether public confidence in the profession would be undermined if a finding of impairment were not made.**

***PSA v NMC & Jozi*: Panels need to play a more active role than a judge presiding over a criminal trial in order to ensure that a case is properly presented, that the charges adequately reflect the real mischief of the case and that the relevant evidence is placed before them.**

Both these appeals have created general case law about how fitness to practise proceedings work and how panels should decide cases. *Grant,* in particular, is referenced by almost every regulator in their published guidance and very often is referred to in the published decisions made by their fitness to practise panels.

KEY STATS

12,001
decisions scrutinised

711
detailed case reviews

111
case meetings

31
appeals

one story out of 12,001

A dental nurse who turned a blind eye to unhygienic practices and put her patients at risk

SECTION 29 POWERS IN PRACTICE

Background

The General Dental Council (GDC) investigated a case about three of its registrants who worked together at a dental practice. One registrant was the dentist and principal of the practice, another was the practice manager and dental nurse, and the third – the subject of our Section 29 appeal – was also a dental nurse. The dentist and practice manager attended the GDC fitness to practise hearing, but the third registrant did not.

What the panel heard

The allegations before the panel stemmed from concerns about the poor hygiene practices of the dentist. One of the main issues was the multiple use of surgical gloves and equipment on different patients – this equipment was either for single use only or had not been disinfected or sterilised between uses. This could have potentially led to a range of blood-borne diseases among patients of the practice, who had to be offered additional testing as a result. The aftermath of such poor hygiene practice generated a great deal of unnecessary anxiety among patients of the practice. During the GDC's investigation, the registrant was dishonest in her response.

The GDC panel's decision

The majority of the facts were found proven against the registrant, and in response the panel imposed conditions for 12 months which would then be reviewed. Although the GDC panel had imposed a sanction, we were concerned that its decision did not consider all relevant issues and therefore did not address the seriousness of the case.

Why we decided to appeal

We appealed the case – arguing that:

- the panel had not given adequate weight to the risk posed to patients
- the panel could not be confident the registrant would comply with conditions because she did not attend the hearing
- the panel's consideration of, and attitude to, the registrant not having attitudinal failings was without basis
- the conditions did not address the registrant's dishonesty during the investigation, which the panel appeared to excuse as loyalty to her employer rather than treating the risk to her patients more seriously.

We were also concerned that the panel appeared to treat this registrant differently because of her particular route to registration, which differed to those who were registered after gaining professional qualifications. This registrant had worked in the practice for 15 years and, although she was not formally qualified as a dental nurse, had gained her registration through the GDC's grandparenting clause and her experience as a dental nurse. We believed that there was no basis for such a view, as good hygiene is a basic requirement in any dental practice.

The result

The GDC agreed with our appeal, and instead of placing conditions on the registrant's practice, decided the registrant should be struck off the register. The registrant did not participate in the appeal process.

> Thank you for putting together such an informative day
>
> Delegate, November 2017 fitness to practise seminar

> Great event, many thanks. Really interesting and usefully thought-provoking…
>
> Delegate, November 2017 fitness to practise seminar

We regularly hold seminars and other events to bring together the regulators to facilitate discussions on common issues faced by fitness to practise panels. These events help to increase our understanding of the regulators' work and help us all to gain useful insights. In the past couple of years, we have held seminars for panel chairs and others involved in the fitness to practise process. We also asked regulators to let us know what they thought the essential elements of a 'good' fitness to practise process would include. The results fed into our recommendations on how fitness to practise could be reformed and in our response to the government's consultation *Promoting professionalism, reforming regulation*.

768 learning points

Sometimes we identify issues with either the fitness to practise panel's decision-making process or with their final decision. These will not be serious enough to warrant lodging an appeal but are important enough that the regulators need to know about them. We therefore send back learning points – either specific to that case or through our learning points digest. This is where we have identified common issues across regulators, for example:

- not bringing the full range of allegations
- not taking dishonesty by registrants seriously enough
- not taking account of the registrant's health condition
- failing to seek/or take account of evidence from expert witnesses.

We hope that these learning points help the regulators to improve their fitness to practise processes.

1 lessons learned review

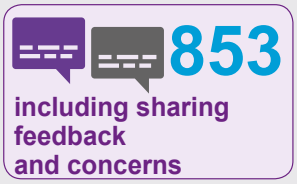
The Secretary of State for Health asked us to review how the Nursing and Midwifery Council (NMC) handled concerns about midwives at Furness General Hospital, Morecambe Bay.

We published our report in May 2018 and identified some significant concerns about the way in which the NMC had handled concerns reported to them – especially about its approach to dealing with patients and their families and their evidence. We also highlighted other concerns mainly around transparency.

We noted that the NMC acted swiftly to prepare an action plan to address these concerns. This included commissioning an independent investigation into how they handled the misplacement of an important piece of evidence and their subsequent inconsistent communications about its loss.

We will continue to monitor the NMC's progress as part of its performance review.

one story out of 853



Sharing feedback to highlight concerns about regulators creating possible barriers to vulnerable people raising potentially serious concerns

SHARING YOUR EXPERIENCE IN PRACTICE

As part of our performance reviews and accreditation of registers, we ask the public for feedback about any interactions they have had with the regulators/accredited registers. We refer to this as 'share your experience'.

Background

We received details from members of the public about how the regulators were dealing with concerns about their registrants working as disability benefit assessors for Personal Independence Payments (PIP), especially the General Medical Council (GMC), the Health and Care Professions Council (HCPC) and the Nursing and Midwifery Council (NMC).

What is a PIP and who carries them out?

PIP is a benefit that helps with the extra costs of a long-term health condition or disability and has replaced the disability living allowance. Claimants are subject to regular assessments to ensure they still need the benefit. Assessments are carried out by outsourced suppliers operating on behalf of the Department for Work and Pensions. Assessor roles tend to be filled by nurses, paramedics, occupational therapists or physiotherapists as the role requires professional registration.

Increasing concerns

We received over 40 concerns from people with disabilities in 2017/18, many of them saying they felt regulators were unwilling to look at evidence of misconduct. We were also contacted by a disability campaigner and by the Disability News Service urging us to look further into these concerns. Many people had stories of considerable hardship to tell us. We wrote to the three regulators in January 2018 and asked how they were dealing with these concerns. The HCPC and the GMC were clear that complaints about PIP assessors would be treated as fitness to practise concerns and investigated in accordance with their usual process.

A targeted review leading to a failed Standard

As part of the NMC's 2017/18 performance reivew, we took a closer look at how it was managing these cases. The review identified specific concerns with the NMC's approach. These included: not systematically considering all the concerns raised by complainants; relying on the findings of employers, without proper scrutiny; and not obtaining all relevant evidence. We considered that these issues created a barrier to vulnerable people raising potentially serious concerns. As a consequence, the NMC failed our Fitness to Practise Standard Five. This Standard requires the process to be transparent, fair, proportionate and focused on public protection.

What difference has this made?

The NMC accepted our findings and has been reviewing its approach to these cases. We will monitor the NMC's progress during our next performance review.

Protecting the public

Reviewing and reporting on the regulators' performance

HOW DO WE REVIEW THE REGULATORS' PERFORMANCE?

We use the **Standards of Good Regulation** as the basis for our regulator reviews. The Standards help us to measure how the professional regulators are doing their job. They cover the four main functions that the regulators need to carry out to promote and protect the health, safety and wellbeing of patients and service-users and ensure that the professionals on their registers are fit to practise and continue to be fit to practise.

DIGGING THROUGH THE DATA

We check how each regulator is meeting the Standards by:

- analysing datasets that the regulators provide (including performance indicators/data dealing with fitness to practise cases and how long the regulators take to progress them; how long registration appeals take)
- using feedback from patients, the public and others who have been in contact with the regulators
- assessing publicly available information, including regulators' council papers and reports
- reviewing information from our work scrutinising final fitness to practise decisions.

This means that we can identify patterns. For example, if we see an increase in the time being taken to process fitness to practise concerns, we can decide to dig deeper. This can take the form of a targeted review, which may also include an audit.

When a regulator does not meet one of the Standards, we will provide the reasons for our decision and monitor the regulator's progress to improve their performance as part of our next review.

Below is a table which shows how many audits and targeted reviews we have carried out in 2016/17 and 2017/18.

Type of review	GCC	GDC	GMC	GOC	GOsC	GPhC	HCPC	NMC	PSNI
TR	2	2	2	2	2	2	2	2	2
A		1	1	1	1		1	1	

Targeted Review · Audit · Data covers the 2016/17 and 2017/18 performance review cycles

KEY STATS

we oversee **ten professional regulators** who are responsible for approximately **1.6 million** registrants

18 performance reviews published

6 audits undertaken

18 targeted reviews

REVISING THE STANDARDS OF GOOD REGULATION

The Standards are our cornerstone – without them we could not effectively review how the regulators are protecting the public. In 2017 we checked to see if they were still fit for purpose and carried out two consultations – resulting in a new set of Standards. Following approval by our Board and a pilot period, we plan to introduce these new Standards for the 2019/20 review cycle.

one

story out of 18

From unmet to met – how the General Optical Council improved its performance to ensure that anybody can raise a concern about its registrants

PERFORMANCE REVIEW IN PRACTICE

Background

During 2016/17 the General Optical Council (GOC) introduced a new triage process. Triage in this context is a way to filter out concerns that cannot be taken forward by the regulator. Our review identified concerns in 13 out of 45 cases examined. The GOC therefore failed to meet Standard One of the fitness to practise standards – anybody can raise a concern about the fitness to practise of a registrant.

Why does it matter?

We found issues in nearly a third of the sample of triage cases we reviewed. We had no reason to think our sample was not representative. If the same rate of errors occurred across all the GOC's triage decisions – including any potentially serious concerns about GOC registrants, there would be an increased risk to the public and to the public's confidence in the optical professions.

What did the GOC do to address our concerns?

After it failed to meet this Standard, the GOC made changes to its triage process as well as developing a new quality assurance measure. These included:

- recruiting new staff (a Triage Officer and Senior Triage Officer)
- making changes to its triage process 'case plan'
- implementing Acceptance Criteria
- amending its referral form to make it easier to understand.

The GOC also developed quality-assurance measures about when to and when not to open a case at the triage stage. These have included:

- a recommendation by the Triage Officer
- a decision by the Senior Triage Officer
- a right to request a review (to be reviewed by the Director of Casework)
- a review by an Investigations Manager when opening a full investigation
- a sample control check of decisions not to open a case
- an independent audit of a sample of decisions.

What difference has this made?

We carried out a targeted check to see what improvements had been made for the GOC's most recent performance review. We examined 25 cases closed at this stage in the fitness to practise process and found that the concerns we had identified had been addressed:

- a formal triage decision had been fully recorded
- the triage decision was sufficiently reasoned
- the triage decision demonstrated that all aspects of the complaint had been considered.

We also did not identify any cases closed where there was not a good reason to close them; or that significant issues of the complaint had not been considered. The GOC has made positive changes to its triage process to address our concerns and ensure that potentially serious issues around a registrant's fitness to practise were not being missed. The GOC plans to carry out an audit about how it is using its Acceptance Criteria. We will look at this as part of our next review.

Protecting the public

Accrediting registers of non-regulated practitioners

MIND THE GAP

Until 2012, there was a gap in public protection: regulated health and care professionals cover around 30 occupations, but if you wanted to choose to see practitioners from the myriad of other treatments available, there was no regulatory oversight. If you sought treatment from an acupuncturist, a hypnotherapist, a sports therapist – or if you wanted to pay for a cosmetic treatment such as lip filler treatment – it was hard to know where to start. Since 2012 that gap has narrowed.

The introduction of the Accredited Registers (AR) programme offers the public a lower risk option when they are seeking treatments that may not be covered by regulated professions – the registers do not just have to meet our standards once, but every year when they are re-accredited and only then can they use the AR quality mark. The programme supports government policy to help people who want to use these treatments, opt for a lower risk option and make an informed choice.

KEY STATS

26
accredited registers

88,000
practitioners

55
occupations

9
New registers accredited during 2016-19

> "…a major step forward in the quest to deliver a new system of voluntary regulation within the rapidly developing and complex area of aesthetic treatments"
>
> Professor David Sines CBE, JCCP Chair

> "As a body that accredits practitioners we felt it incumbent upon us to be assessed and verified against a stringent set of standards and we did so by becoming an Accredited Register"
>
> Ashton Collins, Director, Save Face

CHOOSING SAFER LIP FILLER TREATMENTS

Put into any Internet search engine 'lip fillers gone wrong' and images of blistered and bloated lips fill your screen. There is a huge demand for non-surgical treatments, such as lip and dermal fillers. With no regulation in place, people are free to choose their treatment provider; unfortunately, not all providers are trained in these procedures and for some consumers this has had devastating effects. We decided to launch our first social media campaign. It was aimed at members of the public who might be considering lip filler treatment to help them choose qualified practitioners from an Accredited Register (Save Face and the Joint Council for Cosmetic Practitioners are both accredited). We saw a huge increase in traffic to our lip filler landing page. During the campaign period (19 June-16 July 2017), the number of browsing sessions increased by 68% and the number of users by 83%.

one story out of nine

professional™ standards authority

accredited register

let's work together

How the Registration Council for Clinical Physiologists took action to achieve accreditation leading to raised standards and improved public protection

ACCREDITED REGISTERS PROGRAMME IN PRACTICE

Background

The Registration Council for Clinical Physiologists (RCCP) was first accredited in early 2018. Clinical physiologists work across six disciplines: audiology, cardiac, gastro-intestinal, neurophysiology, respiratory, and sleep. You may encounter them if you are experiencing problems with your hearing, heart, sleep, breathing and have been referred for tests or are undergoing a procedure such as having a pacemaker implanted. They work in both NHS and private settings as well as in primary, secondary and tertiary care.

Why does it matter?

Clinical physiologists are healthcare workers involved in the diagnosis and management of a wide range of conditions – many of which are sensitive or invasive. The profession of clinical physiologist is not subject to statutory health regulation. It is therefore important to have a means of ensuring that clinical physiologists have the right training and qualifications to practise safely and competently and, if for any reason something does go wrong, there is a clear route to raise concerns. The RCCP recognised that gaining accreditation for its registrants would achieve this.

How did the RCCP improve public protection to meet the Standards of Accreditation?

When RCCP achieved accreditation, two conditions were imposed with deadlines as well as eight instructions and 13 learning points. The conditions related to ensuring its registrants could provide evidence of indemnity insurance; and ensuring the accuracy of its register. The instructions and learning points covered: the need to improve clarity of various processes and procedures; policies around restoration and readmission to the register and publication of sanctions; risk management; and business continuity.

What difference has this made?

"The process of engaging with the Authority and having to meet its comprehensive standards framework has been a major stimulant to defining, implementing and managing a rigorous programme of registration underpinned by 'Fitness to Practise' procedures and the accreditation of education and training providers, courses and qualifications. An added benefit has been the establishment of a 'Collaborative' involving the Authority's Accredited Registers which has enabled the 'sharing' of expertise and good practice."

Paul Burgess, Chair of RCCP

Helping the public choose with confidence - check a practitioner search facility

In 2017 we introduced a new search function on to our website to help people interested in checking or finding a practitioner – whether regulated or on an accredited register – to search for practitioners through the regulators' and registers' websites. You can see the result at **www.checkapractitioner.com**

Protecting the public

Improving regulation

WHAT IS HEALTHCARE REGULATION?

Regulation is simply a way to make sure that healthcare professionals are safe to practise and remain safe to practise throughout their career, but it is far from simple itself. It is designed to protect us by limiting the risks we may face when receiving treatment and/or care. There are different ways to ensure that healthcare workers are suitable to provide care. One of these is statutory regulation but is it the only way? This is where our inquiring mind comes in useful and why we undertake our policy and research work – not just to answer that one question, but others:

- Does regulation work?
- Is it fit for purpose?
- Is it the only way to manage risk?
- Are regulators focusing their efforts where they are needed most?

We can identify themes or trends emerging from our work scrutinising final fitness to practise decisions and through our performance reviews.This can result in focusing in on different areas such as our recent work on dishonesty, the professional duty of candour and sexual misconduct.

KEY STATS

22 reports published

68 consultations responded to

5 international commissions

ACADEMIC AND RESEARCH CONFERENCE: A WAY TO SHARE GOOD PRACTICE AND INNOVATION

Once a year we bring together around 100 academics, regulators, policy-makers and others in the regulatory field to discuss key issues in regulation. In recent years we have looked at the subjects of 'trust', 'fitness to practise' and attempted to answer: 'What makes a good regulator?'. Since our first conference in 2014, the event has steadily grown with more academic institutions and a wider range of regulators and other stakeholders attending. The conference creates opportunities for networking and catching up on research and sharing ideas, as well as how to put insights gained from research into practice to improve regulation and its effectiveness.

> "A stimulating event connecting ideas and people"
>
> Tweet from Professor Rosalind Searle on 2018 academic conference

> "Thank you @prof_standards for an excellent conference. I can't recall meeting a more interesting group of people #psaconf"
>
> Tweet from Dr Paul Snelling on 2018 academic conference

> "There have been other developments. I pay tribute to the PSA, which has published two reports making the case for change. I do not necessarily agree with all the proposals it has set out, but it has done immeasurably valuable work in pointing to the future direction"
>
> Lord Hunt of Kings Heath

INFLUENCING THE DEBATE ON REGULATORY REFORM

We have also recently seen the publication of the Government's response to its consultation on reforming regulation – along with the regulators, we have long called for reform of the outdated and piecemeal legal framework for professional regulation and have published a number of reports making the case for change. The recently published Government proposals are a significant milestone in reform and take on board many of the recommendations from ourselves and the regulators.

one story out of 22

Does crossing sexual boundaries with colleagues put patients at risk? We commissioned research to find out

POLICY AND RESEARCH IN PRACTICE

"I don't feel like whichever body made that decision is looking out for the public there. I would think that that was more in favour of him, rather than in favour of any prospective patients, so I feel quite aggrieved by that decision."

Public participant in the research

Background

Sexual misconduct by a health professional is a relatively rare but devastating act. Most healthcare professionals work with dedication and integrity and are committed to the best possible patient care. However, in some cases healthcare professionals have seriously breached sexual boundaries with patients, carers or colleagues resulting in serious harm. We identified a worrying trend as part of our scrutiny of final fitness to practise decisions – panels were treating sexual misconduct between colleagues less seriously than crossing sexual boundaries with patients. Their fitness to practise panels would accordingly hand down less serious sanctions. We appealed three of these types of case and lost all three. We wanted to find out whether professionals and the public shared our concern so we commissioned independent research.

Worrying traits

The cases we observed ranged from serious sexual misconduct or assault through to lower level harassment and potential breach of boundaries. These cases would also sometimes involve a power imbalance between colleagues or abuse of a supervisory relationship.

What do patients and professionals think?

The research explored both public and professional views using scenarios based on real cases, and highlighted participants' views on how this type of behaviour can have a negative impact on patient safety and the quality of their care:

- it may point to deep-seated attitudinal problems and motivations – including a lack of empathy which may pose a risk to patients
- there may be wider impacts of boundary-crossing behaviour, including the effect it has on the colleague subjected to it (stress, distraction, anxiety)
- it may create a culture where boundary-crossing behaviour becomes acceptable (potentially creating toxic working environments where bullying is normalised)
- it may affect public confidence and trust in health and care professionals where such behaviour is witnessed or heard about.

What difference has this made?

The research has been disseminated widely amongst regulatory and legal stakeholders and we hope it will prove a valuable resource for regulatory panels in thinking about cases of this nature. This report focused a spotlight on an issue that can impact patient safety and was not being considered as seriously as it should be. Following its publication, we organised a seminar in Scotland and have also funded further work by Professor Rosalind Searle, using cases of proven sexual misconduct from our fitness to practise database.

What happens next?

We are going to review our own guidance on sexual boundaries in light of the research's findings and, if necessary, update it and disseminate it.

What's next

For the Professional Standards Authority?

The independence and expertise of the Authority put us in a unique position to respond to regulatory challenges in health and social care.

These challenges include:

- The establishment of a new regulator, Social Work England, in 2019/20
- Implementing our new Standards of Good Regulation
- Working with the UK governments to shape the reform of professional regulation
- Planning for the regulatory challenges brought by technological changes
- Working with regulators and academic partners to undertake research to improve regulation
- Ensuring that regulation provides appropriate protection for the most vulnerable
- Assessing the risks of different health systems and regulatory approaches in the four countries of the UK.

Our purpose is to protect patients, service users and the public by improving the regulation and registration of health and social care professionals. In addition to the 'business as usual' outlined in this document, we will also be undertaking thematic reviews to identify and share good practice, developing our right-touch assurance model, and facilitating collaboration to improve the effectiveness of regulation.

As we look forward to 2020 and beyond, the Professional Standards Authority remains as committed as ever to improving regulation to protect the public.

What is the future for professional regulation and registration?

What impact will Artificial Intelligence have on healthcare and how it is regulated?

What will the regulatory world look like in:

5 years?

25 years?

50 years?

You can find out more details about all our work from our website:

www.professionalstandards.org.uk

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