

Council, 19 June 2012

Social Work Student (England) Suitability Scheme

Executive summary and recommendations

Introduction

At its meeting on 10 May 2012, the Council agreed that, in the long term, social work students in England should not be registered by the HCPC and that the most effective and proportionate means of managing the fitness to practise of students, including social work students in England, was through the standards of education and training. The Council invited the Executive to consider the transitional arrangements that should be put in place to manage the change from registration of social work students in England and to report this at a subsequent meeting of the Council.

The attached paper discusses those transitional arrangements and proposes a 'Social Work Student Suitability Scheme' to manage the transition. If agreed by the Council, the proposed scheme would operate for a time-limited period until all transitionally approved social work education and training programmes in England have been visited and scrutinised against our standards of education and training, and either approved or their approval withdrawn.

Decision

The Council is invited to make the following decisions.

- To discuss the attached paper and options for managing the transition.
- To approve the proposed draft Suitability registration scheme for social work students in England to be established from 1 August 2012 (the Scheme) – as outlined in the attached paper and in appendix 1.
- To approve that the costs of the Scheme, which is transitional in nature, are financed from existing resources.
- To instruct the Executive to regularly report on progress to establish the Scheme.
- To approve that the Scheme should be revoked once all transitionally approved social work programmes in England have been visited and their on-going approval either confirmed or withdrawn.

Background information

Set out in attached paper.

Resource implications

Set out in attached paper.

Financial implications

Set out in attached paper.

Appendices

- Appendix 1 is the proposed 'Social Work Student Suitability Scheme'.
- Appendix 2 is a flow diagram setting out the proposed process to be followed.
- Appendix 3 outlines in more detail the anticipated potential operational and resource impact.

Date of paper

11 June 2012

Social Work Student (England) Suitability Scheme

1. Introduction

- 1.1 At its meeting on 10 May 2012, the Council considered the responses to the consultation on student fitness to practise and registration and the findings of a literature review on the same topic. The Council agreed that, in the long term, social work students in England should not be registered. The Council considered that the most effective and proportionate means of assuring the fitness to practise of students, including social work students in England, was through the standards of education and training and the approval of education and training programmes. The Council, however, acknowledged that this may represent a change for education providers and asked the Executive to prepare a paper looking at the arrangements that should be put in place to manage the transition.
- 1.2 This paper discusses the options available. The Council is invited to agree a proposal made by the Executive to establish a 'Social Work Student Suitability Scheme', which would apply to social work students in England.
- 1.3 This proposal is set-out further in section five of this paper.
- 1.4 Social workers and social work students are registered by separate regulators in each of the four UK countries and therefore this paper only concerns arrangements relating to social work students in England. Any scheme introduced in England will need to be compatible with reciprocal arrangements with the regulators in Scotland, Wales and Northern Ireland.
- 1.5 On 1 August 2012, the HPC will be renamed the Health and Care Professions Council (HCPC). This paper refers to the HPC throughout for consistency and clarity.

2. Context

Policy and legislative context

- 2.1 The HPC does not currently register students for any of the professions it regulates. However, the Health and Social Care Act 2012 (the Act) provides the HPC with discretionary powers which would allow the HPC, if it chose to

do so, to set up voluntary¹ registers of students studying on programmes leading to registration.

- 2.2 The General Social Care Council (GSCC) registers 87,425 social workers in England on a statutory basis. In addition, they maintain a register of 18,536 social work students in England.² On 1 August 2012, by virtue of the Health and Social Care Act 2012, the GSCC register of social workers in England will transfer to the HPC.
- 2.3 That Act makes no provision for the transfer of the GSCC's student register and the Council has already determined that, in the long term, social work students in England should not be registered by the HPC.

Registration of social work students in England

- 2.4 As well as maintaining a register of students, the GSCC is also responsible for funding social work education practice placements and this is linked to student registration. The HPC will not be involved in distributing practice placement funding; this responsibility is due to pass to the NHS Business Services Authority.
- 2.5 The GSCC register of social work students in England has three main components.
- 2.6 Admission to the register. Students apply for registration having met the education provider's requirements for academic and professional suitability. The GSCC can reject an application for registration or register a student with undertakings or conditions.
- 2.7 Maintenance of the Register. A student is eligible to be registered only if they are currently studying on an approved programme. If they leave their programme, or if an education provider discontinues their place on a programme, they are no longer eligible to be registered and can be removed administratively. The admission process checks whether the student was previously registered and the circumstances of their de-registration.
- 2.8 Conduct. Matters regarding the conduct of a student are sometimes considered at a conduct hearing. If a case is proven, the possible sanctions include admonishment, suspension or removal from the Register.

Approval of education and training programmes for social workers in England

- 2.9 On 1 August 2012, the HPC register of social workers in England will open. On this date all those pre-registration social work programmes approved by

¹ In this paper, the term 'voluntary register' means one which is not required to be maintained under an enactment.

² Figures are from the GSCC as of 18 May 2012. See:

<http://www.gsc.org.uk/page/32/Registration+processing+times.html>

the GSCC will become approved transitionally by the HPC. This means that someone part way through their training at the time of the transfer will be able to complete their training with eligibility to apply for registration. The HPC will also approve all those historic programmes which led to registration with the GSCC.

- 2.10 Following the opening of the Register, the Education Department will begin the process of conducting a series of visits to approve these programmes against our standards of education and training. There will be 282 approved social work programmes, across 85 education providers.
- 2.11 The HPC's standards of education and training (SET) include standards which ensure that:
- only students who are suitable to train are offered a place on a programme (SET 2);
 - education providers deal with concerns about the fitness to practise of students (SET 3);
 - students understand the standards required of them as students and as future registrants (SET 4); and
 - practice learning is appropriately managed and monitored, including through supervision by appropriately qualified educators and effective collaboration between education providers and practice placement providers (SET 5).
- 2.12 The proposed arrangements for visiting approved social work and Approved Mental Health Professional (AMHP) programmes are set-out in a separate paper to be considered at this meeting of Council.

The rationale for transitional arrangements

- 2.13 In the consultation, arguments were made that the registration of social work students in England was helpful in providing a 'safety net' which ensured that consistent decisions were made about the suitability of students at entry to social work programmes and about the conduct of students whilst on practice placements. The HPC's standards of education and training address issues of professional 'suitability' on entry to programmes and arrangements for dealing with the conduct of students whilst on programmes. However, ultimate responsibility for these arrangements and decisions rests with the education provider, assured through the approval process.
- 2.14 In the consultation, some respondents said they valued the existing registration arrangements because they were considered to provide helpful reassurance to employers taking social work students on placement.

However, we also heard concern from employers and other stakeholders about some of the current supervision arrangements for social work students on practice placements and, in particular, about social work students' unsupervised contact with vulnerable service users whilst on placement. The Social Work Task Force reported similar concerns: '...many students are experiencing placements which do not allow them to learn what they need. Placements may, for instance, lack high quality guidance and assessment...Some are being passed who are not competent or suitable for frontline work.' (paragraph 1.30). The Task Force also noted some good arrangements for collaboration between education providers and practice placement providers, but that existing arrangements had not been effective in some areas (paragraph 1.10).³

- 2.15 The HPC's standards of education and training make detailed requirements for placement placements. In this approach, the education provider retains overall responsibility for the education and training delivered, including that which takes place in practice. They have to demonstrate, amongst other things, that practice placements are adequately managed and monitored; that there is adequate supervision; and that students are taught by appropriately qualified staff. Whilst some social work education providers in England may already meet these requirements, it seems reasonable, given the consultation findings, and reports from the sector, that some might find them more challenging.
- 2.16 The Council agreed that a transitional process of some kind was required as the social work community, education providers and practice placement providers may not be prepared for the discontinuation of student registration for social workers in England. In particular, it was considered that such a process might be helpful in maintaining confidence in practice placements whilst the HPC undertook the process of scrutinising social work programmes in England against the standards of education and training.

3. Managing the transition

- 3.1 This paper sets out options for managing the transition from registration of social work students in England.
- 3.2 Given the relatively large number of social work programmes which will become transitionally approved on 1 August 2012, the Executive proposes a period of between two to three academic years during which programmes will be visited and required to demonstrate that they meet the standards of education and training. (Please see separate paper being considered at this

³ Social Work Task force (2009). Building a safe, confident future – the final report of the Social Work Task Force
<https://www.education.gov.uk/publications/standard/publicationdetail/page1/DCSF-01114-2009>

Council meeting.) It is therefore a risk that, in the interim period, some programmes may not meet the HPC's standards of education and training.

- 3.3 One option would be for the HPC to expedite the process of visiting and re-approving all the social work programmes in England over a short period of time. However, this option has to be balanced against a range of other practical considerations. This includes capacity issues for education providers to rapidly meet the new standards. In addition to the new role of the HPC in approving programmes, education providers also have to manage a range of other key changes, including reforms introduced as a result of the work of the Social Work Reform Board, such as new curriculum guidance from the professional body; and changes to funding arrangements. The capacity of the Education Department to visit and approve a large number of programmes in a short time period also needs to be considered
- 3.4 The Executive considers that it is possible to put in place an effective and proportionate transitional method of mitigating the small risk identified by stakeholders – that of individuals of 'unsuitable' character entering social work training or continuing on programmes following concerns about their conduct. This would allow education providers a reasonable period of time to demonstrate that they meet our standards.
- 3.5 Section four outlines some of the possible options.

4. Possible transitional options

- 4.1 This section looks at some options identified by the Executive to manage the risks involved in the transition.

Statutory regulation of social work students in England

- 4.2 This is not a viable option available to the HPC. The Health and Social Care Act 2012 only provides powers to establish a voluntary register. In the future this may become a viable option through legislative change. The Law Commissions' consultation invites views on a regulation making power which, if introduced, would allow the Government to introduce statutory student registration.⁴

Establish a transitional voluntary register for all social work students in England

- 4.3 This option would establish a transitional voluntary register for all social work students in England along similar lines to the existing register operated by the GSCC or the registers of qualified professionals maintained by the HPC. The

⁴ Law Commission, Scottish Law Commission and Northern Ireland Law Commission (2012). Consultation on 'Regulation of healthcare professionals' and the 'Regulation of social care professionals in England'. <http://lawcommission.justice.gov.uk/consultations/1755.htm>

Executive has considered the following in considering the viability of this option.

- As a voluntary register, there would be no protected title and the HPC could not legally compel students to join the register. (Although registration might be encouraged through the funding arrangements of other bodies or by making it a condition of programme approval.)
- As a voluntary register, the HPC could not demand information or compel witnesses as part of fitness to practise proceedings.
- It may be disproportionate to require students to pay for a short-lived transitional arrangement. The GSCC receives a subsidy from the Department of Health. Social work students in England currently pay a registration fee of £10 per year. Without that subsidy, this fee would need to increase significantly if the register was maintained by the HPC, increasing the financial burden on social work students in England in the short term.
- Maintaining the register in its current form would arguably fail to provide for a phased transition from the existing arrangements to the HPC's new requirements and lead to a situation where there was a period of significant duplication of effort, with the HPC's approach to approving programmes co-existing with the existence of a student register.
- The set-up costs would be likely to outweigh the long term life of the register.

4.4 The Executive has therefore concluded that this may not be the most viable or proportionate option for managing the period of transition; a conclusion which is consistent with the view expressed by Council that maintaining the GSCC student register in the short term is not appropriate.

Establish a transitional 'Social Work Student Suitability Scheme' for social work students in England

4.5 This is suggested by the Executive as the preferred option. This proposal is outlined in more detail in section five.

5. Suitability scheme for social work students in England

Key features

5.1 The key features of the scheme cover the following with respect to social work students in England.

- Admission to approved programmes.

- Student conduct.
- Record of 'prohibited' students.

5.2 In summary the key features of the transitional scheme would be as follows. The scheme is set-out in more detail from paragraph 5.8 onwards.

- The HPC would not hold a register of all social work students in England.
- The HPC would, in certain circumstances, provide an opinion to social work education providers in England on admission decisions which could, where appropriate, involve asking a panel to advise upon whether the applicant was of suitable character to be admitted to a programme.
- The HPC would also consider the outcomes of an education provider's student fitness to practise procedures, where a student had been removed from a programme (or has withdrawn from a programme whilst subject to a complaint). This may lead to a student being entered into a record of prohibited students which would prevent them from being admitted to or participating in a social work programme.
- In exceptional circumstances, the HPC could investigate a complaint about the conduct of a social work student in England where it was considered that the education provider had failed to deal with a credible complaint appropriately.

Rationale for this option

5.3 The Council has previously concluded that the standards of education and training are the most effective and proportionate means for assuring the fitness to practise of students, including, in the long term, the fitness to practise of social work students in England. The standards of education and training ensure that education providers retain overall responsibility for the programmes they deliver, including owning and managing the risks associated with the character and conduct of students.

5.4 These conclusions appear to be consistent with the 'Right touch regulation' methodology advocated by the Council for Healthcare Regulatory Excellence (CHRE). This approach to decision making focuses on the proportionality of regulatory responses, encouraging regulators to use 'just enough regulatory response to achieve the desired result'. In its response to the consultation, the CHRE concluded that student registration failed to meet this test, arguing instead, in line with the HPC's proposed approach, that risks associated with students in training should be managed by education providers, working in partnership with employers as providers of placement placements, in accordance with the regulator's standards. The Council has also indicated in its previous discussion that it may place an unfair and disproportionate burden

on social work students in England to continue to register them, and require them to pay a registration fee, but only for a short period in a planned transition. The CHRE argued that it was not automatically necessary to use the same processes used for qualified professionals to manage the risks to the public from students and that other options should instead be explored. They further noted that it might be appropriate for the regulator to hold a list of students removed from courses because of fitness to practise findings in order to prevent 'fraudulent re-enrolment', but concluded that maintaining a list of all students would not be a targeted response to the potential risk.⁵

- 5.5 A transitional arrangement is proposed whilst the HPC undertakes the task of scrutinising all transitionally approved social work education and training programmes against the standards of education and training.
- 5.6 The option of a 'Social Work Student Suitability Scheme' is proposed as an effective, proportionate and targeted means of managing this transition. It is proportionate because it is aimed at supporting the decision making of education providers about admission and conduct matters, rather than requiring all students to register. It is targeted by focusing on the key areas identified in the consultation as those of a small but specific risk, and those where stakeholders frequently considered the existing arrangements to have most value. It provides a 'backstop' or 'safety net', allowing the HPC to be more involved with admission decisions and matters related to the conduct of social work students in England where appropriate, easing the transition to the HPC's requirements which will ensure overall and ultimate responsibility rests with the education provider.
- 5.7 The arrangements would be in place in the transition until all approved social work programmes in England were approved against the HPC's standards of education and training or had their approval withdrawn. This would assure the HPC and other stakeholders such as practice placement providers that social work education providers in England had in place robust arrangements to make appropriate decisions and to manage the risks in this area, including that they had robust arrangements for managing and monitoring placements.

Suitability scheme – in detail

- 5.8 Appendix 1 provides an outline of the suitability registration scheme for social work students in England. Appendix 2 provides a flow diagram further setting out the operation of the scheme. This section explains the content of that scheme in more detail, indicating how the Executive intends the scheme to operate.

⁵ Council for Healthcare Regulatory Excellence (2012). Response to consultation on student fitness to practise and registration.
<http://www.chre.org.uk/policyandresearch/221/>

Admission of students to social work programmes in England

- 5.9 Education providers will be required to ensure that students who gain a place on a social work programme are of suitable character and are not subject to a Determination under the scheme (prohibiting the person from participating in an approved social work programme). They will be required to make this decision with regard to the HPC's standards of conduct, performance and ethics (SCPE) and in line with the criteria set out in the scheme.
- 5.10 If a social work education provider is unable to conclude whether a person is of suitable character they may ask the Education and Training Committee for an advisory opinion on the topic.
- 5.11 The opinion would be provide on the Committee's behalf by an Assessment Panel, comprised of three members, including a lay person and at least one social worker and would reach a decision having regard to the SCPE and the criteria referred to above. (The Committee uses a similar arrangement for assessing health and character issues declared by applicants and registrants).
- 5.12 In practice, we expect that most decisions will be made by education providers, and that the formal opinion of an Assessment Panel on whether a student should be admitted to a programme is only likely to be necessary in limited circumstances.

Complaints about students

- 5.13 Education providers will be required to have arrangements for considering and taking action in respect of complaints about the conduct and character of students. This is in line with SET 3.16 and social work education providers should already have arrangements of this kind in place.
- 5.14 In the first instance, all complaints will need to be made to and investigated by the education provider and appropriate action taken.
- 5.15 In exceptional circumstances, the Director of Fitness to Practise (the Director) may decide to investigate a complaint about a student. The Director would have to conclude that the complaint is credible; that reasonable efforts had been made to complain to the education provider concerned; and that the education provider has failed to deal with that complaint appropriately. The Director would also be able to ask an Assessment Panel for an opinion on the complaint.

Referrals and investigations

- 5.16 Education providers will be required to inform the HPC if they remove a student from a social work programme on suitability grounds (or if a student withdraws whilst subject to a relevant complaint).
- 5.17 Referrals will be investigated to gather relevant information. That information will then inform a decision by the Director about whether the student has 'a case to answer'; in other words, if there is a realistic prospect of establishing that the student concerned is unfit to participate in a social work programme. If there is a case to answer, the complaint will be referred for adjudication.
- 5.18 If the conclusion is that there is no case to answer, the matter will be closed, but the Director has the option to provide, or arrange for others to provide, advice to the student concerned on professional standards and behaviour.

Adjudication

- 5.19 Referred complaints will be considered at a hearing by a single adjudicator. They will consider whether the student is unfit to be admitted to or participate in a social work programme. The use of a single adjudicator (rather than a Panel) is considered appropriate because, other than in exceptional cases, it will only involve consideration of complaints which have already been considered in detail under the education provider's own complaints process.
- 5.20 If a complaint is well founded, the adjudicator can make a Determination which prohibits the student from participating in a social work programme. A Determination may apply permanently, for a specified period, or until specified conditions are met.
- 5.21 An appeal against a Determination can be made to the Council and would be considered in line with the process currently adopted for appeals against registration decisions.

Record of Determinations

- 5.22 A record will be maintained and made available as appropriate of those students who are subject to a Determination.

Duration

- 5.23 When the Register opens, all transitionally approved social work education and training programmes in England will be required to adhere to the scheme, until their programme is approved or has had its approval withdrawn.
- 5.24 The scheme will therefore close once all social work programmes in England have been visited and either approved or had approval withdrawn. This will mean that the record of Determinations will continue to be maintained, but that no new entries will be made.

5.25 Any new social work programmes in England developed in the transition period will be visited against the standards of education and training and, if approved, will have demonstrated compliance with the standards of education and training and therefore will not be required to comply with the scheme.

GSCC student registration

5.26 The GSCC maintains an existing register of social work students in England. The following arrangements will manage the change from the GSCC's approach to the transitional scheme outlined.

- If a student applied to the GSCC for registration before the transfer date but that application has not been concluded by the GSCC, the Director of Fitness to Practise will have the discretion to conclude the application in accordance with the scheme, which may include seeking the opinion of an Assessment Panel where necessary.
- If the GSCC was considering a complaint about a registered social work student in England but had not concluded this prior the transfer date, it will be considered as a referral. The Director of Fitness to Practise will be able to dispose of the matter in a just manner in accordance with the scheme, which may include closing the case; seeking the opinion of an Assessment Panel; or referring the matter to be adjudicated.
- The record of Determinations will include those social work students in England removed or suspended from the GSCC's register because of a conduct issue prior to the transfer date.

Link to approval of education and training programmes

5.27 A separate paper being considered at this meeting of the Council considers the links, if any, that should be established between the scheme and arrangements for visiting social work programmes in England.

Legislation

5.28 The proposed scheme has been developed with the involvement of the solicitor to Council. No legislation or rule changes are necessary to administer the scheme.

6. Operational and financial issues

6.1 Further work by the Executive will be necessary to prepare for the operation of the scheme.

- 6.2 We estimate that the number of admission cases requiring the consideration of an Assessment Panel is likely to be relatively small. The GSCC's figures indicate the possible numbers involved – between September 2005 and 2011 the GSCC refused registration to nine social work students. Most admission decisions will be solely made by education providers. A referral to an Assessment Panel is likely to only be necessary in limited circumstances. Although it is difficult to estimate the numbers of cases on which an opinion will be sought by education providers, we expect that requests for an opinion are only likely to occur in more complex, borderline cases.
- 6.3 In 2010/2011, the GSCC removed 8 social work students from their register at a conduct hearing. A number of others were administratively removed because they were either removed from the education provider or left voluntarily. Between 2005/2006 and 30 September 2011, action was taken against 89 students (administratively or via a conduct proceeding). The Executive estimates therefore that the number of cases requiring consideration for Determination will be in the order of around 15-20 students per annum.
- 6.4 The record of Determinations will simply list those persons who are not permitted to participate in a social work programme. Social work students in England will therefore not be required to register prior to entry to a programme or commencement of placements and therefore will not need to pay a registration fee. On the assumption that the scheme starts in August 2012 and that all programmes are approved by March 2015, it is estimated that operating costs to external suppliers will be in the order of £20,000 in the first eight month financial year, £14,000 in the second year and £8,000 in the last year. Capital expenditure on a limited range of items such IT, should be in the order of £10,000. Because of the relatively small size of the operating and capital costs and the short duration of the scheme it is proposed that they will be funded from existing resources. However, it is possible that some costs could be assigned to the 2012 – 2013 DH grant.
- 6.5 The financial and resource burden involved in administering the scheme will be minimised where possible. For example, in practice, Assessment Panels, where necessary, can utilise the arrangements for registration panels which consider declarations on admission and readmission to the register, minimising the additional costs involved. Similarly, a single adjudicator (drawn from existing partners) will reduce the costs involved in adjudication.
- 6.6 Appendix 3 outlines in further detail the operational and resource implications of a number of the HPC Departments affected by the proposed scheme.

7. Impact

- 7.1 The impact assessment which accompanied the public consultation set-out three main options under consideration.
- Option 1. No change. Maintain the HPC's current approach across the whole register. Social work students in England would not register with the HPC (base case).
 - Option 2. Register social work students in England on a voluntary basis.
 - Option 3. Establish a voluntary register(s) of students for some or all of the existing HPC regulated professions.
- 7.2 It was noted that the options could be considered in combination. It was further acknowledged that the 'base case' or 'do nothing' option (option 1 above) nonetheless represented a change for stakeholders in the social work field.
- 7.3 Although the proposed 'Social Work Student Suitability Scheme' was not proposed in the impact assessment or consultation, the Executive has concluded that this approach is unlikely to have any significant adverse impact over and above the proposed 'base case' option. The following observations and conclusions have been made.
- The proposed scheme is a short-term transitional approach to implementing the base case option in full. This includes scrutinising social work education and training programmes in England against the HPC's standards.
 - The requirements placed upon education providers as outlined in the proposed scheme in many cases mirror the standards of education and training. For example, requirements to make decisions about the character of applicants and to investigate complaints about students. Further, social work education providers in England are already expected to have 'suitability' procedures in place and expected to report the outcomes of cases to the GSCC. Therefore, this does not involve any significant additional impact.
 - All the options under consideration would in any event have also involved social work education providers in England needing to meet the HPC's standards of education and training, with an appropriate lead-in period before visits took place.
 - The financial burden on students in England is reduced in this proposal because they are no longer required to register and pay a registration fee.

Health and Care Professions Council

Social Work Student Suitability Scheme

Introduction

This Scheme applies to relevant programmes in social work which, on a transitional basis, are being treated as approved by the HCPC. Its purpose is to assist programme providers in ensuring that persons of unsuitable character do not participate in a relevant programme.

Ensuring that programme providers identify those of unsuitable character is an important public safeguard, particularly as social work students may undertake practice placements involving direct and unsupervised contact with service users. It is also an integral part of the HCPC's statutory functions. Article 15(1)(b) of the Health and Social Work Professions Order 2001 (the **Order**) requires the Council to establish character and other requirements for participation in approved programmes and Article 15(4)(b) of the Order requires the Education and Training Committee (the **Committee**) to ensure that education providers meet those requirements.

Normally, those requirements are met by education providers complying with the relevant provisions of the HCPC's Standards of Education and Training (**SETs**) and, in particular, SET 2 (admissions procedures), SET 3 (student fitness to practise) and SET 5 (practice placements). Consequently, the Scheme will apply to a relevant programme until such time as the Committee is satisfied that the programme provider has procedures in place which meet the SETs.

1. Interpretation

In this Scheme:

“adjudicator” means an adjudicator appointed in accordance with Paragraph 6;

“Assessment Panel” means a Panel appointed in accordance with Paragraph 2(6);

“Committee” means the Education and Training Committee;

“the Criteria” means the criteria in the Annex to this Scheme;

“Determination” has the meaning given in Paragraph 7;

“Director” means the Director of Fitness to Practise;

“GSCC” means the General Social Care Council;

“the Order” means the Health and Social Work Professions Order 2001;

“provider” means the university or other body responsible for providing a relevant programme;

“Registrar” has the meaning given in the Order;

“relevant programme” means a course in relevant social work which:

- (a) immediately before the transfer date was approved by the GSCC under section 63(1) of the Care Standards Act 2000;

- (b) from that date is being treated on a transitional basis as a programme approved by the HCPC; and
- (c) has not been approved or had approval withdrawn by the Committee under Part IV of the Order;

“student” means a student participating in a relevant programme;

“suitable character” has the meaning given in Paragraph 2(2);

“transfer date” means 1st August 2012.

2. Admission of students to relevant programmes

(1) A person must not be admitted to a relevant programme as a student unless the provider of that programme is satisfied that the person is:

- (a) of suitable character; and
- (b) not subject to a Determination.

(2) A person is of “suitable character” if they are of a character suitable to participate in a programme leading to qualification as a social worker and, in particular, to engage with service users during a placement which forms part of such a programme.

(3) In considering whether of a person is of suitable character a provider must have regard to:

- (a) the criteria set out in the Annex to this Scheme (the **Criteria**); and
- (b) the HCPC Standards of Conduct, Performance and Ethics.

(4) On the transfer date, a student is to be regarded as meeting the requirements of sub-paragraph (1) if, immediately before the transfer date, the student was:

- (a) participating in a relevant programme; and
- (b) not subject to any complaint or other proceedings which may have led to the student being removed, on the ground of not being of suitable character, from:
 - (i) that programme; or
 - (ii) the register of social work students maintained by the GSCC.

(5) A provider that is unable to conclude whether a person is of suitable character for the purpose of sub-paragraph (1) may seek an opinion on the matter from the Committee and, if the Committee is satisfied that the request is reasonable, it may provide, or arrange for an Assessment Panel to provide, such an opinion.

(6) An Assessment Panel comprises three members appointed by the Committee from among persons authorised to conduct HCPC fitness to practise proceedings, one of whom must be a lay person and at least one whom must be a registered social worker.

(7) An Assessment Panel must meet to consider, and provide an opinion in respect of, any request referred to it in accordance with sub-paragraphs (5) or (8) or Paragraphs 3(4) or 5(3).

(8) An application for student registration which was made to the GSCC before the transfer date but which was not concluded by the GSCC by that date may be concluded by the Director and, for that purpose, the Director may obtain an opinion from an Assessment Panel.

3. Complaints about students

(1) The provider of a relevant programme must have appropriate arrangements in place to:

- (a) enable complaints to be made about the conduct and character of students on that programme; and
- (b) investigate, determine and, where appropriate, take action in respect of such complaints.

(2) Complaints about students must, in the first instance, be made to the provider concerned and, subject to sub-paragraph (3), cannot be made directly to the HCPC under this Scheme.

(3) The Director may investigate a complaint made directly to the HCPC if the Director is satisfied that:

- (a) the complaint is credible;
- (b) the complainant has made reasonable efforts to pursue the complaint with the provider concerned; and
- (c) the provider has failed to deal with that complaint appropriately.

(4) The Director may deal with the complaint which is investigated in accordance with sub-paragraph (3) as if it was a referral under Paragraph 4 and, in doing so, may:

- (a) seek an opinion from an Assessment Panel; and
- (b) submit a report to the Committee on the decision to pursue the complaint.

4. Referrals

(1) If a provider removes a student from a relevant programme on the ground of not being of suitable character (whether following a complaint made to the provider or otherwise), the provider must report the matter to the Director within seven days of its occurrence.

(2) For the purpose of sub-paragraph (1), a student who withdraws or is permitted to withdraw from a relevant programme whilst the subject of a complaint which may have led to removal on the ground of not being of suitable character is to be regarded as having been removed from the programme by the provider.

5. Investigations

(1) In respect of a referral under Paragraph 4, the Director may conduct such investigation as the Director considers appropriate for the purpose of determining whether, based on the available evidence (and having regard to the Criteria), there is a realistic prospect of establishing that the student concerned is unfit to participate in a relevant programme.

(2) Where the Director is satisfied that:

- (a) there is a realistic prospect of doing so, the Director must refer the matter for adjudication in accordance with Paragraph 6, as a complaint to the effect that the student is unfit to participate in a relevant programme; or
- (b) there is no realistic prospect of doing so, the Director must take no further action in respect of the matter, but may give, or arrange for others to give, the student concerned such advice on professional conduct, performance and ethics as the Director considers appropriate.

(3) A complaint about a student which was made to the GSCC before the transfer date but which was not concluded by that date is to be treated as if it was a referral made under Paragraph 4 and, for the purpose of disposing of it in such manner as is just, the Director may seek an opinion from an Assessment Panel.

6. Adjudication

Adjudicators

(1) The Committee must appoint appropriately trained persons as adjudicators, to consider and determine complaints referred to them in accordance with Paragraph 5(2)(a).

Notice of hearing

(2) Where a complaint is referred for adjudication, the Committee must send the student concerned a notice which:

- (a) sets out the date, time and venue of the hearing;
- (b) specifies the complaint to be determined; and
- (c) informs the student of the right to attend and be heard.

(3) A hearing must not be fixed for any date earlier than 28 days after the day on which the notice is sent to the student.

Procedure

(4) Hearings may be conducted in such manner as the adjudicator considers to be suitable for determining the complaint, so far as possible avoiding unnecessary formality.

(5) The adjudicator must explain the order of proceeding which the adjudicator proposes to adopt and may issue directions for the effective conduct of the proceedings.

(6) A student may appear and be represented at a hearing by any person, but the adjudicator may refuse to permit a particular person to assist or represent a student if the adjudicator is satisfied that there are good and sufficient reasons for doing so.

(7) The adjudicator may exclude from a hearing, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the adjudicator, to disrupt the hearing.

Proceeding in absence

(8) The adjudicator may determine a complaint in the absence of the student concerned if the adjudicator is satisfied that the student was notified of the hearing but has failed to attend or be represented at the hearing.

Evidence

(9) An adjudicator may admit evidence which appears to be relevant notwithstanding that such evidence would be inadmissible in civil proceedings.

(10) The findings of fact and certification of conviction of any court in the United Kingdom is conclusive proof of the facts or conviction so found.

7. Determinations

(1) Where the adjudicator is satisfied that a complaint is well founded, the adjudicator may make a determination prohibiting the student from participating in any relevant programme (“a Determination”).

(2) The adjudicator may provide that a Determination is to apply:

- (a) permanently;
- (b) for a specified period; or
- (c) until any conditions specified in the order are met.

(3) A Determination made under this Paragraph takes effect from the day on which it is made.

8. Appeals

(1) The person concerned may appeal to the Council against a Determination (or the terms of a Determination) imposed under Paragraph 7.

(2) Any appeal under sub-paragraph (1) must be made within 28 days of the date on which the Determination was imposed.

(3) An appeal under this Paragraph must be managed and heard, so far as possible (and with such modifications to the procedure as the Appeal Panel considers necessary), as if it was appeal made under Article 37 of the Order.

(4) At the hearing of an appeal, the Panel may:

- (a) confirm the Determination;
- (b) set aside the Determination; or
- (c) vary the terms of the Determination.

9. Record of Determinations

The Registrar must maintain a record of those persons who are subject to a Determination (and those students who, before the transfer date, were erased or suspended from the GSCC student register) and must make that information available for inspection or publish it in such manner as the Committee may direct.

10. Duration of Scheme

(1) This Scheme comes into effect on 1st August 2012 and, subject to sub-paragraphs (2) and (3), will remain in effect until 31st July 2015 unless it is revoked before that date by resolution of the Council.

(2) Paragraph 9 (and the records maintained under it) and sub-paragraph (3) will continue to have effect after the date on which this Scheme is revoked.

(3) At any time after this Scheme is revoked, a person who is subject to a Determination may apply for it to be reviewed and any such review must, so far as possible, be heard as if it was an application for restoration made under Article 33 of the Order but:

- (a) with such modifications to the procedure as the Panel considers necessary; and
- (b) as if the issue to be determined under that Article is whether, having regard to the reasons that the Determination was made, the Panel is satisfied that the person is now of suitable character.

ANNEX

Suitable Character: The Criteria

1. In determining whether a person is of a suitable character, a provider must have regard to the Criteria set out in Paragraph 4. For the purpose of this Scheme, a person is of “suitable character” if they are of a character suitable to participate in a programme leading to qualification as a social worker and, in particular, to engage with service users during a placement which forms part of such a programme.

2. In applying the Criteria, the task is not to punish the person for their past conduct but to assess whether, having regard to any past criminal or other conduct, there are reasonable grounds for considering that the person may engage in future conduct which is detrimental to service users or public confidence in the social work profession.

3. In a small number of cases, the nature and gravity of a person’s past conduct will mean that they pose a significant risk to service users. However, in many cases discretion will need to be exercised in applying the Criteria. In doing so, the following should be taken into account:

- the nature of the offence(s) or other conduct and any punishment or other sanction imposed;
- the time period which has elapsed since the most recent offence(s) or conduct and the person’s conduct during that period;
- the age of the person at the time of the offence(s) or conduct;
- whether the offence(s) or conduct are indicative of a pattern of behaviour, propensity or wider character issues.

4. The Criteria are:

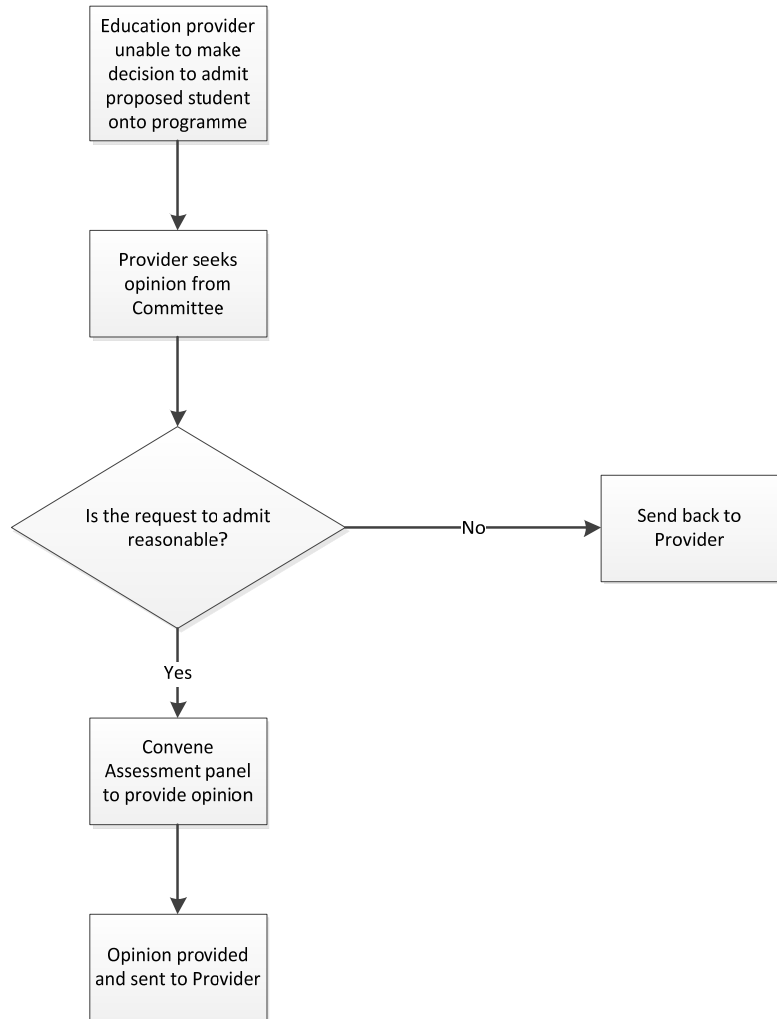
A. Whether the person has been convicted of (or accepted a caution for) an offence involving:

- violence;
- abuse;
- sexual misconduct¹;
- unlawfully supplying drugs;
- child pornography;
- dishonesty; or
- other criminal activity of a deliberate or reckless nature (e.g. arson).

- B. Whether the person has been convicted of (or accepted a caution for) an “automatic inclusion” offence under the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 or the equivalent legislation in Scotland or Northern Ireland.
- C. Whether the person has been sentenced to a term of imprisonment (including detention in young offenders institution);
- D. Whether the person has engaged in conduct which has endangered, or is likely to endanger a child or vulnerable adult, including:
- harming, or attempting to harm, a child or vulnerable adult;
 - causing a child or vulnerable adult to be harmed;
 - inciting another to harm a child or vulnerable adult;
- and for this purpose “harm” and cognate expressions includes, but is not limited to, physical, psychological, sexual or financial harm.
- E. Whether the person has engaged in conduct:
- involving sexual material relating to a child or sexually explicit images depicting violence or degradation;
 - of a sexual nature involving a child, vulnerable adult or service user;
 - involving dishonesty or financial impropriety;
 - involving repetitive or persistent behaviour which calls into question the person’s suitability to work with children, vulnerable adults or service users.
- F. Whether the person has been excluded from the practice of social work or engaging in social care or any similar activity by a body responsible for regulating or otherwise controlling such practice or activity.

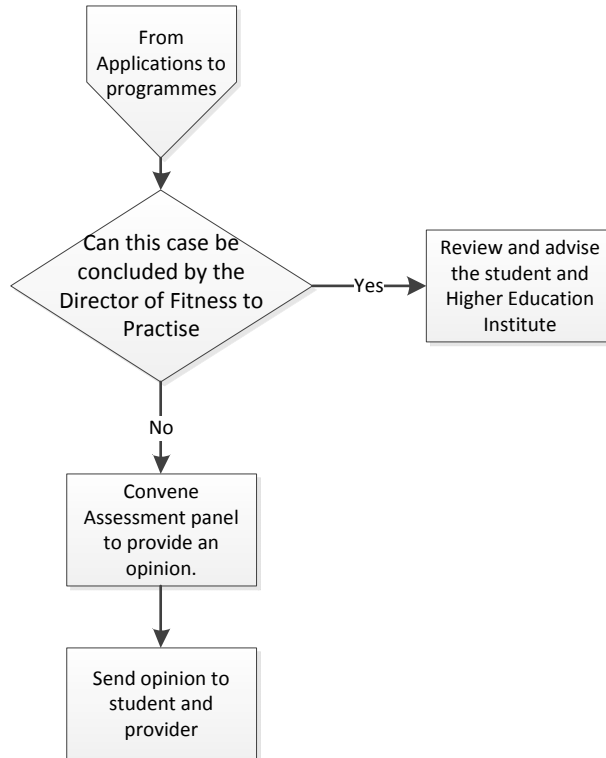
Applications to Programmes

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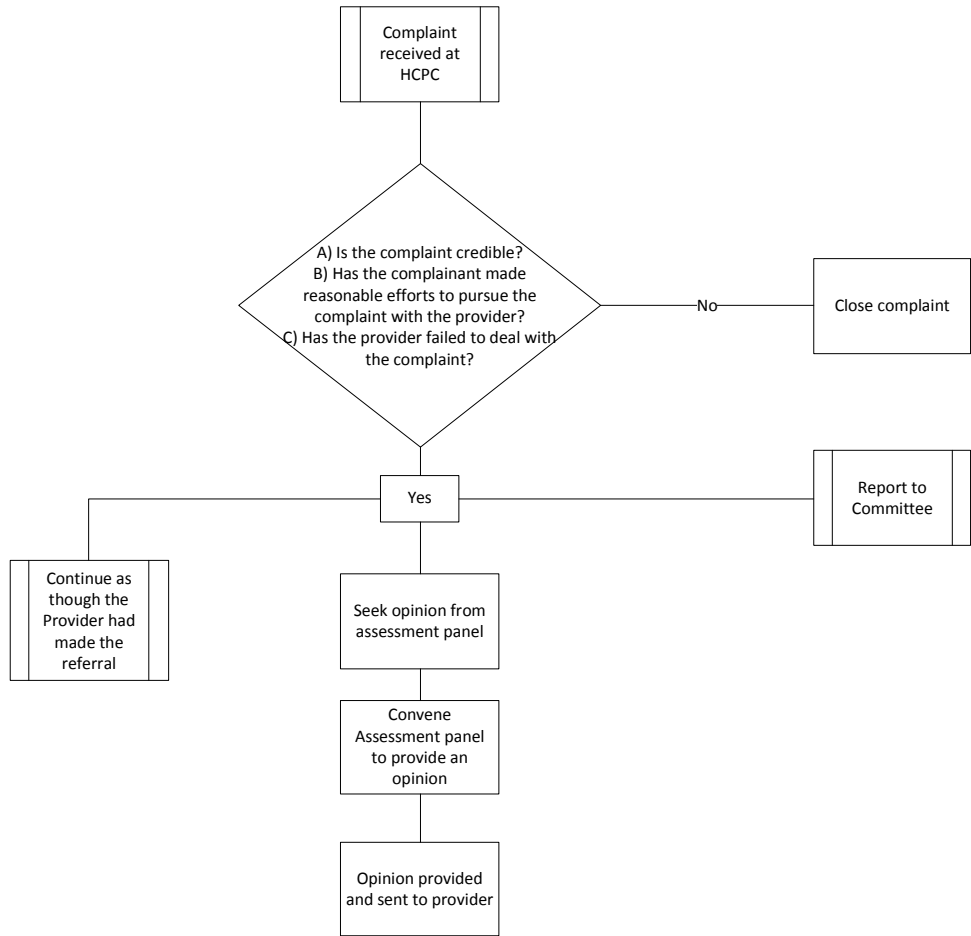


Un concluded Applications for Student Registration

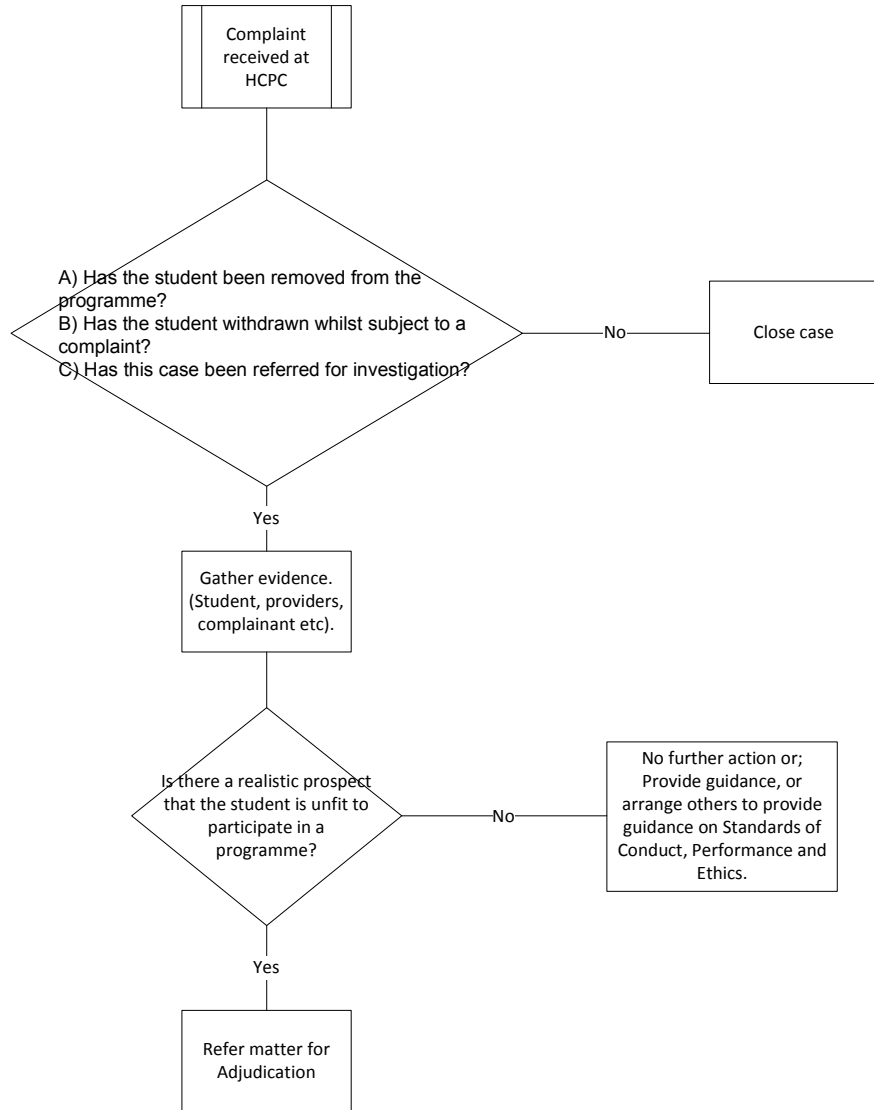
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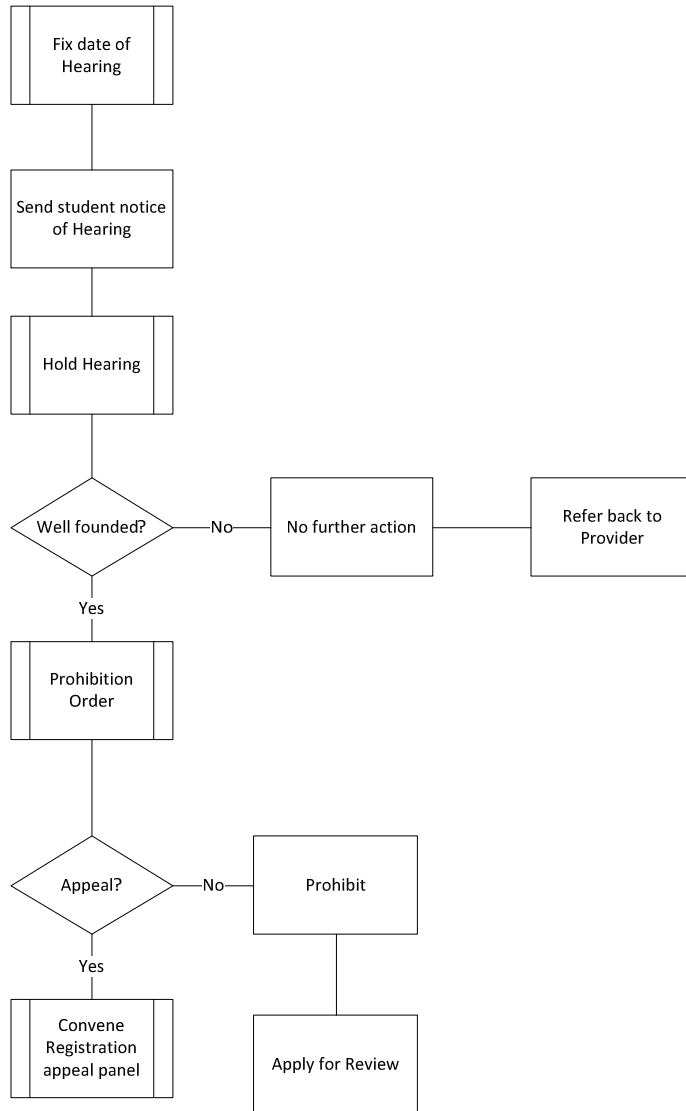
Complaints about students, directly to HCPC
20120528



Referrals
20120528



Adjudication
20120528



Appendix 3: Additional information about operational and resource implications of the proposed scheme

1. Information Technology Department

- 1.1 The operation of the scheme would be supported through the existing Fitness to Practise Case Management System (CMS). A series of new statuses, actions and letter templates would be created to tailor the system for this purpose although no development is envisaged.
- 1.2 The publication model for the record of prohibited students would follow that used for the temporary and occasional register as applied to visiting European health professionals.
- 1.3 The CMS will generate an output document listing those individuals who are entered in the record of prohibited students which will be published periodically to the 'The Register' section of the corporate web site (www.hpc-uk.org). No development of the web site would be required.

2. Registration Department

- 2.1 The scheme would be implemented and managed by the Fitness to Practise Department rather than by the Registration Department. Social work students in England would not be required to register.
- 2.2 The Registration Department may see a minor increase in telephone calls, emails and letters relating to the scheme. Once the Registration Department has been trained about the details of the scheme, these customer service transactions will be handled in the usual manner using the existing operational procedures and protocols.
- 2.3 Following an initial peak at the introduction of this scheme, the volume of customer service transactions is expected to be minimal.

3. Project Management Department

- 3.1 The Projects function continues to project manage the transfer of the regulatory functions from the GSCC to HPC. The project scope includes all aspects of the transfer. Any activities relating to the implementation of the scheme would be managed as a part of the project team.

4. Fitness to Practise Department

- 4.1 The implementation and operation of the scheme would be managed by the Fitness to Practise Department. It is believed that the amendments (the creation of letters, actions and fields) required to the CMS to support the scheme can be undertaken in-house by the Fitness to Practise Assurance and Development team with the necessary support from the Information Technology Department.
- 4.2 It is anticipated that the case work associated with the scheme will be undertaken by Case Team 3 within the Fitness to Practise Department with the adjudication activity required, supported by the Adjudication Team. The resource forecasting for 2012-13 already incorporates the expected transfer of open character cases from the General Social Care Council.
- 4.3 No extra costs are anticipated to run the Assessment Panels referenced by the scheme as this activity would be undertaken by the Investigating Committee Panels that are convened to determine whether there is a case to answer in relation to a fitness to practice allegation and the Registration Panels that consider whether a character issue means that a person should not be admitted, readmitted or renewed to the registration. Any registration appeals that arise out of the prohibited scheme would be undertaken by the pre-existing registration appeals panels.
- 4.4 Other work required to support the delivery of this scheme include the development of the criteria referenced by the team and operating guidance for the Department. The development of operating guidance was planned for with regard to how open student cases would be dealt with so the work required is an extension of this.
- 4.5 The Department will also collaborate with the Education Department on the implementation of the scheme and the development of communication material to providers. On-going collaboration with that department will be required for the life-span of that scheme and it is anticipated this will be similar to the work the two departments have done on education complaints that have a fitness to practise component.

5. Education Department

- 5.1 If the scheme were to be agreed by Council, the Education Department would take the lead on communicating the implementation and requirements of the scheme to social work education providers. The Department will work collaboratively with the Fitness to Practise Department to develop communication materials. It is anticipated that scheduled mailings, newsletters and seminars can be used to publicise the scheme to social work education providers initially. The Department will monitor the response and if necessary, adapt the focus of the seminars scheduled for autumn 2012 to provide follow up communication and advice. The Education Department will

also work with the Communications Department around the information and explanation given to employers (including practice placement providers), registrants (including practice placement educators), students and social work stakeholders.

- 5.2 The Education Department will continue to collaborate with the Fitness to Practise Department throughout the life-span of the scheme. The Education Department will share their experiences of terminology and timelines commonly used in higher education around admissions and internal fitness to practice processes with colleagues in Fitness to Practise. The two departments will liaise over links between the scheme and the programme approval process, to ensure approval visits are prioritised accordingly and outcomes of the approval process feed into the scheme.

6. Communications Department

- 6.1 Communicating the Council's decision to key stakeholders will be an important element of the scheme and project. The Communications Department will be responsible for communicating the Council's decision to social work stakeholders including employers, registrants and students. The Department will provide support, where relevant, to the Education Department who will be responsible for communicating the Council's decision to education providers. The Department will also work closely with relevant HPC departments to ensure information is consistent and clear.
- 6.2 It is anticipated that existing communication channels can be used to communicate information to social work stakeholders. There will be two phases. In the initial phase (June) the HPC will communicate the Council's decision and signpost to further information on the HPC's website (for example, Council papers, FAQs). This will be managed through a statement which will be issued to relevant professional media contacts as well as social media channels. Key stakeholders and employer organisations will be contacted with information which will include a link to the statement. The statement and supporting FAQs will be communicated to employees through a post and news items on the intranet.
- 6.3 In the second phase (July and August), the Department will communicate how the scheme will work and how this impacts on registrants, employers and students. For example, what the scheme is, where the list can be found, how regularly it is updated, what the decision making process is, what the appeals process is. To do this, detailed web pages will be created with information explaining the scheme. For employers, the HPC will write with details of the scheme and signpost to the website with more information. For students, the HPC will write with information about the scheme and include copies of the guidance on conduct, performance and ethics for students.

6.4 In both phases the Department will monitor media and parliamentary activity and respond as appropriate. Relevant information about the scheme will also be included in HPC In Focus.