

## 11 November 2021

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### Policy and Standards Update

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#### Executive Summary

This paper provides an update on the progress of key Policy and Standards work for 2021/22 and a timetable for completion of current key projects. It also provides a forward look to 2022/23.

Despite resourcing challenges in the Policy function this year, the team has been able to progress some significant areas of work, not least the development of an approach to advanced practice, the review of x15 Standards of Proficiencies, significant developments in our equality, diversity and inclusion work and the production of high-quality online materials for registrants. We have also been able to manage our work on regulatory reform and European policy, increasing our engagements and collaboration with government departments and other regulators.

Looking forward, our priorities include:

- Standards development – completing the review of the Standards of Proficiency and commencing the review of Standards of Conduct, Performance and Ethics and Standards for Education and Training.
- Advanced practice – planning the next steps in this project that will enable us to take a leading role in the development of a definition for advanced practice.
- Regulatory reform – continue to engage with and influence key stakeholders on proposals for regulatory reform and draft legislation.
- Continuing professional development – commence a review of our approach to continuing professional development.

Further details of our progress to date, and future plans are provided in Annex A.

Resourcing challenges within the team have significantly improved with the following appointments now made:

- Emma Leary joined HCPC on 1 November 2021 as Head of Policy, Standards and Strategic Relationships
- Adrian Barrowdale joined HCPC on 4 October 2021 as EDI Strategic Lead
- Matthew Clayton is acting Policy Manager from 1 November 2021 to cover this post until Olivia Bird returns from her secondment on 1 April 2022
- Recruitment for Policy Co-ordinator has commenced.

ETC is asked to:

- note progress made so far this year and the timeline for completion of key projects.
  - consider the priorities identified for 2022/23 (paragraph 63 of Annex A) and identify any areas of work not captured that should be considered as a priority.
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|-------------------------------------|---|
| Previous consideration              | N/a   |
| Decision                            | <p>ETC is asked to:</p> <ul style="list-style-type: none"> <li>• note the progress made so far this year and the timeline for completion of key projects.</li> <li>• consider the priorities identified for 2022/23 (paragraph 63 of Annex A) and identify any areas of work not captured that should be considered as a priority.</li> </ul> |
| Next steps                          | Next steps and timetable for progressing these are set out in Annex A   |
| Strategic priority                  | <p>Strategic priority 2: promote high quality practice<br/> Strategic priority 3: develop insight and exert influence<br/> Strategic priority 4: be visible, engaged and informed</p>   |
| Financial and resource implications | <p>The financial and resource requirements for completion of work in 2021/22 are accounted for in existing budgets.</p> <p>Budget and workplans for 2022/23 are being developed and ETC consideration of the priorities for our future Policy and Standards work will inform their development</p>  |
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## Annex A – an update on our 2021/22 policy, standards and EDI work

### Standards of Proficiency Review

1. We are currently reviewing the Standards of Proficiency for all 15 professions.
2. In October 2020, consultation on the draft standards closed. We received 299 responses: 221 (73.91%) from individuals and 78 (26.09%) from organisations. We have completed our analysis of these responses and prepared our draft consultation analysis report.
3. Some consultation responses contained very detailed feedback on the profession specific standards. These led to further engagements with key stakeholders for 12 professions, to work through the feedback and reach a consensus on the drafting of different profession specific standards. These engagements have been very helpful and we are on track to complete these in November 2021. We remain in discussion with professional bodies and other stakeholders for the standards for radiographers. The remaining 14 professions either require minimal further engagement or have been concluded.
4. We are on track to conclude the review of the Standards of Proficiency by March 2022, which will require:

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|--|-----------------|
| Completion of stakeholder engagement               | November 2021   |
| Final drafting of standards, preamble and glossary | December 2021   |
| Development of communications plan                 | December 2021   |
| Development of the implementation plan             | December 2021   |
| Legal review of standards                          | January 2022    |
| Education and Training Committee workshop          | January 2022    |
| Governance approval                                | March 2022      |
| Publication  | from April 2022 |
| Delivery of communication and implementation plans | from April 2022 |

### Regulatory Reform

5. In 2019, the government outlined its planned programme of work to provide all UK healthcare regulators with broadly consistent powers. In June 2021, we responded to the Department of Health and Social Care (DHSC)'s consultation on detailed policy proposals to modernise each of the healthcare professional regulators' legislative frameworks.
6. Building on these proposals, DHSC has begun the process of drafting legislation for the General Medical Council (GMC), which will form the blueprint for future updates to our legislation. We have, so far, reviewed and provided feedback to the DHSC on education, registration and governance drafting.
7. In addition to seeking external legal advice on the current drafting, we have convened an internal working group of representatives from across the organisation to review the drafts and inform our feedback to DHSC. We are regularly engaging with other regulators to discuss our positions and will shortly be invited to review the fitness to practise drafting.

8. Whilst we have made numerous comments on the drafting, the DHSC has been very responsive to our feedback and we are confident that they will be able to respond positively to our feedback. We anticipate that this process will continue for a number of months and will then be followed by a public consultation on the GMC's legislation in early 2022.
9. In addition, we have also contributed to the review of healthcare professional regulators which is being carried out by KPMG on behalf of DHSC. Our response to this sets out our vision for the future of healthcare regulation, with particular focus on increased collaboration.
10. We will continue to engage with further consultations related to regulatory reform and the development of legislation.

## **European Policy**

### *Professional Qualifications Bill*

11. The Professional Qualifications Bill (PQB) was introduced to Parliament in May 2021. The purpose of the PQB is to ensure skilled professionals from around the world will have their qualifications recognised in the UK. This presents a risk to our current autonomy to determine that those applying for registration from overseas have the required knowledge, skills and experience to meet the relevant Standards of Proficiency.
12. We, therefore, continue to closely monitor and influence the development of this Bill. We have attended a number of meetings with representatives of the Department for Business, Energy and Industry Strategy (BEIS) and the DHSC to discuss our concerns about proposed provisions within the PQB.
13. We have had positive engagement to date with BEIS and, in particular, have raised with them the importance of a statutory duty to consult affected regulators before any agreements are made which could affect them. Current wording of the PQB empowers the Secretary of State to make broad regulations relating to the recognition of overseas professional qualifications.
14. We have been clear that we have existing pathways for international registrants to enter the UK workforce and that our existing registration powers, and those we anticipate will be in place following regulatory reform, are sufficient to ensure international applicants meet our standards, and thus allow us to meet our duty to protect the public.
15. The PQB will enter report stage in the House of Lords on 9 November. We are waiting to see how amendments will be used to address the concerns we have raised. We will continue to monitor developments in the House of Lords and remain on the Regulated Professions Advisory Forum which meets regularly with BEIS to discuss these issues.

### *Ireland cross-border*

16. Brexit brought an end to Temporary and Occasional Registration for health professionals working between the UK and EU. This change has particularly impacted those healthcare professionals that work between Northern Ireland and Ireland.
17. The pandemic has seen unprecedented collaboration between the health and care systems of Northern Ireland and Ireland and particularly seen a blurring of

the jurisdiction for the provision of emergency care. As we move out the pandemic, it is important that we ensure that any continued cross-border working is delivered legally and in line with any regulatory requirements.

18. We are therefore engaging with the College of Paramedics and the Northern Ireland Ambulance Service to fully understand the current position and how this will develop as pandemic pressures ease.

### **Return to Practice Review**

19. The Health Professions Order 2001 provides for Council to specify requirements for additional education, training or experience when a person has not practised for a prescribed period of time, or whose registration has lapsed and they wish to be readmitted to the Register. These requirements and the process used to assess compliance with them are known as return to practice.
20. In 2019, we carried out and published a literature review that explored the risk associated with return to practice and the approaches that could support those returning to safe and effective practice. Following this research, we commenced a review of our return to practice process.
21. In March 2021, we held two workshops with over 40 attendees to explore our initial proposals for change and obtain feedback on the current requirements and process. Workshop attendees included professional bodies, professional regulators, unions, education organisations and the Chief Allied Health Professions Officer for England.
22. Our policy has been that if a person has been out of practice for more than two years and are no longer registered but would like to re-register, then additional education, training and experience are required. It is the 'out of practice' time that triggers the additional requirement, rather than lapse in registration. The term 'has not practised' is not defined in legislation. In our current return to practise guidance we define 'practising your profession' as drawing on your professional skills and knowledge in the course of your work. We have been exploring these points, in light of the findings of the literature review and workshops, to determine whether the trigger for the additional requirements should remain the same or be changed.
23. We have also been exploring whether the establishment of standards and the assessment of the additional education, training and experience should change.
24. We should be in a position to be able to reach conclusions on this point and make recommendations by end of November 2021. Once confirmed, we will be able to present a proposed revised process and accompanying guidance to Council in the new year, ahead of public consultation.

### **Advanced Practice**

25. We commenced a wide-ranging review of advanced practice in May 2020 and reported our findings to Council in July 2021.
26. The review included mixed methods and targeted research, with input from over 4,000 stakeholders across the UK. It found that although, at this stage,

there was not sufficient evidence for a new regulatory framework for advanced practice, a clearer, shared definition of advanced practice would be beneficial.

27. In July, Council agreed that HCPC should take a leading role in developing such a definition and guiding principles and keep our position under active review, with a hard review planned in for 2026. Following this decision, we are now beginning to scope out and plan for the next stages, which we intend to share with Council in March 2022. We have not been able to progress this work as quickly as we would like, due to the immediate need to respond to regulatory reform work. However, when the current workload associated with responding to DHSC drafting is completed over the coming weeks, we will, once again, be able to prioritise this work.

### **Cosmetic Practice Review**

28. The regulatory framework for cosmetic or aesthetic practice is complex and structured around people, places and products. The Department of Health's review of the regulation of cosmetic interventions identified that many cosmetic interventions are either subject to voluntary assurance measures, or not regulated at all. We know that some of our registrants undertake cosmetic or aesthetic interventions.
29. We have, therefore, recently commenced a review to identify the regulatory challenges and risks of cosmetic practice and aesthetic practitioners. The outcome of this will inform any policy position that we should take to manage the risk and ensure public protection.
30. We aim to have completed our initial desk-based research and set out a plan and approach for Council to consider in March 2022. This will be developed to inform engagement with relevant stakeholders during 2022.

### **New Safeguarding Policy**

31. In August we published a new [Safeguarding Policy](#), which sets out our safeguarding responsibilities and the processes for staff to deal with and escalate safeguarding concerns. This Policy has been promoted to existing staff and will be included in induction packs for new starters, to ensure that they are aware of their safeguarding obligations and what to do when any concerns arise.

### **Updates to our Standards for Education and Training (SET)**

#### *SET 1 for ODPs*

32. In July 2021 Council approved an increase in SET 1 for Operating Department Practitioners (ODP) to degree level. This change will take effect on 1 September 2024 and Policy and Education colleagues continue to work closely with ODP stakeholders to ensure a smooth implementation of this change across the UK.

#### *SET 1 for Paramedics*

33. Following an implementation period, SET 1 for paramedics was raised to degree level on 1 September 2021.

#### *Repackage the SETs*

34. As part of the new Education quality assurance (QA) model, the SETs for all 15 professions have been repackaged to align them to the new approach. These are now presented so that the SETs for programmes are distinguished from those for institutions. This has been critical to allow us to effectively implement our new, risk-based, Education QA model.

## **Responses to external consultations**

### *Health Education England: Framework 15*

35. Healthcare Education England (HEE) held a consultation in August 2021 to inform their workforce planning for the next 15 years – ‘[Framework 15](#)’. They sought views on how health and social care workers may be affected by a number of different factors, or ‘drivers for change’. These included: demographics and disease; public, people who need care and support, patient and carer expectations; socio-economic and environmental factors; staff and student/trainee expectations; science, digital, data and technology (including genomics); and service models and pandemic recovery.
36. In our [response](#), we highlight some challenges identified from our recent registrant [diversity data survey](#) and identified how our strategic aims support data and research-driven regulation.

### *Department of Health, Northern Ireland: Duty of candour*

37. From May to August this year, the Northern Ireland administration consulted on a statutory duty of candour for organisations as well as for individual health and care professionals (unlike plans in England, Scotland and Wales which only create an organisational duty). Our consultation [response](#) sets out that candour is an essential element of service user safety and acknowledges the tragic circumstances which led to this proposal. It also explains our view, shared by other regulators, that this proposal would be unlikely to offer greater protection to service users and that punitive measures could intensify blame cultures and further reduce candour. Our response also sets out our own standards requiring openness and honesty (eg Conduct, Performance and Ethics Standards 8 & 9)

### *Assisted dying in Jersey*

38. As Jersey [discusses](#) the introduction of assisted dying, we were asked to comment on guidance note for the Jersey States Assembly. The note commented on the impact of health regulators applying standards based on UK law in the event Jersey legalises assisted dying.
39. If assisted dying does become law in Jersey, we would expect our registrants in Jersey to comply with that law and any related guidance. It is unlikely that our Standards would be at odds with the safeguards that are likely to operate around assisted dying, but we will review that if this becomes law as well as our Threshold Policy and Health and Character Guidance.
40. We will continue to engage with and monitor the progression of this law and what it may mean for our registrants.

### *Consultation on making vaccines a condition of deployment in the health and wider social care sector*

41. We responded to the DHSC's [consultation](#) into introducing mandatory COVID-19 and flu vaccines for frontline health and social care workers in England. This consultation was separate from a consultation previously undertaken by the DHSC regarding making the COVID-19 vaccine compulsory for those working in adult care homes.
42. Our [response](#) makes clear that we view vaccination as an important part of meeting our standards. In addition, we have consistently encouraged registrants to be vaccinated as one of the best ways to mitigate risk and protect service users from COVID-19.
43. While supportive of wide uptake of the COVID-19 vaccine, we did not support the proposal to make these vaccines mandatory. Given the very high levels of vaccine uptake by health and care professionals, we believe a targeted and less punitive approach will be more effective in reaching these groups. Our response also sets out the proposal's potential negative equality impacts on particular groups as well as unintended negative impacts on the health and care workforce.

## **Web content**

### *Reflective practice*

44. Our new [materials](#) on reflective practice were launched in March 2021 and have proved very popular with over 48,000 unique page views, as well as positive sharing and comments on social media.
45. We will continue to publicise the pages via social media channels to increase awareness. They are also being used by our Professional Liaison colleagues at registrant, student and employer workshops.

### *Supervision*

46. In 2019 we published research on the key characteristics of effective peer and clinical supervision, which highlighted many important benefits that supervision can have for professionals, patients and wider service provision.
47. Building on this research, in September 2021 we launched new [online supervision materials](#). These will help registrants understand the benefits and value of supervision for their practice, and also understand which factors to consider in order to approach their supervision most effectively.
48. Feedback to date has been overwhelmingly positive. Just two weeks after publication the materials received over 100 're-tweets', with one stakeholder commenting that the resources are '*essential for supporting the workforce in delivering safe and effective practice*'.
49. We will continue to publicise the pages via social media channels to increase awareness. They are also being used by our Professional Liaison colleagues at registrant, student and employer workshops.
50. The new feedback function on our website will also enable us to continuously reflect on and improve these resources in a responsive and timely way.

### *Guidance on Health and Character*

51. Following approval by Council in July 2021, we launched our updated [Guidance on Health and Character](#). This includes more emphasis on mental health and provides clear case studies to support registrants who need to make decision about whether to notify us about their health. These pages make it easy for registrants to find answers to their questions and includes simple visual explanations of complicated processes. Since the pages were launched they have had over 3700 unique page views.
52. This content is also used by our Professional Liaison colleagues at registrant and employer workshops.

#### *Statement of suicidal ideation*

53. The Association of Ambulance Chief Executives (AACE) contacted us to discuss concerns relating to registrants experiencing suicidal ideation. We developed a statement in response to concerns that paramedics (in particular) were not seeking help for suicidal ideation for fear this would result in a fitness to practise referral.
54. Our [statement](#) clarifies our position and provides a case study explaining how a registrant experiencing suicidal ideation can continue to meet their HCPC standards. This has been shared with AACE and cascaded to Ambulance services across the UK.

#### *Duty of Candour*

55. In 2019, the Professional Standards Authority published a [report](#) on the progress professional regulators had made in embedding the professional duty of candour (being open and honest to a patient when something has gone wrong in their care). It identified that:
  - Regulators had made progress with initiatives to encourage candour, however, measuring the success of these was difficult
  - Many of the barriers to professionals being candid that had been identified in 2014 remained (this includes toxic work/blame cultures, fear of litigation and lack of time)
  - Regulators could create more case studies of candour scenarios to better explain to professions when to be candid and the regulatory consequences of not being candid
  - Successfully embedding candour requires organisations across healthcare to work together
56. In response, the Policy and Standards and Professional Liaison teams have been developing new web content on the duty of candour. This includes a series of recorded webinars with guest speakers, where we explain what the duty of candour is and provide positive examples of what it looks like in practice. We expect to publish these resources in December 2021.

#### **Equality, diversity and Inclusion (EDI)**

57. In March 2021, Council approved our first [EDI strategy](#), which identifies our strategic aims for the next five years.
58. In July 2021, Council approved the publication of our [Diversity Data Report 2021](#), which reported on the diversity data collected from our registrants between December 2020 and March 2021.

59. We have been developing the online registration system to provide for registrants to provide and manage their diversity information, when they register and renew their registration. This functionality is expected to go live in December 2021.
60. In October 2021, we updated our EDI website content, to bring this update-to-date, support the publication of the strategy and report and make it easier for people to navigate to key relevant documents.
61. We recruited to a new EDI Strategic Lead in October 2021, who will develop our next EDI action plan and have responsibility for ensuring delivery against the EDI strategy. We intend to bring our next action plan for Council approval in the New Year.

### *General updates*

62. Throughout the year we have updated existing web content, including development of information on:
  - the rollout of the COVID vaccination programme and registrants' responsibilities in relation to this
  - information on medical entitlements and prescribing rights
  - guidance on consent and confidentiality
  - remote working and provision of telehealth services to service users based in the EU.

### **Looking forward to 2022/23**

63. Our priorities for 2022/23 include:
  - Standards development – we will commence a review of the Standards of Conduct, Performance and Ethics, Podiatric Surgery Standards, Orthoptist Exemption Standards and our Standards of Education and Training.
  - Advanced Practice – before the end of this financial year, we will have planned the next steps in this project. During 2022, we will continue to take a leading role in developing a definition of and guiding principles for advanced practice.
  - Cosmetic practice – by the end of this financial year, we will have set out a plan and approach for us to consider the risks and regulatory implications of cosmetic practice. During 2022, through stakeholder engagement and research we will understand the risks, if any, presented by registrants practicing cosmetic practice and whether our current regulatory model is sufficient to mitigate any risks.
  - Regulatory reform – we will continue to engage with the Department of Health and Social Care, other regulators and key stakeholders on the proposals for regulatory reform and the draft legislation.
  - Continuing professional development (CPD) – we will commence a review of our approach to continuing profession development.
  - Equality, Diversity and Inclusion – rolling out delivery of our EDI Action Plan.