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## Standards of Conduct Performance and Ethics Review

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### Executive Summary

The HCPC's standards of conduct, performance and ethics (SCPE) are integral to ensuring high quality professional practice in the 15 professions we regulate. The SCPE were last reviewed in 2016 and require ongoing periodic review to ensure continued relevancy to the practice of our professions. The Executive has commenced a review of the SCPEs and this paper sets out the proposed review approach for the Council's agreement.

The purpose of this review is three-fold:

1. To make any necessary updates to the current SCPE that reflect changes to practice.
2. To ensure that the current SCPE are fit for practice, particularly taking accessibility and relevance into account.
3. To gain insight into how we can better communicate the SCPE and promote them to ensure they are fully understood by registrants.

As well as the SCPE themselves, we will review the guidance and online materials that support the SCPE – including on social media, safeguarding and duty of candour. The two reviews will run separately with distinct consultations.

Throughout the review, engagement activities will continue to ensure that key external and internal stakeholders have had an opportunity to contribute to the review. These include presentations at our external EDI Forum, Professional Bodies Forum, series of dedicated workshops for different stakeholder groups and surveys. Engagement activities to date are set out in the paper.

While the paper sets out the preliminary proposals for potential changes to the SCPE, these proposals are based on stakeholder engagement, analysis and feedback to date and it is expected that this will continue to develop as further stakeholder engagement is carried out.

### Recommendations of the Education and Training Committee

The Education and Training Committee (ETC) have reviewed and recommended to Council the proposed review approach, timeline and areas to explore in the consultation.

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#### Previous consideration

The approach to the review of the SCPE was discussed with ETC in September 2022. ETC recommended that the Council agree the proposed approach.

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	ETC members raised concerns about the delivery timeframe of the consultation and overlap with other projects. The Executive's proposed mitigation of this has been outlined in the paper.
Decision	Council are asked to agree the approach to the SCPE review and provide any further feedback on the consultation approach.
Next steps	Following Council agreement, the Executive will continue analysis of pre-consultation stakeholder engagement and develop further our proposals for consultation. A draft consultation document will be presented for agreement at Council's meeting on 20 October 2022.
Strategic priority	<p>Strategic priority 2: enable our professions to meet our standards so they can adapt to changes in health and care practice delivery, preventing harm to service users.</p> <p>Strategic priority 4: we regulate, take and communicate decisions which are informed by a deep understanding of the environment within which our registrants, employers and education providers operate.</p> <p>Strategic priority 5: Employees feel valued and supported, and fully able to contribute. The organisation is resilient and able to quickly adapt to changes in the external environment</p> <p>Strategic priority 6: The public, registrants, students and employers understand the value and importance of regulated health and care professionals</p>
Financial and resource implications	This work is being carried out by the Policy team within existing resources and does not require further resource or financial commitment.
EDI impact	<p>The SCPE will impact HCPC processes and our stakeholders. Included in the planned activity is the completion of a detailed EIA and continuous consideration of the possible impact of any proposed changes to any person with protected characteristics. Any changes to the SCPE will ensure that:</p> <ul style="list-style-type: none"> <li>the SCPE are accessible and easy to understand to all registrants and interested parties, including those with protected characteristics;</li> <li>people with protected characteristics are treated fairly and are supported if they experience discrimination in the workplace;</li> <li>all registrants are treated fairly and are supported throughout any Fitness to Practice procedures;</li> </ul>

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- all registrants understand how to treat their service users, carers, the public and other registrants fairly and without subjecting them to discrimination

The SCPE and guidance review presents an opportunity to promote EDI in line with the ambitions of our EDI Strategy.

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# Standards of Conduct Performance and Ethics Review

## Introduction

1. The Standards of conduct, performance and ethics are essential Standards that form part of our regulatory framework and set out the standards our registrants must meet. They are important to all our stakeholders, from registrants and service users to education providers and trade unions. They are also essential to the functionality of HCPC as a regulator.
2. The Standards are important because they:
  - set out, in general terms, how we expect our registrants to behave.
  - outline what the public should expect from their health and care professional.
  - help us to make decisions about the character of professionals who apply to our Register.
  - are used if someone raises a concern about a registrant's practice.
  - when things go wrong, they help us to decide whether it is necessary to act.
3. A regular review of the Standards is essential so that we can ensure that they are relevant to current practice, that they meet our regulatory goals, including the ambitions of our Corporate Strategy and EDI Strategy, and that they are clearly understood by those who use them.
4. This paper sets out our proposed approach to the review, the activities that are planned throughout and the preliminary proposals that will be included in the consultation document.

## Timeline of delivery

5. Pre-consultation including stakeholder engagement activities and desk research have begun and the draft consultation document is due for Council approval in October 2022.
6. Our proposed timeline for the Standards and guidance review is below:

24 October 2022	Standards consultation launch
26 December 2022	Christmas period begins
2 January 2023	Christmas period ends
27 January 2023	Standards consultation end
30 January 2023	Guidance consultation launch

February 2023	ELT review of consultation analysis
March 2023	Standards to ETC
March 2023	Standards to Council
10 April 2023	Guidance consultation ends
June 2023	Guidance to ETC
June 2023	Guidance to Council
September 2023	Final sign off from Council
September 2023	Publish guidance and Standards
September 2024	Standards in force

7. The Standards publication date allows for a year-long implementation period for education providers and the Fitness to Practise Department. The implementation period is necessary to facilitate sufficient understanding and application of the new Standards.
8. During the standards consultation period, we plan to launch a review of the guidance that accompanies the Standards of conduct, performance and ethics. We will hold workshops with stakeholders to discuss the guidance on safeguarding, duty of candour and social media.
9. To mitigate stakeholder fatigue, careful planning is taking place to ensure that to the greatest extent possible, engagement on the Standards does not overlap with other projects. Furthermore, engagement is a continuous activity throughout the review to ensure that stakeholders see progression.
10. The rationale for the timeline above is based on the following factors:
  - In our legislation, we have a commitment to regularly review the Standards, approximately every five years. The last review took place in 2016. While Covid caused an extension to the consultation period for our Standards of Proficiency which has impacted this work, we should now seek to prioritise this review to meet this commitment as soon as we are able
  - Our stakeholder engagement has indicated that external stakeholders welcome the Standards review and are keen to engage with the HCPC on this topic. We have committed to regularly review the Standards in our engagement with stakeholders (via the HCPC website, workshops and in regular engagement activities). Carrying out our Standards review maintains our engagement and commitments to registrants, education providers, the public and other stakeholders who rely on them.

- The timeline set out ensures that the Standards come into force in 2024, following the necessary governance and legal procedures. It also allows sufficient time for the guidance review to take place.

## External stakeholder engagement

11. Continued stakeholder engagement will be essential throughout the Standards review period. There will be three separate stages: pre-consultation; consultation; post-consultation and implementation. Each of these periods have a distinct purpose and will require distinct messaging and types of engagement.
12. The external stakeholder groups we are targeting with our engagement include:
  - Professional bodies
  - Education Providers
  - Trade Unions
  - NHS Employers
  - EDI Forum
  - Service users and Patient Interest Groups
13. Pre-consultation engagement activities so far include:
  - Presentation to professional bodies quarterly meeting in June 2022: this outlined the approach for the review and asked professional bodies for any early views. Responses were positive and encouraging around the review taking place and they were eager for further engagement.
  - A workshop discussion at the EDI Forum in July 2022: the approach to the review was discussed with attendees and through polling and breakout groups they were encouraged to give their views of the current Standards. Engagement was positive and provided valuable data for inclusion in our analysis of the Standards.
  - Pre-consultation workshops with each stakeholder group took place from 1 September 2022 until 7 September 2022. These workshops supported understanding of the Standards and promoted quality engagement with proposed areas of change. They were held online and attended by 109 people across a range of stakeholder groups.
  - A pre-consultation online survey for external stakeholders ran from 12 August 2022 until 9 September 2022 and received 146 responses. It gathered information regarding stakeholder understanding of the Standards and provided an opportunity for them to raise any concerns.
14. During the consultation period, engagement will be focused on drawing attention to the consultation document and beginning to engage with stakeholders on the guidance and online materials review. Modelled on the

Standards pre-consultation phase, engagement will include workshops and a survey.

15. Following public consultation, it will be important to highlight our findings to stakeholders and provide analysis of the responses. During this phase, engagement will shift to post-consultation workshops to discuss the results with stakeholders and further inform the drafting of our new Standards.
16. The Standards post-consultation and implementation periods will occur in parallel with the consultation about online materials and guidance. There will be engagement across social media and throughout the Standards workshops to point stakeholders towards this consultation as a next step. We anticipate that these activities happening in parallel will ensure a high quality of engagement from our external stakeholders.

## Analysis

### *Consultation themes*

17. Based on early work and stakeholder engagement so far, we do not expect a major overhaul of the Standards. However, we expect to see change in the following areas:
  - a. Challenge discrimination (Standard 1.5 and 1.6)
    - i. In line with changes to the Standards of Proficiency, we expect to make the language within the Standards relating to discrimination more active. This will include ensuring that it is clear what registrants are being asked to do when challenging discrimination.
  - b. Maintain appropriate boundaries (Standard 1.7)
    - i. Following analysis of stakeholder engagement, we expect to make the language relating to maintaining a professional relationship clearer.
  - c. Social media and networking sites (Standard 2.7)
    - i. We expect to make changes that will account for the increased variety of social media applications and websites. Changes will also need to ensure that registrant responsibilities during both personal and professional use of social media is made clear.
  - d. Keep within your scope of practice (Standard 3.1 and 3.2)
    - i. Changes will reflect the changing nature of health and care work and more closely relate to registrant practice: including the use of technology and training requirements.
  - e. Openness with service users and carers (Standard 8.1)

- i. We expect to make changes that ensure registrants understand what actions to take when things go wrong.
18. Many of these areas align to recent [updates to our Standards of Proficiency](#).
19. We also expect to see the following themes remain prominent throughout the review:
  1. The precision of language contained in the Standards
  2. The impact of the Standards on the wellbeing of registrants
  3. The structure of the current Standards

#### *Survey and workshop outcomes*

20. Our primary respondents to the online survey (12 August 2022 – 9 September 2022) were registrants (67%) however there was also engagement from across our stakeholder groups, including education providers (17%), service users (7%), and students (6%).
21. Responses were positive about the accessibility of the Standards and their relevance; however, a significant number of registrant responses said that there are aspects of their practice that they think ought to be covered by the Standards but are not.
22. The above themes (para 25) are prevalent throughout the responses as well as:
  1. Registrant well-being and mental health
  2. Appropriate conduct between registrants/colleagues for example, support for those experiencing bullying or discrimination
  3. Guidance and support for whistle-blowers
  4. Tackling misinformation on social media
23. Most survey respondents found the Standards were relevant to their day-to-day practice. However, support in understanding how to apply the Standards in practice was a common concern in the survey responses and throughout the external stakeholder workshops.
24. The external stakeholder workshops raised similar themes to the survey. Participants were particularly interested to see additional materials that accompany the Standards including an explanatory or annotated version of the Standards document.
25. The simple language within the Standards was a common discussion. Whilst the simplicity of language was appreciated to account for the variety of professions that they apply to, participants were concerned that some words lacked nuance and were culturally laden for example, 'polite' and 'professional'.

26. Social media was a common theme especially in relation to the growing variety of social networking applications including WhatsApp and LinkedIn and the impact that could have on privacy and confidentiality.
27. How registrants apply equality, diversity and inclusion commitments set out in the Standards was another common concern. Workshop participants across the stakeholder groups noted that the Standards were not specific enough about the appropriate ways to challenge discrimination. Furthermore, they noted the lack of a reference to supporting those experiencing discrimination.
28. There was also a shared desire to see the Standards align more closely with the Standards of Proficiency as well as with the Standards of other regulators.

### *Sustainability*

29. The Health and Care Act 2022 sets out new government commitments towards considering climate change when making decisions in health and care. Under the Act, the NHS is required to be compliant with the Climate Change Act 2008 and the Environment Act 2021. This significantly extends the government's responsibility towards ensuring sustainability in health and care practice.
30. There is potential for the HCPC to follow suit and expand these Standards to include an expectation from registrants to practise in a sustainable way. This follows discussions and a request from the NHS Chief Sustainability Officer.
31. Other regulators have yet to include an expectation of sustainability within their Standards, however it is likely that they will be asked to do so in the future. Including sustainability within our review is therefore an opportunity to lead in this area.
32. Unlike in other areas of the health and care sector, there have been no amendments relating to sustainability made to the legislation that underpins HCPC Rules – the Health Professions Order 2001. It is therefore important to exercise caution throughout the review and drafting of any new Standards to ensure that we do not overextend our remit.
33. Further caution is necessary to ensure that the Standards relate to the practice of registrants, promote public safety and that a Standard on sustainability would not go beyond what is within scope of practice for all registrants.
34. To note, the following Standards have the potential to align with sustainability but are not currently directly related to this area:
  1. You must share relevant information, where appropriate, with colleagues involved in the care, treatment or other services provided to a service user. (Standard 2.6)

For example, registrants would ensure that they share information with colleagues that may impact the sustainability of their practice.

2. You must keep up to date with and follow the law, our guidance and other requirements relevant to your practice. (Standard 3.4)

For example, registrants would ensure they understand any updates to the law, our guidance and other requirements regarding maintaining sustainability in a health and care setting.

35. Exploring sustainability within the Standards relates to HCPC's strategic objective 5.
36. Following ETC's agreement that these Standards are the appropriate vehicle for exploring sustainability, we intend to discuss this theme in workshops with external stakeholders during the consultation period, including asking their views on what sustainability means to them and their practice. We welcome Council's view on this matter.

## Consultation

37. We are in the process of drafting the consultation document. This will include a draft of the new Standards based on the analysis of surveys and stakeholder engagement that we have carried out.
38. Consultation questions will be developed however, they are likely to include and/or build on the following areas:
  1. Do the Standards make it clear what the appropriate boundaries are between a registrant and service users or carers?
  2. Do the Standards support registrants in maintaining their own well-being?
  3. Do the Standards ensure that registrants maintain a practice that promotes equal, fair, and inclusive treatment?
  4. Are the Standards clear about what registrants must do when things go wrong?
  5. Is the language used in the Standards accessible and clear?
  6. Does the structure of the Standards promote understanding and digestibility?
  7. Are the Standards clear about the appropriate use of social media and how this relates to registrant practice?
  8. Should maintaining sustainability in health and care practice be a part of these Standards?
    - i. If so, what ought to be included in the Standard?
  9. Do you consider there are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one

or more of the following protected characteristics – age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation – as defined by the Equality Act 2010?

10. Do you have additional comments about the Standards of conduct performance and ethics?
  
39. To note, rather than drafting a new Standard relating to sustainability for the consultation document, we propose to include a question exploring the responsibility of health and care professionals to maintain sustainability. As this is potentially a new area and there are several balancing factors to consider (para. 29-30), it will be important that we develop our thinking in this area in a series of stages. We will consider responses to the consultation to assist us in determining the most appropriate future approach.