

Professional Liaison Group (PLG) - Review of the standards of conduct, performance and ethics, 19 September 2014

Fitness to practise survey on the standards of conduct, performance and ethics – Report of survey analysis

Executive summary and recommendations

### **Introduction**

The first phase of the review of the standards of conduct, performance and ethics comprised a number of external and internal research activities to gather views on the existing standards and possible revisions.

As part of this phase, the Executive carried out a survey of the HCPC Fitness to Practise (FTP) department between 4 November and 13 December 2013. The survey sought the input of key stakeholders to review the existing standards in the context of their use in FTP cases and hearings. It was primarily targeted at panel chairs and case teams, but was also circulated to other FTP department employees who had relevant experience of using the standards in practice.

This paper provides a summary of the survey responses received, including some overall statistics, as well as a summary of the general themes emerging from the responses. The conclusion points to the main findings and areas of possible interest identified within the survey for our review of the standards.

The findings from this survey have been considered by the Executive in the context of potential changes to the standards of conduct, performance and ethics.

### **Decision**

This paper is to note; no action is required.

### **Background information**

None

### **Resource implications**

None

### **Financial implications**

None

**Appendices**

None

**Date of paper**

9 September 2014

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## **Fitness to practise survey on the standards of conduct, performance and ethics**

**Analysis of responses to survey of fitness to practise panel chairs and  
employees about the standards of conduct performance and ethics**

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# 1. Introduction

## About the survey

- 1.1 We carried out our internal survey of the Fitness to Practise Department on our standards of conduct, performance and ethics (SCPE) between Monday 4 November 2013 and Friday 13 December 2013. This survey is an important component of the review of our SCPE and will form part of our initial research for this project.
- 1.2 The survey sought the input of key stakeholders to review our current standards in the context of their use in FTP cases and hearings. It was primarily targeted at panel chairs and case teams, but was also circulated to other members of the FTP department who had relevant experience of the standards in practice.
- 1.3 We would like to thank all those who took the time to respond to the survey.

## About this document

- 1.4 This document summarises the responses we received to our survey. It starts by explaining how we handled and analysed the responses we received; and provides some overall statistics from the responses. Section three provides a summary of the general themes evident from the responses we received, while section four is structured around the responses we received to specific questions in our survey. The conclusion points to our main findings and areas of possible interest identified within the survey for our review of the standards.

# 2. Analysing the responses

- 2.1 Now that the survey has ended, we have analysed all the responses we received from the FTP department.

## Method of recording and analysis

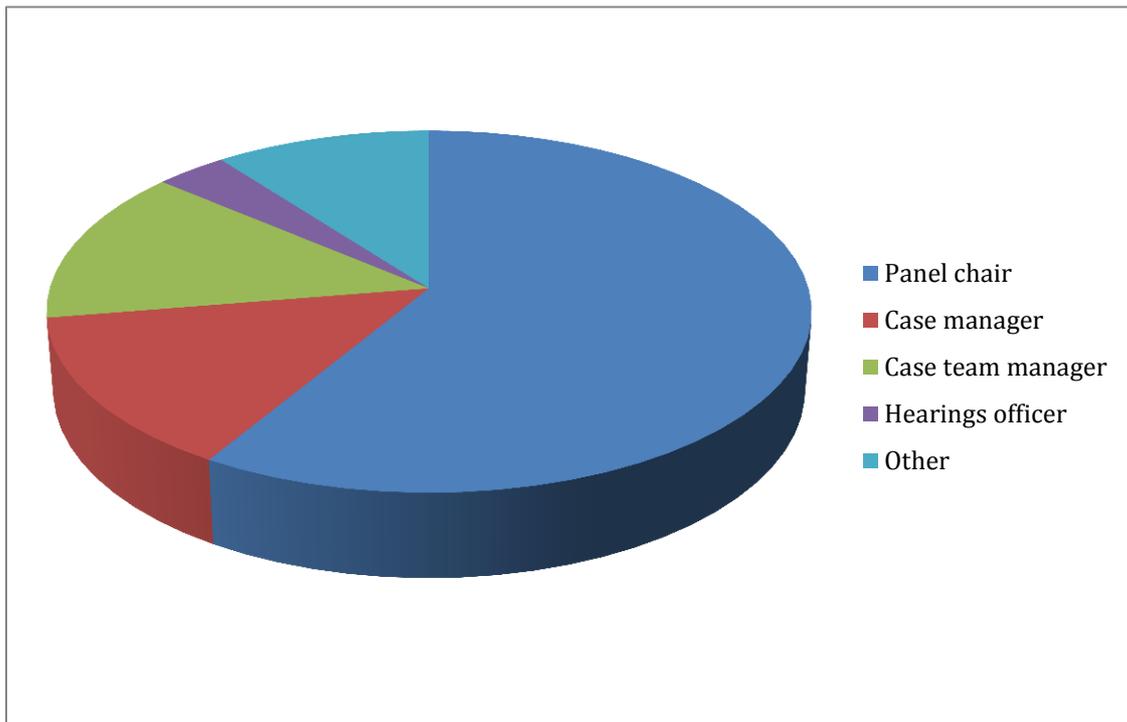
- 2.2 All our respondents used our online survey tool to respond to the survey. They self-selected whether they were a panel chair, case manager, case team manager, hearings officer or other, and, where answered, selected their response to each question (eg yes; no; partly; don't know).
- 2.3 When deciding what information to include in this document, we assessed the frequency of the comments made and identified themes. This document summarises the common themes across all responses, and indicates the frequency of arguments and comments made by respondents.

## Quantitative analysis

- 2.4 We received 29 responses to our internal survey of the FTP department on our standards. The following is the breakdown of responses by professional category:

- 17 responses were from panel chairs (59%);
- 4 responses were from case managers (14%);
- 4 responses were from case team managers (14%);
- 1 response was from a hearing officer (3%); and
- 3 responses were from respondents who classified themselves as other (10%).

**Graph 1 – Breakdown of responses by professional category:**



2.5 The table below provides some indicative statistics for the answers to the survey questions. Responses to question five, which asked for any other comments on the standards, are summarised in section four of this paper.

**Table 1 – Breakdown of responses to each question**

| <b>Questions</b>  | <b>Yes</b> | <b>No</b>   | <b>Partly</b> | <b>Don't know</b> |
|---|------------|-------------|---------------|-------------------|
| <b>Question 1: Are there any additional standards of conduct, performance and ethics which you think should apply to the registrants on our register?</b> | 6<br>(21%) | 17<br>(61%) | 2<br>(7%)     | 3<br>(11%)        |
| <b>Question 2: Are there any standards which you consider are not needed and should be removed?</b>   | 2<br>(7%)  | 23<br>(79%) | 4<br>(14%)    | 0<br>(0%)         |
| <b>Question 3: Are there any standards which you feel should be reworded in some way?</b>   | 6<br>(21%) | 18<br>(64%) | 3<br>(11%)    | 1<br>(4%)         |
| <b>Question 4: Do you feel that the structure and format of the standards could be revised in any way?</b>  | 5<br>(17%) | 22<br>(76%) | 1<br>(3%)     | 1<br>(3%)         |

**Table 2 – Breakdown of responses by professional type**

|            | Panel chair |             |            |            | Case manager |            |            |            | Case team manager |             |            |            | Hearings officer |             |        |             | Other      |             |            |            |
|------------|-------------|-------------|------------|------------|--------------|------------|------------|------------|-------------------|-------------|------------|------------|------------------|-------------|--------|-------------|------------|-------------|------------|------------|
|            | Yes         | No          | Partly     | Don't know | Yes          | No         | Partly     | Don't Know | Yes               | No          | Partly     | Don't know | Yes              | No          | Partly | Don't Know  | Yes        | No          | Partly     | Don't Know |
| Question 1 | 2<br>(13%)  | 13<br>(81%) | 1<br>(6%)  | 0          | 1<br>(25%)   | 1<br>(25%) | 0          | 2<br>(50%) | 2<br>(50%)        | 2<br>(50%)  | 0          | 0          | 0                | 0           | 0      | 1<br>(100%) | 1<br>(33%) | 1<br>(33%)  | 1<br>(33%) | 0          |
| Question 2 | 1<br>(6%)   | 14<br>(82%) | 2<br>(12%) | 0          | 0            | 3<br>(75%) | 1<br>(25%) | 0          | 0                 | 3<br>(75%)  | 1<br>(25%) | 0          | 0                | 1<br>(100%) | 0      | 0           | 1<br>(33%) | 2<br>(67%)  | 0          | 0          |
| Question 3 | 5<br>(31%)  | 9<br>(56%)  | 1<br>(6%)  | 1<br>(6%)  | 0            | 3<br>(75%) | 1<br>(25%) | 0          | 1<br>(25%)        | 2<br>(50%)  | 1<br>(25%) | 0          | 0                | 1<br>(100%) | 0      | 0           | 0          | 3<br>(100%) | 0          | 0          |
| Question 4 | 5<br>(29%)  | 12<br>(71%) | 0          | 0          | 0            | 2<br>(50%) | 1<br>(25%) | 1<br>(25%) | 0                 | 4<br>(100%) | 0          | 0          | 0                | 1<br>(100%) | 0      | 0           | 0          | 3<br>(100%) | 0          | 0          |

- Percentages in the tables above have been rounded to the nearest whole number and therefore may not add up to 100 per cent.
- Question 5 asked respondents to make any additional comments about their experience of using the standards of conduct, performance and ethics in fitness to practise hearings. This question did not require „yes“ or „no“ answers, and as such it has not been included in the above table but a summary to these responses can be found in section four of this document.

### **3. Summary of responses**

3.1 The following is a summary of the comments we received together with the main identified themes.

#### **Inclusion of additional standards**

3.2 21 per cent of respondents considered that additional standards should apply to the professionals on our Register. Respondents who supported this view sought additional standards in a number of areas.

- Additional guidance and/or reference to social media and networking.
- Extending a duty of candour to all our registrants.
- Strengthening the requirements for registrants to assist with investigations.
- An onus for registrants to charge a fair and reasonable amount for services provided.
- A specific requirement which outlines a registrant's responsibility to handle and deal with mistakes.

#### **Removal of standards**

3.3 Only seven per cent of respondents identified standards which they considered were no longer needed and/or should be removed. The standard which generated most comment here was standard eleven "You must deal fairly and safely with the risks of infection." This was not surprising as this standard is not directly applicable to all the professions we regulate, for example, social workers in England. One respondent provided a helpful suggestion for broadening the standard to make it more applicable to all our registrants: "you must provide a safe service".

#### **Structure of standards**

3.4 A number of respondents detailed various comments and suggestions for improving the structure and content of the standards. The various suggestions included:

- shortening and subdividing the standards to make them easier to read and more comprehensible;
- providing additional numbering;
- being consistent in format and style;
- adopting a more thematic approach and restructuring the standards under same; and
- continuing use of the Plain English (PE) Campaign to edit the standards for plain English.

#### **Amending the scope of individual standards**

3.5 A few registrants recommended widening the scope of some standards to strengthen the requirements and responsibilities of registrants. These included:

- introducing a specific requirement in standard four for registrants to be watchful of the conduct of others in order to strengthen the “whistleblower” requirements;
- extending the cooperation requirements for registrants beyond formal investigations and inquiries;
- strengthening the requirements for the disclosure of health related issues by registrants; and
- reaffirming the importance of the maintenance of professional boundaries.

### **Areas for providing further clarity**

- 3.6 Respondents specified the following areas where further clarity could be provided in the revised standards.
- The requirements for registrants to declare historic convictions and cautions under the revised Rehabilitation of Offenders Act (Exemptions) Order 1975.
  - Qualifying some standards to make them more relevant and pertinent to health and care professionals.
  - Providing more prescriptive detail on record keeping.
  - Strengthening the accountability requirements of registrants in managerial positions with regard to the delegation of duties.

## 4. Comments in response to specific questions

4.1 This section contains comments made in response to specific questions in the survey.

### 1) Are there any additional standards of conduct, performance and ethics which you think should apply to the registrants on our Register?

4.2 The vast majority of respondents (61 per cent) believed that no additional standards were required. This view was particularly strong amongst panel chairs with 81 per cent of those surveyed indicating that no additional standards were required.

4.3 The majority of respondents, who commented on this question, were satisfied with the existing standards and their content. The reasons for this included

- their comprehensiveness;
- the standards were sufficient, clearly written and easily applied in practice;
- the absence of negative comments from registrant panel members; and
- the fact that the majority of respondents did not suggest additional standards.

4.4 However, a number of respondents did suggest further standards. A few respondents commented that the revised standards should refer to the internet, social media and/or networking. There was a disparity of views on this point though. Two respondents stated that issues over the use of social media occur very regularly in FTP cases and that such cases are rising. One of these respondents commented that there is no particular guidance in relation to this issue from us. They acknowledged the difficulty in setting down detailed standards in our revised SCPE, but suggested that some general guidance might be useful. The second respondent commented that this issue could be tackled by changing the standard on confidentiality to include relevant information on the responsible use of internet and/or social media sites. These changes could include specifying ways that registrants could breach confidentiality including through use of social media.

4.5 Individual respondents raised a number of other issues which have been detailed below.

- The standards should refer to charging a fair and reasonable amount for the services provided by our registrants.
- The standards should include a specific requirement for registrants to assist with voluntary investigations, for example, where a colleague is being investigated, and referenced the Nursing and Midwifery Council's (NMC) code as a case in point.
- We should extend the duty of candour (contained in the Francis Report) beyond organisations to our own registrants and adopt these recommendations in full.
- The revised SCPE should include an explicit standard on how registrants behave if they make a mistake. One respondent suggested the following wording for a new standard: "If you make a mistake, acknowledge and report what you have done, and take steps as quickly as possible to put it right."

## **2) Are there any standards which you consider are not needed and should be removed?**

- 4.6 The vast majority of respondents (79 per cent) believed that there were no standards which were no longer needed and/or should be removed, with 82 per cent of panel chairs expressing this view.
- 4.7 However, a number of other respondents disagreed with this assessment. These respondents outlined a number of recommendations which included:
- combining standards which covered similar areas or content;
  - observing that some standards were not directly applicable to all our registrants;
  - noting that some standards do not appear frequently in FTP cases; and
  - seeking clarity on the standards which overlap with our standards of proficiency (SOPs).
- 4.8 A few respondents commented on standard eleven “You must deal fairly and safely with the risks of infection.” One respondent commented that this standard was not applicable to all our professions. Whereas another respondent suggested rewording the standard in order to broaden its scope to cover all our professions: “You must provide a safe service.” Finally, a third respondent argued that this standard does not appear frequently with regard to FTP and there may be a case for incorporating it into other standards.
- 4.9 One respondent recommended combining standards three and thirteen (due to their similarity) into a new standard. They suggested the following wording: “to maintain high standards of personal and professional conduct, acting always with integrity and propriety”.
- 4.10 Individual respondents identified a few standards which they argued were not applicable to all our professions and were rarely referred to in FTP. These included:
- standard eight “You must effectively supervise tasks that you have asked other people to carry out”; and
  - standard 14 “You must make sure that any advertising you do is accurate.”
- 4.11 One respondent sought greater clarity with regard to the “performance” aspects of the standards and how these overlapped with the SOPs. This respondent identified the following standards in particular – 5, 7, 10 and 11.

## **3) Are there any standards which you feel should be reworded in some way?**

- 4.12 The majority of respondents (64 per cent) felt that there were no standards which should be reworded. However, only 56 per cent of panel chairs indicated that the standards should not be reworded in some way.
- 4.13 A number of respondents suggested alternative wording for some of our standards. The reasons included:
- providing more detailed guidance on our requirements and expectations;
  - widening and/or narrowing the scope of some standards;
  - suggesting changes to the structure; and

- qualifying some standards to make them more pertinent to health and care professionals.
- 4.14 A few respondents commented on standard four “You must provide (to us and any other relevant regulators) any important information about your conduct and competence.” One respondent referred to the content of the first paragraph of this standard which requires our registrants to also disclose information with regard to “...other registrants and health and care professionals you work with”. This respondent claimed that the current standard limits this requirement to cooperating with investigations and/or formal enquiries into the conduct of others. They suggested a specific requirement for registrants to be watchful about the conduct and competence of others and claimed that due to the absence of the above this important “whistleblower” element was “lost”.
- 4.15 Two respondents suggested widening standard four to include disclosures over health including if a registrant is no longer able to practise due to their health. One of these respondents also suggested the following wording: “you must provide (to us and any other relevant regulators) any important information about your conduct, health and competence”. Whereas, another respondent suggested rewording standard four to reflect the recent revisions to the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 in relation to the disclosure of historic cautions and convictions. This respondent acknowledged that the list currently provided in the standards is not a full list, but suggested that such an amendment would provide clarity to what registrants were and were not required to disclose to us.
- 4.16 Two respondents commented on standard ten “You must keep accurate records.” One respondent suggested rewording the standard to the following: “You must keep full and accurate records.” This respondent observed that although such records may accurately record the interaction of service users they may not fully record the care, advice or service provided by the registrant. Whereas, the second respondent sought more prescriptive detail in this standard. This included an onus on registrants to provide clear and concise record keeping in order to enable another practitioner to understand and continue with a course of treatment for a service user should the original registrant be unable to continue their treatment.
- 4.17 Two respondents commented on the general structure of our existing standards. One respondent observed that our standards were very lengthy and contained a lot of paragraphs. However, they argued that registrants don’t always fully understand the detail contained in the standards. This respondent indicated their support for a shorter and easier to follow structure. Whereas a second respondent proposed sub-dividing the standards in order to make them more comprehensible when quoting them in FTP decisions.
- 4.18 One respondent commented on standard eight “You must effectively supervise tasks that you have asked other people to carry out.” This respondent suggested including additional guidance where a registrant delegates another individual to provide care or services to a service user on their behalf: “Whenever you give tasks to another person to carry out on your behalf, you must be sure that they have the knowledge, skills, experience, *resources and support* (suggested

addition in italics) to carry out the tasks safely and effectively.” This respondent argued that the above amendment would require registrants in a managerial or supervisory role to exercise that role responsibly, with a primary focus on the quality of the service provided to the service user.

- 4.19 One respondent argued that standard 13 “You must behave with honesty and integrity and make sure that your behaviour does not damage the public’s confidence in you or your profession”, should be narrowed in scope to simply require registrants to act with honesty and integrity. They argued that this requirement was important enough to stand alone and that the second part of the standard should be attached to standard three.
- 4.20 One respondent commented that standard one “You must act in the best interests of service users”, should include an additional requirement for registrants to respect professional boundaries. They recommended the following addition: “Must always respect professional boundaries”.
- 4.21 One respondent commented that standard three “You must keep high standards of personal conduct”, should have increased emphasis on the maintenance of professional conduct especially for health and care professionals. This respondent suggested the inclusion of the following: “As a health care professional your behaviour and actions may be judged more critically than others”.

#### **4) Do you feel that the structure and format of the standards could be revised in any way?**

- 4.22 The majority of respondents (76 per cent) were happy with the current structure and format of the standards. This point was evident amongst panel chairs with 71 per cent indicating their satisfaction with the status quo.
- 4.23 Some of the respondents who provided detailed comments with their answers were generally supportive of the existing structure and format of the standards. These respondents noted that the standards were:
- regularly reviewed, revised and updated;
  - concise;
  - helpful;
  - clear; and
  - easy to follow.
- 4.24 However, there was not universal satisfaction among respondents about the structure and format of the standards. Two respondents commented on the structure of the standards and also outlined areas for improvement which have been listed below.
- Numbering each paragraph and subsection to make the standards easier to refer to.
  - Revising use of dash indents and/or paragraph length within the standards for consistency.
  - Including use of bullet points for emphasis.
  - Making the text neater and easier to read.

- Restructuring the standards under six main paragraphs with the various standards grouped under these paragraphs (similar to the former GSCC's code).

4.25 With regard to the latter point (restructuring the standards), this respondent observed that standards five and six and standards three and thirteen cover similar areas and could be amalgamated. This respondent argued that less and more focused paragraphs would help registrants to understand the standards better.

**5) We would welcome any additional comments that you would like to make about your experience of using the standards of conduct, performance and ethics in fitness to practise hearings?**

4.26 The majority of respondents who had additional comments on our standards were generally supportive of the current structure and content of the standards.

4.27 One respondent commented that the current standards were thoroughly fit for purpose and required no revision. This respondent observed that the standards are worded in such a way that they are capable of covering all relevant misconduct and competency issues for registrants. This respondent with significant experience of chairing FTP hearings commented that they never had to stretch the interpretation of the standards in order to make appropriate decisions.

4.28 Another respondent was very supportive of the universality of our SCPE across all of the professions we regulate with regard to forming a core set of ethics which are fundamental to professional behaviour. This respondent supported not having separate SCPE for the individual professions that we regulate.

4.29 Respondents regularly utilised our standards in a number of ways in FTP hearings. One respondent found them to be very helpful in highlighting a registrant's failings in written decisions. However, another respondent observed that the extent to which the standards are referenced by us in bringing a case to a FTP hearing does vary. This respondent argued that although the standards are a key consideration in assessing a registrant's fitness to practise they are not given sufficient emphasis in the case summary and may not appear in the notice of allegation. Finally, a third respondent observed that a great deal of importance is placed by panels on a registrant's ability to understand their failures and their impact on service users.

4.30 Two respondents acknowledged some difficulties with the standards. One respondent observed that although some standards are used to judge certain matters; they can be interpreted in different ways. Another respondent observed that at a particular hearing it is sometimes difficult to identify which standard applies to the particular allegation. This respondent commented that some panels have an over reliance on the summary of the standards instead of referring to them in detail. They argued that this can result in a lack of focus on the principles and the actions which demonstrate compliance with an individual standard. This respondent welcomed the fact that our standards had been approved by the Plain English (PE) Campaign, and suggested that this continue.

Although they did propose that the PE campaign should look not just at individual paragraphs but at the overall impact and comprehension of the standards for our registrants and to compare this against other regulators' standards.

## 5. Conclusion

- 5.1 The following section sets out our initial response to the range of comments we have received for our survey.
- 5.2 We have carefully considered the comments received and have identified the following areas which may merit further consideration as part of our review of the standards.
- Use of the internet and social media.
  - Guidance around making, acting and acknowledging mistakes.
  - Incorporating any relevant recommendations from the Francis report which could include strengthening the “whistleblower” requirements.
  - Strengthening the delegation requirements for those registrants in a managerial position.
  - Reviewing the wording around standard eleven “You must deal fairly and safely with the risks of infection”, to make it more applicable to all our registrants.
  - Adopting a more thematic approach and possibly combining some of our existing standards which have similar content.
  - Improving the structure and layout of the document to enhance its accessibility for both our registrants and other stakeholders.
- 5.3 With regard to the provision of further guidance on the requirement for registrants to disclose historic cautions and convictions under the revised Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975, this will be addressed in the updated guidance on health and character.