

Education and Training Committee, 16 September 2010

Student Fitness to Practise—should we receive every outcome?

Executive summary and recommendations

### **Introduction**

At the Committee meeting on 10 September 2009, the Education and Training Committee considered a paper from the Executive about the outcomes of the 2008/09 CHRE performance review. In the performance review report, the CHRE indicated that it wanted to explore the idea that regulators should receive every outcome of education providers' student fitness to practice committees. The Council has previously been interested as to whether such an arrangement is needed, given the role of the approvals process in ensuring that those who successfully complete a programme are fit to practise at the point of application to the Register.

As a result of its consideration of the issue of student fitness to practise—which the HPC Executive contributed to—the CHRE published a report in February 2010. The Council is invited to discuss the attached paper, which discusses the outcomes of the report and issues for further consideration.

### **Decision**

The Committee is invited to discuss the attached discussion paper and consider the decisions and recommendations outlined in section 6.

### **Background information**

Council paper 10 September 2009

[www.hpc-uk.org/aboutus/council/councilmeetings\\_archive/index.asp?id=455](http://www.hpc-uk.org/aboutus/council/councilmeetings_archive/index.asp?id=455)  
(enclosure 6).

Education and Training Committee paper 25 November 2009

[www.hpc-uk.org/assets/documents/10002B9920091125ETC-enc15-studentfitnesstopractise.pdf](http://www.hpc-uk.org/assets/documents/10002B9920091125ETC-enc15-studentfitnesstopractise.pdf)

### **Resource implications**

None at this time

### **Financial implications**

None at this time

**Appendices**

*Student fitness to practise: should the regulators receive every outcome*, CHRE,  
February 2010

**Date of paper**

6 September 2010

# **Student Fitness to Practise—should we receive every outcome?**

## **1. Introduction**

- 1.1 In its 2008/09 performance review report, the Council for Healthcare Regulatory Excellence (CHRE) said they would give further consideration to whether the health professional regulators, in their work to protect the public, should receive every outcome of student fitness to practise committees. This proposal arose from a discussion with regulators during the performance review. While some regulators believe that this information should be shared with regulators, others have questioned the value of such feedback because course providers will only approve students who have passed clinical competence and relevant conduct requirements. As a result of its consideration—which the HPC Executive contributed to—in February 2010 the CHRE published a report: *Student fitness to practise: should the regulators receive every outcome?*
- 1.2 This paper highlights the current approach taken to student fitness to practise by the HPC, including guidance provided to students and applicants for registration; summarises and discusses the CHRE report, highlighting areas for discussion by the Committee; and following the recommendations made by the CHRE, sets out a number of proposals for further action for the Committee to consider. References to specific paragraphs are references to the full CHRE report, which is appended to this paper.

## **2. HPC current approach to student fitness to practise**

- 2.1 The HPC does not currently collect or (normally) receive information from approved education and training providers about the outcomes of student fitness to practise committees or similar processes used to consider conduct matters relating to students.
- 2.2 When someone has successfully completed an approved programme they are eligible to apply for entry to the Register. Applicants are required to provide a character reference attesting to their good character. This reference can be completed by someone with public standing in the community (such as a solicitor or a police officer) who has known the applicant for three years or more. Applicants joining the register for the first time often provide a completed reference from a university lecturer or tutor.
- 2.3 The HPC sets out our expectations of students and education providers in a number of ways, including in our standards of education and training, through specific guidance on conduct and ethics for students, and through our guidance on health and character.

## **Standards of education and training**

- 2.4 The HPC sets standards of education and training (SETs) for education providers—these are the standards against which we assess education and training programmes. A programme which meets the SETs allows a student who successfully completes the programme to meet the threshold standards of proficiency for entry to the HPC Register. While we do not currently have a specific requirement for an education and training

provider to have in place a student fitness to practise committee, since September 2009 we have required approved programmes to have processes for dealing with concerns about a student's profession-related conduct. This means having a process in place to deal with misconduct which may affect a student's ability to complete their programme. The SETs also require that the curriculum of each course must make sure that students understand the implications of the HPC's standards of conduct, performance, and ethics.

### **Guidance on conduct and ethics for students**

- 2.5 We have produced *Guidance on conduct and ethics for students*—the guidance is based on the standards of conduct, performance, and ethics, as these standards apply to both registrants and those applying to be registered. As well as setting out the standards we expect of students in training, the guidance explains that students studying to become a regulated professionals have certain responsibilities, and that during their training they will be expected to meet high standards of conduct and ethics. Students are also made aware that in very serious circumstances, their conduct may affect their ability to complete their programme, gain their final qualification, or register with the HPC.

### **Guidance on health and character**

- 2.6 The HPC document *Guidance on health and character* sets out some general advice for education providers on managing student misconduct during their period of training. The guidance recognises that education and training providers are likely to already have their own procedures for handling misconduct which happens while a student is on a programme. We suggest that education providers may wish to refer to the HPC standards of conduct, performance, and ethics when considering misconduct, as well as referring to the guidance on conduct and ethics for students referred to above.
- 2.7 We clearly state in the guidance that any decision made by an education and training provider about a student's misconduct will not affect whether that person can later join the Register, as the student would still need to go through our health and character process and provide any relevant information. However, if a student is removed from a programme because of misconduct, we ask their education and training provider to tell us. If the conduct is serious enough, we can keep the information and look at it if the person ever applies to use for registration in the future.

### **Our registration process**

- 2.8 We look at various types of information when making decisions about an applicant's character, including the information they provide us with as part of the character reference; whether they have declared any convictions or cautions; whether another regulatory body or an employer has made any decisions relating to them; and any other information which could be relevant—including whether a former education and training provider has informed us that they have been removed from a course due to misconduct. If the information we receive is sufficiently serious in nature,

we may ask a registration panel to consider it to determine whether it is appropriate to allow the applicant in question to register.

### 3. Other regulatory approaches to student fitness to practise

- 3.1 In its report, the CHRE notes that student fitness to practise outcomes are currently treated and considered differently across the different professional regulatory bodies. Only one health professional regulator, the General Chiropractic Council (GCC), receives all fitness to practise outcomes from education providers as they occur. Two other regulatory bodies—the Royal Pharmaceutical Society of Great Britain (RPSGB), and the Pharmaceutical Society of Northern Ireland (PSNI) have recently changed their guidance to require pharmacy schools to provide information about any sanction—other than a warning or a finding of no case to answer—to the regulator ‘as soon as practical.’ Pharmacy students who were subject to sanctions while studying are required to inform the regulator of those sanctions when they apply for pre-registration training or when they register as a pharmacist, or if they apply to join any course accredited by a recognised regulator.
- 3.2 A number of regulatory bodies—the General Optical Council (GOC), RPSGB, and PSNI, require applicants to their registers to provide information about any student fitness to practise outcomes, while the General Medical Council (GMC) encourages, rather than requires, early disclosure by medical students who have adverse fitness to practise outcomes against them, because of the additional time that may be needed to process their applications.
- 3.3 The GOC are the only health professions regulator to directly register students—anyone who wishes to become qualified and work as a dispensing optician or optometrist must be registered while studying. The social care regulators – such as the General Social Care Council (GSCC) and the Northern Ireland Social Care Council (NISCC) also regulate students. Regarding student fitness to practise, this means that these regulatory bodies are responsible for determining whether any applicant for a course should be allowed to enrol, taking into account any previous criminal records or misdemeanours. This also means that the regulators are directly responsible for the fitness to practise outcomes for the students on their registers, rather than being dealt with through the education provider’s internal processes. The GOC has a Memorandum of Understanding with its affiliated training providers agreeing that they must refer any issues relating to a student’s conduct or fitness to practise to the GOC when they become aware of them, independent of any action the education provider may wish to take internally. In addition, details of any internal investigation and the findings or sanctions decided through the training provider’s fitness to practise procedure should also be referred to the GOC. Students on the GOC’s register are in principle subject to the same sanctions that apply to practising registrants—if they are suspended or removed from the register, they cannot continue with their studies. Students can also be subject to interim order suspension or conditions.
- 3.4 In addition, some regulatory bodies—such as the GMC—collect data about student fitness to practise as part of their quality assurance monitoring. Information collected as part of this process can include: the

student's year of study; the type of fitness to practise concern and how it was raised; the disciplinary stage the concern reached; the outcome—including decisions, warnings, and sanctions applied; whether the student was represented at hearings; and how long the process took to complete. The CHRE argues that this sort of aggregated data can be used to guide policy development, to promote consistency in decision-making within and between schools, and to inform guidance and support measures.

- 3.5 The Department of Health is consulting on draft regulations which will impose duties on designated bodies, including regulators, relating to sharing information about the conduct or performance of health care workers to protect patient safety. The proposed regulations will not cover the sharing of information about students which might affect their fitness to practise as a registered practitioner at the point of registration, because the Department considers that “there are existing safeguards which require students to declare any relevant matter that might affect their fitness to practise as a registered practitioner at the point of registration which would require a declaration of any disciplinary matter, for example at medical school or at any higher education institution.” The Department also noted that regulators are permitted to seek further information if they consider it will help their decision making.<sup>1</sup>

#### 4. CHRE report and recommendations

- 4.1 The CHRE report discusses why the issue of student fitness to practise is relevant to the regulation of qualified health professionals, the information different regulators currently collect on student conduct, how regulators could use student fitness to practise outcomes, and the barriers to sharing these outcomes with regulators. During the course of its consideration of the issue of student fitness to practise, the CHRE sought the input of the various health professional regulators, including the HPC.
- 4.2 The CHRE takes the view in the light of research findings and previous advice it has published, that it is in the interests of public protection to share an individual student's fitness to practise sanctions with a regulator. The paper makes three recommendations which are discussed below in order to assist the Committee's consideration.
- 4.3 Recommendation 1: The applicant and the education provider should declare information about student fitness to practise sanctions to the regulator. It is for regulators to decide how and when they seek this information prior to registration.**

#### HPC's current approach

- 4.3.1 As previously outlined in section 2, beyond encouraging education providers to tell us if they have removed a student from a programme for

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<sup>1</sup> Department of Health, Consultation on proposed regulations on “duty of cooperation”: Relating to sharing information about the conduct or performance of health care workers to protect patient safety, [www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_113577.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_113577.pdf), 5 March 2010.

misconduct, the HPC does not seek information about the outcomes of student fitness to practise committees. This is because we believe that the arrangements made by education providers to assess students' fitness to practise (and approved by us) should ensure that someone who passes an approved programme and is eligible to apply for registration has passed both the clinical/technical competence elements of their course and has demonstrated the required conduct requirements. Students who cannot demonstrate that they are fit to practise should not be able to not pass the programme, or should instead exit their course with a qualification that does not confer eligibility to register. In addition, the HPC does not produce guidance for education providers to the level of detail as provided by the RSPGB or PSNI, as the HPC has a more outcomes-focussed approach, and our standard relating to having a process in place for dealing with concerns about students was only introduced in the last academic year—2009/10. The wording of the standard reflects the number and breadth of programmes we approve, which unlike other regulators, are not all delivered in higher education contexts such as IHCD programmes for paramedics, or the Association of Clinical Scientists' certificate of attainment.

### **Links to future concerns**

- 4.3.2 In its support of its first recommendation, the CHRE argues that while education providers do have a role in public protection, the ultimate responsibility for this lies with the regulators, and that regulators 'should be interested in indicators of poor practice that point to issues in the future'. This view is based on recent research into individuals' fitness to practise before and after registering with medical regulators in the USA, which found that 'unprofessional behaviour' during training correlated with medical regulators taking action on fitness to practise issues later in an individual's career.<sup>2</sup> While the Papadakis research demonstrates a clear link between student fitness to practise and subsequent disciplinary action, we feel that there several aspects of this issue which may require further consideration by the Committee.
- 4.3.3 In its report, the CHRE says that registration application forms should encourage self-declaration by including wording that focuses on action that may have been taken by an education provider during training. The CHRE also suggests that regulatory bodies should require education providers to disclose information about student fitness to practise, either at the point of application to the register, or on a case by case basis. If we were to receive the outcomes of every student fitness to practise committee, the health and character process is the means by which we might consider this information. However, it is important to bear in mind that a decision taken by a regulator not to register an applicant has essentially the same effect as the decision to strike-off and therefore such decisions need to be carefully considered and only taken in cases where this is fair, proportionate to the severity of the misconduct in question, and consistent with the principle of public protection.

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<sup>2</sup> Papadakis MA, Hodgson CS, Teherani A, Kohatsu ND. 2004. Unprofessional behaviour in medical school is associated with subsequent disciplinary action by a state medical board. *Academic Medicine* 79: 244-249.

- 4.3.4 In addition, if the HPC was to receive every student fitness to practise outcome, or to require every applicant who had been subject to student disciplinary action to self-declare, this would present a number of associated logistic issues. The consideration of these decisions and outcomes would present a significant increase in the number of cases considered through our health and character process, which could lengthen the amount of time taken to consider applications for registration.
- 4.3.5 When we were asked for our opinion on this issue by the CHRE, we told them that we would not support routinely receiving the outcomes of fitness to practise committees as we consider that this is generally unnecessary and disproportionate. If we were to receive such information, we would envisage that in the vast majority—if not all—of cases, this would not affect the applicant’s ability to register. Under our current registration process, we already require applicants to declare any criminal convictions or cautions. However, if an applicant is able to demonstrate that their conviction or caution is a one-off and that they have an understanding of the concerns raised, they usually are able to become registered.
- 4.3.6 There are many issues for which a student could be disciplined by their education provider such as plagiarism or dishonesty, drug or alcohol misuse, criminal convictions or cautions, or unprofessional behaviour such as disregarding course rules or requirements; or breaching patient confidentiality. Some of the offences for which a student could be disciplined—such as minor plagiarism—are not sufficiently serious to justify refusal of registration. Even if a student had been disciplined by their education provider for a relatively serious offence but sanctions short of expulsion were introduced and they then went on to complete their course and successfully meet our standards of proficiency, in this situation it likely that we would allow them to enter our Register. Given this consideration, it could be that the findings of the Papadakis research do not necessarily mean that regulators are justified in asking for the outcomes of every student fitness to practise case.
- 4.3.7 Another issue to consider is whether it is good policy to create a learning environment where it is not possible for students to learn from their mistakes while they are training and before they enter regulated practice. Therefore, rather than justifying the CHRE’s proposal, the Papadakis research may instead suggest that students should spend more time learning about ethics and ethical principles. The first two projects we are undertaking as part of our ongoing work on revalidation look at the link between pre-registration education and training and subsequent fitness to practise action. Part of this work involves tracking students’ progress after completing an approved programme to test whether there is a clear link fitness to practise concerns before and after qualification. Understanding more about student behaviour will help us to identify the most effective point of intervention to increase public protection. For example, the outcomes from this study may indicate that the most effective way to increase public protection is to concentrate on improving behaviour during pre-registration education and training, rather than introducing a post registration revalidation system. If we increased the required teaching on ethics in pre-registration education programmes or improved the effectiveness of systems for dealing with complaints at the pre-registration level, in theory students should be both better informed on the



professional ethical requirements they will need to meet as registrants, and also less likely to pass an approved course and the be able to apply for registration if they fail to meet the ethical standards set for them by their education provider and approved by the HPC.

**4.4 Recommendation 2: Regulators should collect aggregated data about student fitness to practise in their role in quality assuring the provision of pre-registration education and training. This should be used to improve standards of education and training and to improve the provision of guidance to students about professional conduct and competence.**

4.4.1 At present, only a very small number of applicants to the HPC's Register are refused registration on the grounds of character each year, due in part, we believe, to the generally appropriate handling of student fitness to practise issues by education providers. We are currently able to check whether individual education programmes continue to meet our standards of education and training (which now include a requirement to have a process for dealing with students' profession-related conduct) through our annual monitoring process. However annual monitoring is a documentary process which does not ask education providers to provide data on student fitness to practise cases, although we would expect to be told if a programme was experiencing problems in this area.

4.4.2 As noted previously, the HPC does not currently collect aggregated data on student fitness to practise, however, we consider that aggregated data could be useful in improving students' fitness to practise in general terms, for example, identifying if there were problems across all education providers or a lack of consistency between providers.

4.4.3 The Executive suggest that the HPC may wish to commission research in coming financial years to collect this type of data. As we have recently changed our standards of education and training to require education providers to put in place a way of dealing with concerns about students' profession-related conduct, collecting aggregated data could be a useful way to gauge the effectiveness of the new standards in practice. If education providers shared outcomes with us, it may help in prioritising the development of supporting material for students, trainees, and tutors. Building on this, there could be value in wider analysis, considering whether there are any associations between student fitness to practise and the outcomes of registrants' fitness to practise committees.

**4.5 Recommendation 3: Regulators should work with education providers to share good practise in the management of student fitness to practise issues.**

4.5.1 In support of this recommendation, the CHRE notes concerns about the consistency of decision-making by different student fitness to practise committees, and how regulators can work to ensure that these decisions are made in a fair and consistent manner across the different education providers. Different approaches, levels of tolerance, and experience in handling fitness to practise issues may result in similar cases being handled in different ways, leading to different outcomes. Over time, if discrepancies in decision-making were not addressed this could lead to

some students being given stronger sanctions for particular misconduct issues than students training with other education providers, with the follow-on effect that if their misconduct was subsequently reported to a regulator they could be unfairly disadvantaged compared to other graduates applying for registration. Additionally, if the HPC was to consider collecting aggregated data about student fitness to practise outcomes, we would want to be reasonably sure that decisions were being made consistently between different education providers to ensure the accurate interpretation of data.

- 4.5.2 The Executive consider that sharing best practise on student fitness to practise between different education providers and regulators is a valuable way of ensuring consistency and fairness in decision-making. The HPC could disseminate examples of best practise or consideration of particular fitness to practise issues through producing publications or informal guidance, or by organising publicity events for education providers to promote and share information on best practise.

## 5. Social networking

- 5.1 Another issue related to student fitness to practise which perhaps warrants further comment is the use of online social networking by students. In its meeting in February 2010, the Fitness to Practise Committee noted that contributions to public forums such as social networking sites was a significant issue, particularly amongst students and newly registered practitioners, who in some cases have not shown good understanding of the standard of ethical behaviour expected of qualifying health professionals. The Committee discussed the value of producing specialised guidance for students on social networking, and felt that if the HPC produced any ethical guidance regarding social networking should be shared with education providers. We consider that the relevant principles relating to the use of social networking sites are currently covered in the publication *Guidance on conduct and ethics for students*. The Education and Training Committee may wish to consider the issue of social networking in the context of the issue of student fitness to practise generally.

## 6. Decision

- 6.1 The Committee is invited to:
- a) Discuss and consider whether the HPC should require applicants and education providers to declare information about student fitness to practise sanctions to us.
    - If the Committee agrees that we should require the declaration of student fitness to practise sanctions, then the Executive invites the Committee to consider the ways in which the HPC should collect this information.
    - If the Committee does not agree that we should require a declaration of student fitness to practise sanctions, then the Executive invites the Committee to consider whether there is other action the HPC might want to take relating to student fitness to practise outcomes.

- b) Discuss and consider whether the HPC should carry out some form of research to collect aggregated data about student fitness to practise outcomes.
- c) Discuss and consider whether the HPC should work with education providers to share good practice in the management of student fitness to practise issues.

## 6.2 Next steps

If the Committee decides to agree with the recommendations of the CHRE, the next steps for the HPC to take could include:

- Consulting on the proposed change to the registration process if the Council agrees to require applicants to supply us with details of any student fitness to practise outcomes;
- Amending the Register application forms accordingly;
- Assessing what internal processes will need to change to accommodate and process the added registration requirement;
- Commissioning or conducting research to collect aggregated data about student fitness to practise.
- Working with education providers to require they supply us with the outcomes of student fitness to practise decisions – this would require a change to the current standards of education and training.

Depending on the Committee's discussion at this meeting, the Executive would bring further papers to future meetings to set out the Committee's options for further work and to explore the resourcing implications of these options. In addition, any specific proposals for changes may require specific legal input before agreement by the Committee.