

<b>Meeting Date</b>	22 May 2025
<b>Title</b>	Sanctions policy consultation
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<p><b>Executive Summary</b></p> <p>This paper seeks approval to consult on proposed changes to the HCPC sanctions policy. The sanctions policy guides practice committee panels (panels) in determining appropriate sanctions in fitness to practise (FTP) cases. The aim of this work is to ensure the policy remains clear, relevant and reflective of current legal standards, stakeholder expectations, and professional practice.</p> <p>Since the last review in 2019, we have revised our standards<sup>1</sup> and updated and produced new Health and Care Professions Tribunal Service (HCPTS) practice notes.<sup>2</sup> The proposed changes build on this work and incorporate recent case law and stakeholder feedback.</p> <p>Many of the proposed changes are to provide further clarity and guidance on topics such as professional boundaries, discrimination, dishonesty and striking off. We have also made improvements to language and structure to better support panels in determining appropriate sanctions. These changes are intended to support fair, consistent and proportionate decision-making.</p> <p>This paper comprises the following:</p> <ul style="list-style-type: none"> <li>• Summary of the proposed changes, plan for communications and engagement approach, and next steps</li> <li>• A draft consultation document (<b>Annex 1</b>)</li> <li>• A draft of the proposed sanction policy (<b>Annex 2</b>)</li> <li>• A draft equalities impact assessment (EIA) (<b>Annex 3</b>)</li> </ul>	

<sup>1</sup> [Standards of Proficiency](#) and [Standards of conduct, performance and ethics](#).

<sup>2</sup> [HCPTS-practice-notes---consolidated.pdf](#). The purpose of Practice Notes is to provide guidance on how panels should approach admissions made by registrants at Conduct and Competence and Health Committee hearings to allegations regarding their FTP.

<b>Action required</b>	The Council is asked to consider and approve the proposal or recommendation.
<b>Previous consideration</b>	The Council previously reviewed and approved the current sanctions policy in December 2018 for implementation in 2019.
<b>Next steps</b>	<p>Subject to the Council's approval, we will launch the consultation on the proposed sanctions policy for 13 weeks, from 29 May 2025 to 1 September 2025. This will allow for the impact of the consultation running over the summer.</p> <p>During the consultation period, we will engage with key stakeholders as set out in our communication plan. Following the consultation closure, we will analyse and consider stakeholder responses to inform our review of the sanctions policy and publish a summary of the outcome in autumn. The revised guidance is expected to come into effect before the end of 2025.</p>
<b>Financial and resource implications</b>	Welsh translation of the consultation documents and the updated sanction policy, stakeholder engagement activity during the consultation, associated legal costs and panellist training are covered in the 2025-26 budget.
<b>Associated strategic priority/priorities</b>	<p>Continuously improve and innovate</p> <p>Promote high quality professional practise</p>
<b>Associated strategic risk(s)</b>	<p>1. We are unable to deliver our regulatory requirements effectively in a changing landscape, affecting our ability to protect the public</p> <p>2. Our standards do not reflect current practice and/or they are not understood by registrants and our stakeholders</p>
<b>Risk appetite</b>	<p>Regulation - measured</p> <p>Compliance - measured</p>
<b>Communication and engagement</b>	<p>A communications and engagement plan has been developed to promote the consultation and updated policy to key stakeholders, including FTP partners and patient organisations who would cascade to service users.</p> <p>We have already gathered feedback from some key stakeholders. Ongoing engagement will continue with professional bodies, other regulators, employers and service users where appropriate through established channels and ad-hoc discussions.</p> <p>More information is provided in the main paper.</p>

<p><b>Equality, diversity and inclusion (EDI) impact and Welsh language standards</b></p>	<p>The proposed changes are intended to support the implementation of updated professional standards that came into effect between 2023 and 2024 and reflect emerging case law and feedback from key stakeholders. We aim to provide greater clarity on the factors panels should consider in relation to suspension orders, interim orders, allegations involving dishonesty, professional boundaries and discrimination, apology and insight, panel assessment of seriousness and culpability, reasons for sanctions and striking off.</p> <p>Overall, we believe that the changes will promote equality and fairness in the interpretation and application of the sanctions policy for all groups of stakeholders. Most notably, we propose to clarify that all forms of discrimination are unacceptable. This will support the protection of the public by providing a clearer context for how panels should address all forms of discrimination.</p> <p>The policy has been assessed against the <a href="#">Welsh language standards</a>. There are no identified impacts on the Welsh language, or associated opportunities to promote its use.</p> <p>Please see the full EIA at <b>Annex 3</b> for further detail on the potential impacts and mitigations.</p>
<p><b>Other impact assessments</b></p>	<ul style="list-style-type: none"> <li>• Data protection: We have carefully considered data protection implications to ensure compliance with the Data Protection Act 1998, and the UK General Data Protection Regulation. Any personal data processed as part of the consultation process will be handled securely and proportionately, with clear protocols in place to govern access, storage and retention.</li> <li>• Sustainability: The policy will be managed in a largely digital format to minimise paper use and travel, aligning with our organisational commitment to reducing our environmental footprint.</li> </ul>
<p><b>Reason for consideration in the private session of the meeting (if applicable)</b></p>	<p>Not applicable</p>

## Sanctions Policy

### Papers seeking approval for publication of proposals for a revised sanctions policy consultation

#### 1. Background

- 1.1 In accordance with the [Health Professions Order \(2001\)](#), the HCPC must consult with stakeholders before making changes to its regulatory policies. This paper seeks approval to undertake a public consultation on proposed updates to our sanctions policy, which sets out the principles that practice committee panels (panels) should consider when determining appropriate outcomes in fitness to practice (FTP) cases.
- 1.2 The sanctions policy is a vital resource that supports panels in making fair, proportionate and consistent decisions that protect the public and uphold confidence in the profession. The document was first published in 2004 as the 'indicative sanctions policy'. In July 2019, a sanctions policy (the '2019 sanctions policy') was launched to replace the indicative sanctions policy.<sup>3</sup>
- 1.3 Regular review of the document is essential to ensure the policy reflects changes in legal standards and evolving professional expectations. Since the last review, we have updated our standards of proficiency,<sup>4</sup> and standards of conduct, performance and ethics<sup>5</sup> and introduced new Health and Care Professions Tribunal Service (HCPTS) practice notes<sup>6</sup> on specific aspects of the adjudication process. Updating the 2019 sanctions policy is necessary to reflect these changes and relevant developments in case law. We are therefore proposing changes and are seeking views on a revised sanctions policy (the 'proposed sanctions policy') through a public consultation.
- 1.4 We have set out our proposals in a proposed consultation document (**Annex 1**) along with the proposed sanctions policy (**Annex 2**) for discussion and revision if necessary, with a view to opening the public consultation on the proposals on 29 May 2025.

#### 2. Proposal

- 2.1 We propose to update the 2019 sanctions policy to reflect recent changes to our professional standards which came into effect on 1 September 2023 (standards of proficiency) and 1 September 2024 (standards of conduct, performance, and ethics), as well as revised practice notes. The proposed changes seek to improve clarity for panels when applying sanctions, support fair and proportionate decision-making in FTP cases, reflect recent legal developments and feedback from key stakeholders, strengthen public protection and maintain trust in the regulatory process. We last updated our sanctions policy in 2019.

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<sup>3</sup> The removal of 'Indicative' from the title was to reflect the fact that practice committee panels (panels) are ultimately responsible for sanction decisions and that the policy serves only as guidance.

<sup>4</sup> [The revised standards of proficiency came into effect on 1 September 2023](#)

<sup>5</sup> [The revised standards of conduct, performance and ethics came into effect on 1 September 2024](#)

<sup>6</sup> [HCPTS-practice-notes---consolidated.pdf](#). The purpose of Practice Notes is to provide guidance on how panels should approach admissions made by registrants at Conduct and Competence and Health Committee hearings to allegations regarding their FTP.

- 2.2 Many of the changes we are proposing to the 2019 sanctions policy aim to provide further clarity on key topics including professional boundaries, discrimination, dishonesty and striking off. We also aim to simplify the language and structure, to better support panels in assessing FTP. Following a comprehensive review of the document, we are now seeking stakeholder feedback on the proposed sanctions policy. Our proposals are outlined in more detail below, under ‘overview of proposals’. The consultation questions seek views on the clarity and fairness of our guidance to support panel decision-making to protect service users from future harm.

### **Aims of the consultation**

- 2.3 Through this consultation, we aim to:

- ensure that our sanctions policy remains clear, fair, fit for purpose and up to date;
- support consistent, proportionate, and well-reasoned decision-making by FTP panels;
- improve transparency and public confidence in the HCPC’s FTP process; and
- strengthen regulatory protections to uphold professional standards and patient safety.

### **Overview of proposals**

- 2.4 The changes we propose are to:

1. **Reflect recent case law**<sup>7</sup> to provide panels with clearer guidance on the application of suspension orders.
  - We propose to clarify that a striking-off order may still be necessary instead of a suspension order in cases where it is required to protect the public and uphold wider public interest considerations.
2. **Expand guidance on interim orders** to improve transparency about when and why they are used.
  - We propose to make it clearer how panels should approach information that a registrant has been under an interim order prior to the final hearing when deciding on a final outcome.<sup>8</sup>
3. **Clarify our guidance on apology** to assist panels in assessing apologies offered by registrants. In line with our updated duty of candour (being open and honest when things go wrong) published in September 2024, we’re proposing changes to strengthen guidance on apologies.
  - We propose to make it clear that while an apology can show insight and be taken into account, it shouldn’t automatically be seen as accepting wrongdoing. Equally, not apologising shouldn’t necessarily lead to a more restrictive outcome.

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<sup>7</sup> PSA v NMC and Kadiatu Jalloh (2023) EWHC 3331 (Admin). This case sets out the correct approach panels should take when considering insight.

<sup>8</sup> GCD v AGA [2025] EWCA Civ 68. This case sets out that panels should not take into account ‘time served’ under an interim order when deciding length of a substantive sanction.

- We also propose to use subheadings to signpost insight, remorse, and apology in the proposed sanctions policy. These topics are currently grouped together in the 2019 sanctions policy. This change is intended to provide greater clarity for panels and support more consistent and fair decision-making.
4. **Clarify the ‘strike off’ section** to underscore that some conduct is so serious it is incompatible with continued registration.
    - In response to feedback from the Professional Standards Authority (PSA), we are proposing clearer wording to explain when striking off can be used. Currently, describing it as a ‘last resort’ might be misinterpreted to mean panels must try other sanctions first. We want to clarify that in serious cases, striking off may be the right decision from the start to help ensure panels apply the policy correctly.
  5. **Add content on ‘assessing seriousness and culpability’** to support consistent decisions through a clear framework of aggravating and mitigating factors.
    - We propose to add clearer guidance to help panels assess how serious a registrant’s misconduct is. This includes providing further clarity when looking at the risk of harm, how responsible the registrant was, and any harm caused. Panels will be expected to follow a structured approach and clearly explain their reasoning, to ensure decisions are fair, consistent and well-evidenced.
  6. **Expand guidance on discrimination** to clarify that all forms of discrimination are unacceptable and outline considerations for panels.
    - We propose to expand our guidance on discrimination to make it clear that all forms are unacceptable. The updated guidance will help panels understand what counts as discrimination, who it can affect, and how it should be addressed in decision-making.
    - Following recent updates to our HCPTS practice note on a [registrant’s state of mind](#), we propose to provide clearer guidance on how panels should approach cases where a registrant’s actions are alleged to be based on discrimination. In addition, we propose to clarify that the principles outlined in the practice note apply to any allegations of discriminatory behaviour where a registrant’s state of mind is in question.
  7. **Expand guidance on dishonesty** to help panels better assess how dishonest actions may affect trust or cause harm.
    - We propose to provide clearer guidance to help panels assess how dishonest behaviour by registrants can impact trust and cause harm. This will support more consistent and informed decisions in serious cases involving dishonesty.
  8. **Add sexually motivated misconduct** to provide additional guidance so that panels not only consider sexual misconduct but also assess the registrant’s state of mind and intent in FTP cases where conduct may have been sexually motivated.

- We propose to strengthen our guidance on sexually motivated misconduct to make sure panels consider both the behaviour and the registrant's intent. This will help ensure fair, consistent decisions and better protect the public in these serious cases.

**9. Introduce a new section on professional boundaries** to address concerns around maintaining appropriate relationships.

- We propose a new section on professional boundaries to help panels assess concerns about registrants maintaining appropriate relationships with service users and colleagues. This reflects recent updates to our standards and our new HCPTS practice note on professional boundaries, ensuring a consistent and fair approach. This new addition will align the proposed sanctions policy with our revised standards and practice notes, supporting panels to make clear, structured, and well-reasoned decisions in these cases.

**10. Make structural and editorial changes** to improve the readability and overall usability of the guidance.

- We propose minor structural and editorial updates to make the proposed sanctions policy clearer and easier to follow. This includes:
  - better explanations of where sanctions fit in the FTP process;
  - clearer guidance on areas like criminal convictions and conditions of practice; and
  - improved use of subheadings to highlight key topics such as insight, remorse, and reasons for decisions.
- These changes will improve readability and help panels apply the guidance consistently and fairly.

## **Consultation, communications and engagement**

- 2.5 Subject to Council approval, we anticipate that the consultation will run for 13 weeks from 29 May 2025 to 1 September 2025. A draft of the consultation document can be found in **Annex 1**. The consultation will primarily be carried out online using the SmartSurvey platform.
- 2.6 We have developed a communication and engagement plan that covers promotion of the consultation as well as the updated policy during and post consultation period to key stakeholders including FTP partners and service users.
- 2.7 We have discussed the proposals and collected feedback from the Equity, Diversity and Inclusion (EDI) Forum. Members of the Forum are external stakeholders with expertise in EDI and lived experience; membership includes registrants and EDI professionals in relevant stakeholder organisations.
- 2.8 We engaged the Representative Forum comprised of individuals from FTP and key professional bodies. We've also engaged FTP partners who consist of panel members with expertise in FTP processes.
- 2.9 We will continue to seek feedback from external stakeholders including professional bodies, national patient organisations to ensure we hear views from service users,

the PSA and other regulators such as the Nursing and Midwifery Council (NMC) and the General Medical Council (GMC), and employers, through our standing meetings and on an ad-hoc basis where necessary.

### **3. Recommendations**

- 3.1 We are seeking the Council's approval to proceed with the planned public consultation on the proposed changes to the 2019 sanctions policy.
- 3.2 We recommend that the Council delegates authority to the Executive Leadership Team (ELT) to approve any changes to the policy arising from consultation feedback. In the event of any material changes, we would come back to the Council for final approval.

### **4. Appendices**

- 4.1 A draft consultation document (**Annex 1**)
- 4.2 A draft of the proposed Sanction Policy (**Annex 2**)
- 4.3 A full draft version of the Equalities Impact Assessment (EIA) (**Annex 3**)

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Consultation on updates to our sanctions policy

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## 1. Overview

The document consults on the Health and Care Professions Council's (HCPC's) proposal to update the guidance we give to practice committee panels (panels) who make decisions on the outcome of fitness to practise (FTP) cases. This guidance document, known as our sanctions policy, outlines the principles for determining FTP case outcomes.

The sanctions policy sets out the principles that panels should consider when deciding on the appropriate sanction, if any, in FTP cases. It is designed to support panels in making fair, consistent and transparent decisions, ensuring that regulatory outcomes maintain public confidence and uphold professional standards. We last updated the document in 2019.

We periodically review all our policies and standards to ensure that they remain up to date, clear and aligned with best regulatory practice. The changes we propose are intended to improve clarity for panels when applying sanctions, support fair and proportionate decision-making in FTP cases, reflect recent legal developments and feedback from key stakeholders, strengthen public protection and maintain trust in the regulatory process.

The changes we propose are to:

1. **Reflect recent case law** – this ensures that panels have a clearer understanding of the guidance related to suspension orders and their application.
2. **Update guidance on interim orders** – this improves transparency and clarity on how panels should consider interim orders that may have been in place prior to a substantive hearing.
3. **Clarify our guidance on 'apology'** – this offers more detailed guidance to panels on how to assess apologies made by registrants when things go wrong.
4. **Clarify the 'strike off' section** – this clarifies that some conduct is so serious it is incompatible with continued registration.
5. **Add content on 'assessing seriousness and culpability'** – this enhances transparency and accountability by clearly setting out the aggravating and mitigating factors panels should consider, to help support consistent and proportionate decision-making.
6. **Expand guidance on discrimination** – this clarifies that all forms of discrimination are unacceptable and provides guidance for the factors panels should take into account when addressing this.
7. **Expand guidance on dishonesty** – this makes it easier to assess how dishonest actions may affect trust or cause harm, leading to more informed and consistent decisions in serious cases.
8. **Add sexually motivated misconduct** – this provides additional guidance to ensure panels not only consider sexual misconduct but also assess the registrant's state of mind and intent in FTP cases, where conduct may have been sexually motivated.

9. **Introduce a new section on ‘professional boundaries’** – this ensures concerns about maintaining professional relationships are addressed appropriately.
10. **Make structural and editorial changes** – this ensures the guidance is clear and easy to read in order to support consistent, proportionate and well-reasoned decision-making by panels.

A draft of the proposed revised sanctions policy is available [\[here\]](#)

We are grateful to everyone who has helped to shape the proposals via our pre-consultation engagement activity. It has provided valuable insights that have informed the proposed changes to the sanctions policy. Our pre-consultation work has been integral to our understanding of the needs and views of registrants, professional bodies, employers, FTP partners, educational institutions and the public.

In accordance with the [Health Professions Order \(2001\)](#), which requires HCPC to consult with stakeholders before making changes to its regulatory policies, this document gives notice of our intention to make changes to the sanctions policy. We encourage all interested stakeholders and individuals to formally respond to this consultation. We will publish a summary of the comments we receive and explain the decisions we have taken as a result.

The consultation will run from 29 May 2025 to 1 September 2025 and is available [here \[LINK\]](#). We anticipate that the revised sanctions policy will be implemented in winter 2025.

An Equality Impact Assessment for the proposed sanctions policy is available [\[here\]](#)

# 1. Introduction

## About the HCPC

- 1.1 We are a regulator of health and care professionals established by the [Health Professions Order 2001](#). Our statutory role is to protect, promote and maintain the health and safety of the public; promote and maintain public confidence in the professions we regulate; and promote and maintain proper professional standards and conduct for members of those professions.<sup>1</sup>
- 1.2 We promote high quality professional practice, regulating 15 health and care professions by:
- setting standards for education and training and practice;
  - approving education programmes which professionals must complete to register with us;
  - maintaining a register of professionals who meet our standards;
  - acting if professionals on our Register do not meet our standards; and
  - acting to stop unregistered practitioners from using protected professional titles.
- 1.3 We currently regulate these 15 health and care professions:
- Arts therapists
  - Biomedical scientists
  - Chiropodists/podiatrists
  - Clinical scientists
  - Dietitians
  - Hearing aid dispensers
  - Occupational therapists
  - Operating department practitioners
  - Orthoptists
  - Paramedics
  - Physiotherapists
  - Practitioner psychologists
  - Prosthetists/orthotists
  - Radiographers
  - Speech and language therapists

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<sup>1</sup> Article 3(4) and (4A) of the Health Professions Order (2001) states that the HCPC's over-arching objective is to protect the public and sets out how this objective should be pursued.

## **About the consultation**

- 1.4 This consultation seeks the views of stakeholders on a revised version of our sanctions policy<sup>2</sup>. This document explains the background to the policy as well as the approach we took in reviewing it and the changes we propose.
- 1.5 The consultation will be of particular interest to members of the public, HCPC registrants, professional bodies, unions, employers, Health and Care Professions Tribunal Service (HCPTS) panel members, complainants in FTP proceedings, legal representatives, service users, carers and other health care professionals.
- 1.6 The consultation will run from 29 May 2025 to 1 September 2025.

## **About this document**

- 1.7 This document is divided as follows:
- Section 2 provides background to our proposed sanctions policy
  - Section 3 explains our review approach
  - Section 4 outlines the changes we propose
  - Section 5 sets out our consultation questions
  - Section 6 explains next steps following the consultation

## **2. Background**

- 2.1 The HCPC's sanctions policy was first published in 2004 as the 'Indicative sanctions policy'. In July 2019, a revised sanctions policy (the '2019 sanctions policy')<sup>3</sup> was launched to replace the indicative sanctions policy.
- 2.2 The aim of our sanctions policy is to set out the principles that panels should consider when deciding on the appropriate sanction, if any, in FTP cases. It is designed to support panels in making fair, consistent and transparent decisions that maintain public confidence, uphold professional standards and protect the public. The primary function of any sanction is to safeguard public safety by addressing risks posed by the registrant or concerns about public confidence in the profession.
- 2.3 Panels make independent decisions and must assess each case on its merits. The sanctions policy serves as a guide rather than a constraint on a panel's

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<sup>2</sup> The Proposed sanctions policy [Comms to add LINK to proposed sanctions policy doc]

<sup>3</sup> [2019 sanctions-policy.pdf](#)

independence. However, if a panel deviates from the policy, it must provide clear reasons for doing so.

- 2.4 Since the last review in 2019, we have updated our standards of proficiency,<sup>4</sup> and standards of conduct, performance and ethics<sup>5</sup> and introduced new HCPTS practice notes<sup>6</sup> on specific aspects of the adjudication process. Updating our 2019 sanctions policy is necessary to reflect these changes and relevant developments in case law. Many of the changes we are suggesting to the 2019 sanctions policy are to language, style and to reflect current tone and approach as well as to provide further clarity.
- 2.5 We have now conducted a comprehensive review of the document and are seeking stakeholder feedback on the proposed sanction policy.

### **3. Reviewing the policy**

- 3.1 We review all our policies periodically to ensure they remain clear, current and aligned with best regulatory practices and continue to assist panels in making fair, proportionate and transparent decisions to protect the public.
- 3.2 Since the last update of our sanctions policy, we have taken into account a number of developments, including changes to case law and feedback from stakeholders. We engaged with key organisations and groups such as the Professional Standards Authority (PSA), members of the HCPC FTP Partnership Forum meeting,<sup>7</sup> the Equality, Diversity and Inclusion Forum,<sup>8</sup> and FTP partners<sup>9</sup>. Their feedback has provided valuable insights that have informed updates to our standards, helped us develop our new HCPTS practice notes and shape our proposals.
- 3.3 Through this consultation, we aim to:
- ensure that our sanctions policy remains clear, fair, fit for purpose and up to date;
  - support consistent, proportionate and well-reasoned decision-making by FTP panels;
  - improve transparency and public confidence in the HCPC's FTP process; and
  - strengthen regulatory protections to uphold professional standards and patient safety.

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<sup>4</sup> [The revised standards of proficiency came into effect on 1 September 2023](#)

<sup>5</sup> [The revised standards of conduct, performance and ethics came into effect on 1 September 2024](#)

<sup>6</sup> [HCPTS-practice-notes---consolidated.pdf](#). The purpose of Practice Notes is to provide guidance on how panels should approach admissions made by registrants at Conduct and Competence and Health Committee hearings to allegations regarding their FTP.

<sup>7</sup> The HCPC FTP Partnership Forum consists of, registrants' representatives, FTP colleagues and representatives from professional bodies.

<sup>8</sup> The EDI forum is open to all our diverse groups of registrants and stakeholder organisations with expertise in EDI and lived experience.

<sup>9</sup> The FTP Partners consists of members of the practice committee panels.

- 3.4 An outline of our proposed changes is provided in the next section.

## 4. Proposed changes

- 4.1 We periodically review all our policies and standards to ensure that they remain up to date, clear and aligned with best regulatory practice. The changes we propose are intended to improve clarity for panels when applying sanctions; support fair and proportionate decision-making in FTP cases; reflect recent legal developments and feedback from key stakeholders; strengthen public protection and maintain trust in the regulatory process.

- 4.2 The proposed changes are set out as follows:

### **Suspension order**

- 4.3 This proposed change clarifies the approach panels should take when considering insight in relation to sanctions, ensuring alignment with established caselaw.<sup>10</sup>
- 4.4 Our proposed changes clarify that when considering a suspension order, panels must assess whether the proven misconduct demonstrates behaviour that is fundamentally incompatible with continued registration. If so, a suspension order should not be imposed solely because some or all of the factors listed in the sanctions policy are present. In such cases, a striking-off order may still be necessary, if it is required to protect the public and uphold wider public interest considerations.

### **Interim order**

- 4.5 This proposed change provides additional guidance on how panels should consider a registrant's prior interim order when determining the proportionate length of a sanction.
- 4.6 We propose to clarify that panels may take into account whether a registrant has been subject to an interim order as a relevant factor in their decision-making. However, panels should not simply deduct or discount the time a registrant was previously restricted or suspended under an interim order from the substantive sanction.<sup>11</sup> Panels should assess each case individually, considering all relevant circumstances. This is not a change in position but a clarification to ensure consistency in how panels approach cases where a registrant has been subject to an interim order.

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<sup>10</sup> PSA v NMC and Kadiatu Jalloh (2023) EWHC 3331 (Admin). This case sets out the correct approach panels should take when considering insight.

<sup>11</sup> GCD v AGA [2025] EWCA Civ 68. This case sets out that panels should not take into account 'time served' under an interim order when deciding length of a substantive sanction.

## **Apologies**

- 4.7 In September 2024, we published updated standards of conduct, performance and ethics, which introduced a strengthened duty to be open and honest when something goes wrong (duty of candour).<sup>12</sup> The revised standards highlight that offering an apology is a key part of the duty of candour. The standards also make clear that an apology is always the right thing to do and should not be viewed as an admission of liability.
- 4.8 Reflecting these standards, we are proposing changes to the 2019 sanctions policy to strengthen our guidance on apologies. The proposed changes seek to reinforce this principle within our FTP processes. We propose to provide more clarity that an apology offered by a registrant will not, in itself, be treated as an admission of guilt. This aligns with our standards, which encourage registrants to be open and honest and to apologise when appropriate.
- 4.9 In particular, we intend to make clear that, while an apology may be a relevant mitigating factor in assessing a registrant's insight and remediation, panels should not automatically interpret it as an acceptance of wrongdoing. Equally, the absence of an apology should not, on its own, be treated as an aggravating factor or result in a more restrictive sanction. We also propose to separate guidance on insight, remorse and apology to provide greater clarity and ensure decision-making panels are supported with more tailored guidance.
- 4.10 These proposed changes aim to support a more consistent and fair approach to how apologies are considered in decision-making.

## **Striking off**

- 4.11 In response to feedback from the PSA, we propose refining the wording in relation to striking off to ensure greater clarity. The PSA noted that in the 2019 sanctions policy, the HCPC's reference to striking off as a 'sanction of last resort' may be misleading, as it could imply that other sanctions must have been attempted and failed before striking off can be considered.
- 4.12 Therefore, we propose to clarify that the seriousness of the misconduct may mean that striking off is the only appropriate sanction from the outset, without the need to first impose lesser sanctions. This clarification does not change the HCPC's policy position but aims to ensure panels apply an appropriate approach when considering striking off in cases of serious misconduct.

## **Assessing seriousness and culpability**

- 4.13 This proposed addition provides further guidance on how panels should assess the seriousness of misconduct, including considerations of risk of harm and culpability.

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<sup>12</sup> [Being open and honest when things go wrong | The HCPC](#)



- 4.14 The proposed changes emphasise the importance of a structured approach to evaluating seriousness, ensuring that both aggravating and mitigating factors are fully considered and clearly recorded in the panel's written decision. Therefore, panels should assess the level of risk posed by the registrant's actions, the degree of culpability and the potential or actual harm caused. This clarification strengthens existing guidance to support consistent and well-reasoned decision-making.

### **Discrimination**

- 4.15 We propose to expand our guidance on discrimination to clarify that all forms of discrimination are unacceptable and set out the different types of discrimination to ensure that there is adequate information on what is expected of registrants. This is intended to provide a clearer context on how panels should address all forms of discrimination.
- 4.16 In January 2025, we updated the [HCPTS practice note: Making decisions on a registrant's state of mind](#) to provide clearer guidance on cases involving allegations of racially motivated conduct. The update includes specific direction on how panels should approach cases where a registrant's actions are alleged to be based on discrimination. Additionally, we have clarified that the principles outlined in the practice note apply to any other allegations where a registrant's state of mind is in question, including cases involving discriminatory behaviour.
- 4.17 Therefore, for consistency in panel assessment of FTP cases, we propose to include in the sanctions policy, guidance for panels to follow to understand who discrimination could apply to and the different forms of discriminatory behaviour that are unacceptable. This proposed change is intended to provide robust protection for everyone, including service users and colleagues, who are subject to discrimination.

### **Dishonesty**

- 4.18 We propose to expand our guidance to make it easier to assess how the dishonest actions of registrants may affect trust or cause harm, leading to more informed and consistent decisions in serious cases. The proposed changes would provide panels with more information on how to assess dishonesty of registrants in FTP cases.

### **Sexually motivated misconduct**

- 4.19 We have also clarified and strengthened our guidance for panels in relation to sexually motivated misconduct. We propose to explicitly include sexually motivated misconduct to ensure that the guidance captures not only the nature of the behaviour but also the registrant's intent. This proposed change aims to provide greater protection for the public and clearer support for panels in assessing such cases. By clarifying that both the conduct and the

motivation behind it need to be assessed, the proposal will help ensure a fair, consistent and robust assessment in FTP cases.

### **Professional boundaries**

- 4.20 We propose to introduce a new section on professional boundaries. This is to ensure that concern about registrants maintaining professional relationships with service users are addressed appropriately. The proposed addition to the sanctions policy, reinforces the importance of maintaining professional standards while ensuring that panels are fair in their assessment of cases.
- 4.21 We have recently updated our standards<sup>13</sup> which are embedded in our practice notes. In September 2024, we introduced a new [HCTPS practice note on professional boundaries](#) to provide guidance to support panels in cases involving breaches of professional boundaries. This is to ensure a consistent and fair approach and provide clarity on how to evaluate concerns related to professional boundaries.
- 4.22 The proposed addition would ensure that our sanctions policy aligns with our standard and practice notes. This will help panels apply a structured and well-reasoned approach to their decision-making in relation to professional boundaries.

### **Structural and editorial improvements**

- 4.23 We propose to make some minor structural and editorial revisions to the policy document to make it clearer and easier to understand. For example, we propose to introduce a better explanation of where sanctions fit in the FTP process and the role of evidence and submissions. We have also provided greater clarity in our guidance for criminal convictions, cautions and conditions of practice guidance.
- 4.24 We also propose to improve signposting in the document by making greater use of subheadings. These will help to clearly distinguish key elements in the proposed sanction policy document such as insight, remorse and apology and the reasons for decision to issue a sanction, among others.
- 4.25 The proposed changes will support panels in making consistent, proportionate and well-reasoned decisions. The proposed changes will improve the overall flow and readability of the document, ensuring that key principles and guidance are easy to understand and apply.

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<sup>13</sup> [Standards of proficiency](#) and [Standards of conduct, performance and ethics](#).

## 5. Consultation questions

- 5.1 We would welcome your response to this consultation. Please provide your answers to the following questions, together with your reasoning wherever possible. You don't need to answer all the questions if you prefer not to.

**Q1. To what extent do you agree or disagree with the proposed changes on suspension orders?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q2. To what extent do you agree or disagree with the proposed changes on interim orders?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q3. To what extent do you agree or disagree with the proposed changes on apologies?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q4. To what extent do you agree or disagree with the proposed changes on strike-off where concerns are so serious, they are incompatible with continued registration?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer

**Q5. To what extent do you agree or disagree with the proposed changes on assessing seriousness and culpability?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q6. To what extent do you agree or disagree with the proposed changes on concerns about discrimination?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q7. To what extent do you agree or disagree with the proposed changes on dishonesty?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q8. To what extent do you agree or disagree with the proposed changes on sexually motivated misconduct?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q9. To what extent do you agree or disagree with the proposed changes on professional boundaries?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q10. Do you think the proposed changes have any positive or negative impacts on groups or individuals who share one or more of the protected characteristics<sup>14</sup> under the Equality Act 2010 and equivalent Northern Ireland legislation<sup>15</sup>?**

If so, please provide details.

**Q11. Are there any additional steps we should take to ensure the proposed changes do not unintentionally disadvantage any groups?**

**Q12. To what extent do you agree or disagree with the proposed changes to our sanctions policy in general?**

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<sup>14</sup> Age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief, sex, sexual orientation.

<sup>15</sup> <https://www.equalityni.org/Legislation>

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer including your views on the substance of the changes.

**Q13. To what extent do you agree or disagree with how clearly the proposed changes are presented?**

*Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree/ Don't know*

Please provide reasons for your answer.

**Q14. Are there any other areas where you think further clarity is needed within the policy document?**

## **6. How to respond to the consultation**

- 6.1 The consultation closes on 1 September 2025. We look forward to receiving your comments.
- 6.2 You can respond to this consultation in one of the following ways:
- Online, by completing our easy-to-use online survey: [INSERT LINK].
  - By email: [consultation@hcpc-uk.org](mailto:consultation@hcpc-uk.org)
  - By writing to us at:  
Consultation on revised sanctions policy  
Policy and Standards Department  
The Health and Care Professions Council  
Park House  
184 Kennington Park Road  
London  
SE11 4BU
- 6.3 To request a copy of this documentation in an alternative format or if you require any reasonable adjustment, please contact us by emailing [consultation@hcpc-uk.org](mailto:consultation@hcpc-uk.org).
- 6.4 Responses to this consultation will help us to understand the impact our proposals could have on groups who are protected under the Equality Act

2010. Responses will also inform and enable us to update our Equality Impact Assessment for the sanctions policy, which we will publish.

## **7. Next steps**

- 7.1 Once the consultation period has finished, we will analyse the responses we have received. We will then publish a document detailing the comments received and explaining the decisions we have taken as a result, including any further amendments needed. This will be available on our website.
- 7.2 The updated sanctions policy will be published and communicated to our stakeholders.
- 7.3 Once published, we will continue to make prompt changes to the sanctions policy where necessary, for example, to reflect changes in case law. However, we anticipate conducting a thorough review and seeking the views of stakeholders on any proposed changes at least once every five years. This is consistent with our approach to the periodic review of our standards.

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# Proposed Sanctions Policy

Last updated May 2025

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# 1. About the policy

## Purpose of the policy

- 1.1 The Health and Care Professions Council's (HCPC's) sanctions policy sets out the principles a Practice Committee Panel (the "panel")<sup>1</sup> should consider when deciding what, if any, sanction should be imposed in fitness to practise cases. It aims to ensure that decisions are fair, consistent and transparent and that sanctions are sufficient to protect the public and to promote and maintain appropriate standards and public confidence in the professions regulated by the HCPC.
- 1.2 Panels make independent decisions and must decide each case on its merits. This guidance is intended to set out key principles and factors for panels to consider to support fair and transparent decision making. Panels must refer to the relevant parts of this sanctions policy and record the reasoning for their decision in the published outcome.
- 1.3 The [Health Professions Order 2001](#) (the "2001 Order") gives the HCPC the authority to impose sanctions, such as suspension or removal from the health and care professionals' register (the "Register"), to protect the public, uphold professional standards and maintain confidence in regulated professions.
- 1.4 This policy covers the principles panels should consider when determining what, if any, sanction should be imposed. It provides details on:
  - [the principles of proportionality](#);
  - [mitigating factors](#);
  - [aggravating factors](#);
  - [identifying serious cases](#);
  - [the sanctions available to the panel](#); and
  - [review hearings](#).

## Equality and diversity

- 1.5 The HCPC is committed to eliminating discrimination, valuing diversity and achieving equality of opportunity in all that we do. The HCPC has statutory obligations to make

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<sup>1</sup> This refers to the Practice Committee Panel of the Health and Care Professions Tribunal Service (HCPTS) which makes decisions on disciplinary and fitness to practise cases for health and care professionals. It reviews evidence, hears testimonies, and assesses whether a professional's conduct, competence, or health affects their ability to practise safely and meet the required standards. Based on its findings, the panel determines whether any sanctions are necessary.

sure that processes for dealing with concerns about registrants are fair and this policy supports the HCPC in meeting that commitment.

- 1.6 As a public authority the HCPC is subject to the requirements of the Equality Act 2010 which applies in England, Scotland and Wales. Our guidance and ways of working are also consistent with the public authority duty under the Northern Ireland Act 1998.<sup>2</sup>
- 1.7 The Equality Act 2010 prohibits discrimination, harassment or victimisation of people with protected characteristics. These are:
- age;
  - disability;
  - gender reassignment;
  - marriage and civil partnership;
  - pregnancy and maternity;
  - race;
  - religion or belief;
  - sex; and
  - sexual orientation.
- 1.8 The Public Sector Equality Duty (PSED) set out in the Equality Act 2010 comprises general duties which requires HCPC to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
  - advance equality of opportunity between people who share a protected characteristics and those who do not; and
  - foster good relations between people who share a protected characteristic and those who do not.
- 1.9 Anyone who is acting for the HCPC or the Health and Care Professions Tribunal Service (HCPTS) is expected to be aware of, and adhere to, equality and human

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<sup>2</sup> While we are not listed as a public authority in the relevant legislation, we are committed to the public authority duty set out in Section 75 of the Northern Ireland Act 1998. See: [Equality, diversity and inclusion | The HCPC](#).

rights legislation. Panels should be mindful of this when making all decisions. They should ensure that their decisions are fair, consistent impartial and proportionate.

- 1.10 Panels should also be mindful that cultural differences may impact the way a registrant engages with the investigation into their conduct and any hearing. Panels should therefore take account of potential cultural factors that may have influenced the registrant's engagement when considering sanction<sup>3</sup>.

### **Purpose of sanctions**

- 1.11 The purpose of a sanction is to uphold standards and public confidence in the professions we regulate and take the action necessary to protect the public. Sanctions are applied at the conclusion of our fitness to practise process when a registrant's conduct, competencies, criminal conviction, health, or determination by another regulator have been found to fall below acceptable standards.
- 1.12 The primary function of any sanction is to protect the public. This includes consideration of:
- any risks the registrant might pose to those who use or need their services;
  - the deterrent effect on other registrants;
  - public confidence in the profession we regulate; and
  - public confidence in the regulatory process.
- 1.13 Sanctions should be tailored to the specific circumstances of each case, balancing public protection with the broader public interest. Sanctions should only be imposed in relation to the facts found proven and should address all of those facts which have led to a finding of impairment.
- 1.14 There are five statutory grounds of impairment:
- misconduct;
  - lack of competence;
  - a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
  - physical or mental health; or
  - a determination by another regulator.

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<sup>3</sup> For example, how they frame an apology.

- 1.15 Professionals registered with the HCPC must follow the standards of conduct, performance and ethics<sup>4</sup> and the relevant standards of proficiency<sup>5</sup>. Where serious concerns have been raised about a registrant's failure to work in line with these standards, these concerns may be referred to a panel of the HCPTS.
- 1.16 A panel can only impose a sanction if they have found that a registrant's fitness to practice is currently impaired. By that stage, the panel will have heard evidence and submissions about what happened and any steps the registrant has taken to remediate. The panel may receive further evidence and hear further submissions after a finding of impairment and before deciding which sanction, if any, to impose.
- 1.17 Sanctions are not intended to punish registrants, but to ensure the public is protected and maintain standards and confidence in the profession. Inevitably, a sanction may be punitive in effect but should not be imposed for that purpose.

### **Sanctions and orders available to the panel**

1.18 The following sanctions and orders are set out in Article 29 of the 2001 Order:

- mediation;<sup>6</sup>
- no action;
- caution;
- conditions of practice;
- suspension;
- striking off.

### **Reasons for decision to issue a sanction**

- 1.19 At every stage the decision-making process, panels must give reasons for the decisions they make. Panels must:
- i. provide clear and detailed reasoning to support its decision – they must set out how they have considered the sanctions available to them in ascending order of restrictive effect and how they have assessed the seriousness of the concerns raised, including the aggravating and mitigating factors;

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<sup>4</sup> <https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/>

<sup>5</sup> <https://www.hcpc-uk.org/standards/standards-of-proficiency/>

<sup>6</sup> Whilst mediation is in our legislation under Article 29, it is not considered a sanction. There's separate guidance on mediation in the form of a [Practice Note](#).

- ii. explain why the sanction they imposed was the most proportionate and appropriate one and why neither less nor more restrictive sanctions were required;
- iii. ensure that the sanction is consistent with findings made by them at the statutory ground and impairment stages; and
- iv. ensure the outcome of all cases, together with the reasons for decisions, are published on HCPTS website.<sup>7</sup>

## 2. Standards of conduct, performance and ethics

- 2.1 The HCPC's standards of conduct, performance and ethics are the standards we set for all the professionals on our Register, stating in broad terms our expectations of their behaviour and conduct.
- 2.2 It is important that panels are mindful of the standards when imposing sanctions and refer to the standards in their reasons. This may simply require the panel to refer to their decision making at an earlier stage, for example why the panel found misconduct. The standards outline that registrants must:
  - promote and protect the interests of service users and carers;
  - communicate appropriately and effectively;
  - work within the limits of their knowledge and skills;
  - delegate appropriately;
  - respect confidentiality;
  - manage risk;
  - report concerns about safety;
  - be open when things go wrong;
  - be honest and trustworthy; and
  - keep records of their work.

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<sup>7</sup> As required by the [2001 Order](#), any decision on sanction must be published on the [HCPTS website](#) alongside the reasons for it.

### 3. Proportionality

- 3.1 In making proportionate decisions on sanction, panels need to strike a balance between the competing interests of the registrant and the HCPC's overriding objective to protect the public. Furthermore, there is a public interest in retaining registrants on the Register and allowing them to practise, but only where the panel is satisfied that they can do so safely without restriction (or with conditions where required) and where the public interest does not require a registrant to be suspended or struck off. Therefore, sanctions should reflect the nature and seriousness of the concerns raised and be fair, just and reasonable.
- 3.2 The panel's written decision should clearly explain why the sanction is necessary having regard to the full facts of the case and associated risks.
- 3.3 It should also make clear what process the panel followed, by considering each available sanction in turn, in the same order in which the panel has assessed their suitability.
- 3.4 Panels should explain why they have rejected one sanction before moving on to a more restrictive sanction and outline why the less restrictive sanction is insufficient to protect the public and/or the public interest.
- 3.5 Where appropriate, they should also explain why the next more restrictive sanction is not required to protect the public and/or the public interest, having regard to the specific circumstances of the case.

#### Interim orders

- 3.6 Interim orders have a separate and different purpose from sanctions. The purpose of interim orders is to put in place interim safeguards to protect the public interest, including the protection of the public, whilst concerns about a registrant's fitness to practise remain unresolved. Accordingly, an interim order is a temporary measure employed to manage or address risk.
- 3.7 When making a decision on sanction, the panel may be told that the registered professional was under an interim order whilst the HCPC investigated the concerns. The panel should be mindful of the effect this might have. The fact that a registrant was previously under an interim order, and for how long, are relevant background factors in deciding on what a proportionate sanction might be. For example, if a registrant has been under an interim order they may only have had a limited chance to address the areas in their practice that have fallen below the standards. If a registrant has not fully complied with an interim order, questions may be raised in relation to their insight, their attitude towards professionalism and whether they are likely to comply with any sanction.
- 3.8 An interim order decision is not based on a finding of fact and the risk factors considered for an interim order are different from the criteria considered by the panel when deciding an appropriate sanction on a registrant's practice. Therefore, a panel

should avoid giving undue weight to whether a registrant has been subject to an interim order or the duration of that order. Furthermore, the fact that a registrant has not been made the subject of an interim order during fitness to practise proceedings does not mean that a restrictive sanction should not be imposed.

- 3.9 It would be wrong for a panel to simply deduct or discount the time a registrant was previously restricted or suspended under an interim order from the substantive sanction which the panel may be thinking about imposing. Doing so could put patients at risk of harm, if time spent under an interim order was simply deducted from the otherwise appropriate period of sanction. Such a decision could mean that the substantive order would not be sufficient in achieving its purpose of maintaining standards and protecting the public.

### **Assessing seriousness**

- 3.10 Panels need to assess seriousness at various stages in their decision making, including when deciding what sanction, if any, to impose and the length of that sanction. Panels should assess seriousness against the HCPC's statutory objectives to protect the public and to promote and maintain public confidence in the professions and in proper professional standards and conduct of registrants.
- 3.11 Any ongoing risk to service users or public safety is an important consideration for each of these objectives. Where a registrant poses an ongoing risk, panels need to address that risk and public confidence is likely to be undermined unless the regulator takes appropriate action. Conduct which has occurred outside a registrant's professional role can indicate a risk to service user care and safety or public confidence in professions.
- 3.12 Some conduct may be considered fundamentally incompatible with continued registration because it represents a particularly serious departure from the standards required of HCPC registrants.
- 3.13 An important part of assessing seriousness is considering the aggravating and mitigating features of each case and ensuring that these are recorded fully in the panel's written decision.

### **Assessing culpability**

- 3.14 When assessing harm or the risk of harm, panels should consider the registrant's culpability for that harm or the risk of exposure to unwarranted harm. The degree of risk of harm cannot be considered in isolation, as even death or serious injury may result from an unintentional error, which is unlikely to be repeated. Alternatively, a person may have intended to cause serious harm, or been reckless about causing serious harm, but through nothing more than good fortune, there may have been no actual harm suffered at all.
- 3.15 In assessing culpability, panels should take into account that:



- deliberate and intentional harm is more serious than harm arising from a registrant's reckless disregard of risk which, in turn;
- is more serious than that arising from a negligent act where the harm may not have been foreseen by the registrant.

3.16 In assessing harm and future risk, panels should take account of the fact that there are different types of harm. It may be that the harm has an adverse effect on physical or mental health. In other cases, for example bullying or sexual misconduct conduct towards colleagues, the harm may include a breakdown in trust within a wider team, which may affect the safe and effective delivery of care.

## 4. Mitigating factors

4.1 Mitigating factors are factors that tend to make a matter less serious in terms of the regulatory response required. They may relate to the acts, omissions or circumstances of the case or the registrant's response to them.

4.2 Mitigating factors relevant to the registrant's acts or omissions may include:

- an isolated act – this may suggest there is less risk of repetition in the future;
- no risk of harm or adverse consequence; or
- a genuine error, which is less culpable than a deliberate or reckless act and easier to put right.

4.3 Mitigating factors arising from the registrant's response may include:

- insight
- remorse
- apology
- remediation

4.4 Matters of purely personal mitigation for instance, financial loss or reputational damage that would result from the imposition of a sanction, are likely to be of considerably less significance in regulatory proceedings, where the overarching concern is the protection of the public, than to a court imposing a punitive sentence.

4.5 Panels should record in their determination the mitigating and any contextual factors they have taken into consideration in deciding what sanction to impose.

- 4.6 Whilst mitigating factors do not excuse or justify poor conduct or competence, they may be useful indicators of a reduced ongoing risk posed to service users. For this reason, mitigating factors may reduce the extent of the need to impose restrictions via a sanction.
- 4.7 A key factor in determining what, if any, sanction is appropriate is likely to be the extent to which a registrant recognises their failings and has addressed them or appears genuinely willing and able to do so. Where a registrant does recognise their failings and is willing to address them, the risk of repetition may be reduced.
- 4.8 Health and social care professionals have a duty of candour; a professional responsibility to be open and honest when things go wrong with the care, treatment or service that they have provided. The standards of conduct, performance and ethics (standard 8.1) affirm this and outline the obligation to:
- inform service users or, where appropriate, their carers, that something has gone wrong;
  - apologise;
  - take action to put matters right if possible; and
  - make sure that service users or, where appropriate, their carers, receive a full and prompt explanation of what has happened and any likely effects.
- 4.9 In taking account of any insight, remorse or apology offered by a registrant, panels should be mindful that there may be factors, for example neuro-diverse and cultural differences, in the way these might be expressed, both verbally and non-verbally. This may be more pronounced where English is not the registrant's first language.

### Insight

- 4.10 When considering sanction, panels will need to consider what insight a registrant has shown and its relevance to and impact on the sanction required. Panels should always seek advice from the legal assessor regarding the approach they should take to their assessment of the registrant's insight. They should take particular care in assessing insight in cases in which the registrant has denied the facts alleged against them and refer to the relevant sections of the [Practice Note on Fitness to Practise Impairment](#).
- 4.11 Where present, genuine insight can indicate that:
- the registrant will comply with any requirements imposed by the panel;
  - the registrant will comply with any restrictions imposed on their practice;
  - the risk of repetition, and therefore the risk to service users, is significantly lower than cases where insight is not present; and

- the risk of damage to public confidence in the profession is reduced.

4.12 Insight is a registrant's genuine understanding and acceptance of the concerns, which have been raised in relation to their conduct or competence. It is likely to be demonstrated by:

- a genuine recognition of the concerns raised;
- an understanding of the impact or potential impact of their actions; and
- demonstrable empathy for the harm or potential harm caused to other people including service users, colleagues and members of the public.

4.13 Genuine insight is likely to be demonstrated by timely remorse, apology and remediation, exhibited ahead of any hearing. In assessing the sincerity of an apology, the panel should take account of the timing and level of remorse and insight the registrant has shown and the presence and nature of any remediation they have undertaken.

### Remorse

4.14 Expressing remorse involves a registrant taking responsibility and exhibiting regret for their actions and may be demonstrated by one or more of the following:

- acknowledging wrongdoing;
- giving an apology; and
- undertaking appropriate remediation.

4.15 Whilst insight expressed during a hearing may be taken into account, insight expressed in advance may carry more weight. Panels must take all relevant circumstances into account in deciding the relevance and impact of insight to their decisions on sanction.

### Apology

4.16 An apology does not necessarily mean the registrant is admitting legal liability for what had happened or a breach of statutory duty, which may be admissible as evidence of liability in other legal proceedings. Whether or not an apology will be treated in this way will be determined by the relevant UK law applying to any other proceedings.

4.17 Apologies are an important aspect of an individual's duty of candour. Our standards<sup>8</sup> explain that registrants must apologise to a service user and/or their carer when

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<sup>8</sup> [The duty of candour | The HCPC](#)

something has gone wrong with the care, treatment or other services that they provide. An apology may be one of the ways an individual demonstrates insight. Panels should consider the various reasons why an apology may not be given. For example, registrants, including those who have limited access to legal advice and may fear the impact an apology will have on liability.<sup>9</sup> Different cultural factors and lived experience may also impact on whether or not someone apologises, or how they frame an apology or insight.

- 4.18 For the purposes of fitness to practise proceedings before a panel, an apology itself will not in and of itself be treated as an admission of guilt (in relation to facts or impairment).

## Remediation

- 4.19 Remediation involves a registrant taking steps to address any concerns that have been raised about their conduct, competence or health. Effective remediation is likely to:

- indicate the registrant has insight into concerns about their conduct or competence or ability to manage their health;
- reduce the risk of repetition of the concerns; and
- reduce the risk to the public, including public confidence in the professions.

- 4.20 Whether or not remediation has been undertaken, and if any remediation can be considered effective, are important aspects of a panel's assessment of what risk the registrant might pose to the public, and therefore what sanction, if any, is required to mitigate that risk.

- 4.21 There are a wide range of remediation activities available to a registrant and the form of that remediation will depend upon the nature of the concerns raised. The decision as to the appropriateness of the remediation is ultimately for the panel to make, however, remediation can include (but is not limited to):

- courses to address behavioural and attitudinal issues, such as professional boundaries and Equality Diversity and Inclusion;
- training to address competence deficiencies;
- rehabilitation to support individuals with health concerns;
- coaching, mentoring and supervision to address competence and conduct issues; and

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<sup>9</sup> [Reforming the Law of Apologies in Civil Proceedings in England and Wales](#)

- personal reflection.

4.22 There are some concerns which are so serious, that activities intended to remediate the concern cannot sufficiently reduce the risk to the public or public confidence in the profession. Despite the steps the registrant has taken to attempt to remediate the concerns, the panel may still feel it necessary to impose a more restrictive sanction. Such cases might include those involving:

- [dishonesty](#);
- [failure to raise concerns](#);
- [failure to work in partnership](#);
- [discrimination against service users, carers, colleagues and other](#);
- [conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people](#);
- [abuse of professional position, particularly when involving a vulnerable person](#);
- [conduct which is sexual in nature or sexually motivated](#);
- [sexual abuse of children or indecent images of children<sup>10</sup>](#);
- [sexual offenders' database](#);
- [criminal convictions, cautions and community sentences for serious offences; and](#)
- [violence which is serious or otherwise adversely affects public confidence in the profession](#).

4.23 Where the panel considers the steps taken to address the concerns are not sufficient to remediate the issues, it should clearly set out:

- the seriousness of the concerns;
- the risk posed to the public;
- the steps the registrant has taken to attempt to address the concerns; and
- the reasons the steps taken are not sufficient to protect the public.

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<sup>10</sup> For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

## 5. Aggravating factors

- 5.1 Aggravating factors are any features of a case which increase the seriousness of the concerns. Where present, they are likely to lead to more restrictive sanctions in order to protect the public.
- 5.2 When considering the impact of aggravating factors on sanction, panels should properly evaluate these factors in the round and on a case-by-case basis. Panels must therefore give due consideration to all the information available to them about the particular case, including any wider contextual factors. These considerations should then form part of the panel's wider balancing exercise to determine what action is necessary for public protection.

### Breach of trust

- 5.3 Trust is a fundamental aspect of the relationship between a registrant and a service user or carer. Breaching this trust can have significant impacts on public protection. For example, a service user may not engage with a registrant because they are concerned that they cannot trust them delaying treatment or support. Breaching trust may also have an adverse effect on the confidence the public places in the profession more generally.
- 5.4 Breaches of trust are of even greater seriousness where they involve a vulnerable service user or carer.
- 5.5 Where there has been a breach of trust, panels are likely to impose more restrictive sanctions and should provide clear reasons if they choose not to.

### Repetition of concerns/pattern of unacceptable behaviour

- 5.6 The standards of conduct, performance and ethics outline HCPC registrants' obligation to 'promote and protect the interests of service users and carers' (standard 1) and to 'work within the limits of [their] knowledge and skills' (standard 3). Where concerns are raised regarding their conduct, competence or health, registrants are duty bound to address these concerns and ensure they do not compromise service user safety.
- 5.7 A repetition of concerns, or a pattern of unacceptable behaviour, leads to greater potential risks to the public, for a number of reasons such as:
- the fact the conduct or behaviour has been repeated increases the likelihood it may happen again; and
  - the repetition indicates the registrant may lack insight.

- 5.8 Repeated misconduct or unacceptable behaviour, particularly where previously addressed by employer or regulatory action, is likely to require more restrictive sanctions to address the risks outlined above.

### **Lack of insight**

- 5.9 Where a registrant lacks insight they may pose a higher risk to service users.
- 5.10 Registrants who lack a genuine recognition of the concerns raised about their fitness to practise and fail to understand or take responsibility for the impact or potential impact of their actions, are unlikely to take the steps necessary to safeguard service user safety to address the concerns raised. For this reason, in these cases panels are likely to take more serious action in order to protect the public.
- 5.11 Panels should always take advice from the legal adviser on the correct approach they should take when assessing insight and its impact on sanction.

### **Lack of remediation**

- 5.12 If a registrant chooses not to undertake remediation activities to address their deficiencies or fails to remediate when they have promised to do so, it could indicate a lack of insight. This might significantly increase the risk of repetition and therefore risk to the public. It is therefore likely that cases involving little or no remediation might require more serious sanctions, to protect the public.

### **Service user harm/potential service user harm**

- 5.13 In cases where a service user has been harmed, or there was potential for harm to be caused, panels should be particularly mindful of any ongoing risk to service user safety and any impact on public confidence in the profession.
- 5.14 Service user harm, or the potential for this, will be of particular importance in cases involving vulnerable service users. In these cases, the public expect that more serious action is taken to address concerns around conduct or behaviour.

## **6. Serious cases**

### **Dishonesty**

- 6.1 The standards of conduct, performance and ethics require registrants to be honest and trustworthy (standard 9). Dishonesty undermines public confidence in the profession and can, in some cases, impact the public's safety.
- 6.2 Dishonesty, both in and outside the workplace, can have a significant impact on the trust placed in those who have been dishonest, and potentially on public safety and

the profession generally. It is likely to lead to more restrictive sanctions. The following are illustrations of such dishonesty:

- putting false information in a service user's record (including in an attempt to cover up misconduct or a lack of competence);
- providing untruthful information in job applications (perhaps misleading the prospective employer about experience, training or skills gained); and
- fraud, theft or other financial crime.

6.3 Given the seriousness of dishonesty, cases are likely to result in more restrictive sanctions. However, panels should bear in mind that there are different forms and different degrees of dishonesty that need to be considered in an appropriately nuanced way. Factors that panels should take into account in this regard include:

- whether the conduct took the form of a single act, or occurred on multiple occasions;
- the duration of any dishonesty;
- the nature of the dishonesty;
- the actual or potential impact of the dishonesty;
- whether the registrant took a passive or active role in it;
- any early admission of dishonesty on the registrant's behalf; and
- any other relevant mitigating factors.

### **Failure to raise concerns**

6.4 The standards of conduct, performance and ethics outline HCPC registrants' obligation to 'report concerns about safety' (standard 7). Registrants must report any concerns about the safety or wellbeing of service users promptly and appropriately and ensure that the safety and wellbeing of service users comes before any professional or other loyalties. In particular, the standards outline an explicit requirement to take appropriate action if the concern is about a child or vulnerable adult.

6.5 Where a registrant fails to raise concerns, this can place service users at particular risk and is likely to result in a more restrictive sanction. This will be appropriate particularly where a registrant has repeatedly failed to raise concerns, a failure to raise concerns has resulted in a serious risk to the safety or wellbeing of service users, or if the concern involved a child or vulnerable adult.



## Failure to work in partnership

- 6.6 The standards of conduct, performance and ethics require registrants to 'work in partnership with colleagues' for the benefit of service users (standard 2.5). As a result, registrants must share their skills, knowledge and experience with colleagues, and, where appropriate, relevant information about the care, treatment or other services provided to a service user.
- 6.7 Cases where a registrant fails to work in partnership effectively with colleagues, for example, where the registrant is bullying or discriminating against colleagues, or is dishonest with colleagues, are likely to result in a more restrictive sanction.

## Discrimination against service users, carers, colleagues and other people

- 6.8 Registrants must treat people fairly, whatever their personal values, biases and beliefs, and must take action to ensure their personal values, biases and beliefs do not lead them to discriminate against others or detrimentally impact the care, treatment or other services they provide. This guidance is set out at standards 1.5 and 1.6 of the standards of conduct, performance and ethics.
- 6.9 It is unlawful to discriminate against someone based on their protected characteristics, or because of the protected characteristics of someone they are associated with<sup>11</sup>.
- 6.10 Discrimination is unacceptable and can negatively impact public protection and the trust and confidence the public places in registrants. HCPC standards require that registrants do not discriminate, that they challenge discrimination, that they treat service users and carers with respect, that they communicate politely, considerately and responsibly and that they ensure their conduct justifies the public trust and confidence in them and their profession.
- 6.11 Unlawful discrimination can come in one of the following forms:
- **Direct discrimination** - treating someone less favourably than others because of their protected characteristics.
  - **Indirect discrimination** - putting rules or arrangements in place that apply to everyone and put someone at an unfair disadvantage because of a protected characteristic <sup>12</sup>.
  - **Harassment** - unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them.

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<sup>11</sup> The Equality Act 2010 specifies the nine 'protected characteristics' which are covered by this legislation: age, disability, race, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, and sexual orientation. It is unlawful to discriminate on the basis of any one or more of these characteristics.

<sup>12</sup> It can be lawful to have specific rules or arrangements in place, as long as they can be justified.

- **Victimisation** - treating someone unfairly because they've complained about discrimination or harassment.

6.12 HCPC standards set out that registrants must not unfairly discriminate – this includes unlawful discrimination covered by the Equality Act 2010.

6.13 There can be serious consequences for public safety and confidence in the profession where a registrant unfairly discriminates against individuals (e.g., colleagues, service user, carer or members of the public), for example where a registrant:

- treats a person differently and worse than others because of who they are, or because of someone they are connected to;
- refuses (without just cause) to provide a person with a service or take them on as a client;
- behaves in a way violates a person's dignity or intimidates them; or
- punishes a person for complaining about discrimination or helping someone else to complain.

6.14 Where a panel finds a registrant impaired due to discrimination against service users, carers, colleagues or others– whether within or outside their professional life – the panel should refer to the HCPTS Practice Note: [Making Decisions on a Registrant's State of Mind](#). This document sets out the approach panels should take in cases where a registrant's conduct is alleged to be discriminatory.

6.15 Panels are more likely to impose a more restrictive sanction for discriminatory conduct, taking into account the standards of conduct, performance and ethics and the objectives of the PSED.

### **Breach of Professional Boundaries**

6.16 Within healthcare, effective team working is vital for the health and safety of service users and their carers. As well as causing or risking harm to the team members affected, breaches of professional boundaries between colleagues can undermine effective team working, risking harm to the people that the team exists to serve. The relationship between a registrant and service user, carer or colleague is based upon trust, confidence and professionalism. The relationship between service user and registrant is one in which there is an unequal balance of power, in favour of the registrant. Whilst registrants should endeavour to have positive relationships with service users, carers and colleagues, it is essential that they remain aware of the dynamic and take care not to abuse their position.

6.17 The standards of conduct, performance and ethics require registrants to ensure that their conduct justifies the public's trust in them and their profession. This means being honest and trustworthy and acting in the best interests of service users, as well as ensuring that their relationships with service users, carers and colleagues remain professional. Where a registrant is found to have abused their professional status, this is highly likely to reduce the public's trust in them and their profession. The greater the alleged abuse of trust, the more serious the panel should consider the concerns.

6.18 A registrant may abuse their professional position in a number of ways such as:

- **Financial:** A registrant may abuse their position of trust for their own financial gain, for example by influencing service users or carers in order to sell goods or services, or by misusing a service user or carer's money or possessions.
- **Inappropriate access of confidential information:** A registrant will be considered to have abused their professional position if they use it to gain access to confidential records about service users, carers or colleagues without authority or a good reason to do so.
- **Professional boundaries and inappropriate relationships:** Our standards require registrants to 'maintain appropriate relationships'. Where a registrant uses their professional status to pursue inappropriate relationships with service users or carers this may undermine the care or treatment provided and the public's trust in the profession. When considering such cases, panels should refer to the [\*HCTPS Practice Note on Professional Boundaries\*](#).

6.19 If a registrant forms a personal relationship with a **former service user or carer**, this may still be inappropriate and panels should note the factors they should consider as set out in the practice note on professional boundaries.

6.20 A registrant's behaviour should be considered predatory where they are seen to take advantage of others, motivated by a desire to establish a sexual or otherwise inappropriate relationship with a service user or carer. The panel should take **predatory behaviour** particularly seriously, as there will often be significant risk to the targeted service user, carer or junior colleague.

6.21 Predatory behaviour might include attempts to contact service users, carers or junior colleagues using information accessed through confidential records (for example, visiting a service user's home address without authority or good reason to do so), or inappropriate use of social media to pursue a service user, carer or junior colleague. Any evidence of predatory behaviour is likely to lead to more restrictive sanctions.

## Vulnerability

6.22 Cases involving vulnerable service users should be treated particularly seriously. Given the unequal balance of power between registrants and service users or

carers, any service user or carer accessing treatment may be vulnerable. However, a service user or carer is considered particularly vulnerable if they are unable to take care of themselves or are unable to protect themselves from significant harm or exploitation.

6.23 There are many ways in which a service user or carer may be vulnerable. Vulnerability might include:

- mental illness (including dementia);
- age (for example, children under 18 or the elderly);
- disability;
- lack of capacity;
- history of abuse or neglect; and
- bereavement.

6.24 Where a registrant has pursued a sexual or otherwise inappropriate emotional relationship with a particularly vulnerable service user or carer, panels should consider this an aggravating factor which is likely to lead to a more restrictive sanction.

### **Sexual misconduct and sexually motivated misconduct**

6.25 Sexual misconduct or sexually motivated misconduct is a very serious matter that has a significant impact on the public and public confidence in the profession. It includes, but is not limited to, sexual harassment, sexual assault and any other conduct of a sexual nature carried out without informed consent

6.26 The misconduct can be directed towards:

- service users, carers and their family members;
- colleagues; and
- members of the public.

6.27 Because of the gravity of these types of cases, where a panel finds a registrant impaired because of sexual misconduct or sexually motivated misconduct,<sup>13</sup> it is likely to impose a more restrictive sanction. Where it deviates from this approach, it must provide clear reasons for its decision.

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<sup>13</sup> Panels should refer to HCPTS Practice Note: [Making Decisions on a Registrant's State of Mind](#), for decision regarding sexually motivated conduct.

## **Sexual abuse of children**

- 6.28 Sexual abuse of children involves forcing or persuading them to take part in sexual activities and includes both physical contact and online activity.
- 6.29 Sexual abuse of children, whether physical or online, is intolerable, seriously damages public safety and undermines public confidence in the profession. Any professional found to have participated in sexual abuse of children in any capacity has demonstrated conduct which is incompatible with continued registration and should not be allowed to remain in unrestricted practice.

## **Offences related to indecent images of children<sup>14</sup>**

- 6.30 It is illegal to take, make, distribute, show or advertise indecent images of children.
- 6.31 The courts categorise offences relating to indecent images of children based on the nature of the images and the offender's degree of involvement in their production.
- 6.32 Any offence relating to indecent images of children involves some degree of exploitation of a child, and so a conviction for such an offence is a very serious matter. In particular, it undermines the public's trust in registrants and public confidence in the profession concerned and is likely to lead to strike off.

## **Sex offenders' database**

- 6.33 Inclusion on the sex offenders' database serves to protect the public from those who have committed certain types of offences. A panel should normally regard it as incompatible with the HCPC's obligation to protect the public to allow a registrant to remain in or return to unrestricted practice while they are on the sex offenders' database.

## **Criminal convictions and cautions**

- 6.34 Where a registrant has been convicted of a serious criminal offence and is still serving a sentence at the time the matter comes before a panel, normally the panel should not allow the registrant to resume unrestricted practice until that sentence has been satisfactorily completed. However, in some cases, it may be disproportionate to impose a suspension or removal from the Register solely because part of the sentence remains outstanding. Panels should consider the nature of the offence, the stage of the sentence and any evidence of rehabilitation when determining an appropriate sanction.
- 6.35 The panel's role is not to impose an additional punishment to any already imposed by the courts, but to protect the public and the wider public interest which includes

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<sup>14</sup> For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children

maintaining high standards among registrants and public confidence in the profession concerned.

- 6.36 If a registrant has a conviction or caution for a less serious offence and the panel assesses that there is an ongoing risk to the public, or to public confidence in the profession because of the circumstances of that conviction or caution and/or the registrant's response to it, the sanction imposed must be sufficient to address that risk.
- 6.37 Where the panel deviates from the approach outlined above, it must provide clear reasons for its decision.

### **Community sentences**

- 6.38 Community sentences are non-custodial sentences aimed at punishing offenders' behaviour, so they do not commit crime in the future, and are used to address different aspects of an individual's offending behaviour. This may include unpaid community work, compliance with a curfew, exclusion from certain areas or participation in mental health, drug or alcohol treatment.
- 6.39 Panels need to give careful consideration to the specific terms of any community sentence when considering a registrant's fitness to practice. Generally, it will be inappropriate for a registrant to remain in, or return to, unrestricted practice whilst subject to such a sentence.
- 6.40 However, panels must approach each case on its own individual facts and give particular consideration particular attention to the outstanding elements of the sentence and evaluate their relevance to public protection and the wider public interest, including maintaining confidence in the profession and upholding professional standards.
- 6.41 If a panel chooses to give less weight to a community sentence when determining an appropriate sanction, it must provide clear and reasoned justification for its decision.

### **Violence**

- 6.42 Registrants have a duty to ensure that their conduct justifies the public's trust and confidence in them and their profession (see standard 9.1 of the standards of conduct, performance and ethics). Where a registrant has exhibited violent behaviour, this is highly likely to affect the public's confidence in their profession and pose a risk to the public. In these cases, a more restrictive sanction may be warranted.

## 7. Sanctions

### Determining what sanction is appropriate

- 7.1 If a panel finds a registrant's fitness to practise to be impaired, it can
- refer a case for mediation;<sup>15</sup>
  - take no action;
  - impose a caution order;
  - impose a conditions of practice order;
  - impose a suspension order; or
  - strike the registrant off the Register.
- 7.2 In determining what sanction, if any, is appropriate, the panel should start by considering the least restrictive sanction first, working upwards only where necessary. The final sanction should be a proportionate one and will therefore be the minimum action required to protect the public and maintain standards and confidence in the profession.

### No action

- 7.3 A finding of impaired fitness to practise means that the panel has concerns about a registrant's current ability to practise safely and effectively. It is therefore unlikely that the panel would take no action following a finding of impairment.
- 7.4 In any case in which the panel considers taking no action to be the appropriate and proportionate outcome, it must provide clear reasons to explain this decision. In particular, it must set out why it has concluded that there is no risk to the public, or to public confidence in the profession, in taking no action.

### Caution

#### What is a caution order?

- 7.5 A caution order can be imposed for any period between one and five years. The caution order will appear on the Register but will not restrict a registrant's ability to practise. An order of this sort may be taken into account if a further allegation is made against the registrant although, in doing so, the panel should take into account all relevant factors including:

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<sup>15</sup> Whilst mediation is in our legislation under Article 29, it is not considered a sanction. There's separate guidance on mediation in the form of a [Practice Note](#)

- the length of time since the caution order was imposed;
- the relevance of that order to the further allegation made against the registrant; and
- whether any promised remedial steps that led to the imposition of a caution order originally, rather than an alternative sanction, have been fulfilled.

### **When is a caution order appropriate?**

7.6 A caution order is likely to be an appropriate sanction for cases in which:

- the issue is isolated, limited, or relatively minor in nature;
- there is a low risk of repetition;
- the registrant has shown good insight; and
- the registrant has undertaken appropriate remediation.

7.7 A caution order should be considered in cases where the nature of the allegations means that there is no risk to public protection that has to be addressed by a more restrictive sanction or that meaningful practice restrictions cannot be imposed, but a suspension of practice order would be disproportionate.

7.8 In these cases, panels should provide a clear explanation of why it has chosen a non-restrictive sanction, even though the panel may have found there to be a risk of repetition (albeit low).

### **How long should a caution order be imposed for?**

7.9 The panel can impose a caution order for any period between one and five years. The panel should take the minimum action required to protect the public and public confidence in the profession, so should begin by considering whether or not a caution order of one year would be sufficient to achieve this. It should only consider imposing a caution order for a longer period where one year is insufficient.

7.10 Each case should be considered on an individual basis, and the panel's decision should clearly state the length of sanction it considers to be appropriate and proportionate and the reasons for that decision.



## Conditions of practice

### What is a conditions of practice order?

- 7.11 A conditions of practice order allows a registrant to remain in practice subject to restrictions which reflect the panel's finding as to their fitness to practise. It requires the registrant to undertake certain actions or restrict their practice in certain ways. In some cases it may be appropriate to impose a single condition for a short period, for example to undertake specific training. However, in most cases, a combination of conditions will be necessary. Conditions of practice orders must be reviewed by a panel before the order expires.

### When is a conditions of practice order appropriate?

- 7.12 A conditions of practice order is likely to be appropriate in cases where:

- the registrant has insight;
- the concerns are capable of being remedied or managed;
- there are no persistent or general concerns which would prevent the registrant from remediating;
- appropriate, proportionate, realistic and verifiable conditions can be formulated;
- the panel is confident the registrant will comply with the conditions;
- a reviewing panel will be able to determine whether or not those conditions have or are being met; and
- a panel is satisfied that a registrant may continue to practise with conditions without exposing the public to risk of harm.

### When might a conditions of practice order not be appropriate?

- 7.13 Conditions will only be effective in cases where the registrant is genuinely committed to resolving the concerns raised and the panel is confident they will do so. Therefore, conditions of practice are unlikely to be suitable in cases in which the registrant has failed to engage with the fitness to practise process or where there are serious or persistent concerns.
- 7.14 Conditions are also less likely to be appropriate in more serious cases, for example those involving

- [dishonesty](#);

- [failure to raise concerns;](#)
- [failure to work in partnership;](#)
- [discrimination against service users, carers, colleagues and other people;](#)
- [conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people;](#)
- [abuse of professional position, particularly when involving a vulnerable person;](#)
- [conduct which is sexual in nature or sexually motivated;](#)
- [sexual abuse of children or indecent images of children<sup>16</sup>;](#)
- [sexual offenders' database](#)
- [criminal convictions for serious offences; and](#)
- [violence.](#)

7.15 There may be circumstances in which a panel considers it appropriate to impose a conditions of practice order in the above cases. However, it should only do so when it is satisfied that the registrant's conduct was minor, out of character, capable of remediation and unlikely to be repeated and only where a more restrictive sanction would be disproportionate. The panel should take care to provide robust reasoning in these cases.

### **What considerations should be given when formulating conditions?**

7.16 When considering which conditions to impose, panels should refer to the [Conditions Bank Practice Note](#). This sets out the general principles which apply to the imposition of conditions and provides sample conditions for panels to use in appropriate cases.

7.17 Conditions typically cover the following areas (this list is not exhaustive):

- education and training requirements;
- practice restrictions;
- chaperones;

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<sup>16</sup> For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

- supervision;
- treatment requirements;
- substance dependency;
- informing the HCPC and others; and
- personal development.

7.18 Conditions should be appropriate to remedy the concerns raised, and the panel should be assured that they mitigate any risk posed by the registrant remaining in unrestricted practice and are a proportionate response to the findings made by the panel at earlier stages of their decision making.

7.19 A panel must impose a reasonable time limit for compliance with a condition, so as to avoid placing the relevant registrant in a position of uncertainty for an unnecessary length of time.

7.20 While conditions of practice may be imposed on a registrant who is currently not practising, before doing so, panels should consider whether there are equally effective conditions which could be imposed and which are not dependent on the registrant returning to practise. For example, not all training, reflection or development requires a registrant to be in practice or have a workplace-based mentor.

7.21 Conditions must also be workable and reasonable, taking into account the registrant's practice setting and not imposing a condition or combination of conditions which can never be met and are the equivalent of a suspension.

7.22 Where a panel believes that stringent conditions are required and it has concerns these effectively suspend the registrant's practice, it should consider whether or not conditions are an appropriate sanction. The panel's primary concern should be to protect the public and public confidence in the profession. If it is not able to draft workable conditions that achieve this, it may need to consider imposing a suspension order.

### **How long should a conditions of practice order be imposed for?**

7.23 Conditions of practice orders can be imposed for a period of up to three years. In determining the appropriate length of a conditions of practice order, the panel should consider all the information available to it to come to an appropriate and proportionate decision.

7.24 Panels should bear in mind that the review hearing will be scheduled to take place several weeks before the order is due to expire and ensure that the registrant has sufficient time to comply with the conditions of the order. It should provide clear written reasons for deciding on the particular length of the order.

7.25 Article 29(7)(c) of the 2001 Order enables panels to specify a minimum period (of up to two years) for which a conditions of practice order is to have effect before the registrant can apply to vary, replace or revoke it. Panels should only exercise that power in cases where it is clear from the evidence that earlier review is unlikely to be of value or where the nature of the conditions imposed make an early review inappropriate.

## **Suspension order**

### **What is a suspension order?**

7.26 A suspension order prohibits a registrant from practising their profession for up to one year and must be reviewed by a panel before the order expires.

7.27 Suspension orders cannot be made subject to conditions, but where the panel expects the registrant to address specific issues or take specific action before the suspension order is reviewed (for example, to undergo substance abuse treatment) clear guidance should be given setting out what is expected of the registrant and the evidence that may be helpful to any future review panel. However, panels should avoid being unduly prescriptive and must not bind or fetter the discretion of a future review panel.

### **When is a suspension order appropriate?**

7.28 A suspension order is likely to be appropriate where there are serious concerns which cannot be reasonably addressed by a conditions of practice order, but which do not require the registrant to be struck off the Register.

7.29 Panels considering suspension orders should always consider whether the conduct found proven indicates behaviour which is fundamentally incompatible with continued registration. If that is the case, panels should not impose a suspension order, simply because some or even all of the factors listed below are present. It may still be necessary to impose a striking off order if public protection and/or the wider public interest considerations require it. Cases where suspension orders may be appropriate include (this list is non-exhaustive):

- the concerns represent a serious breach of the standards of conduct, performance and ethics;
- the registrant has insight;
- the issues are unlikely to be repeated; and
- there is evidence to suggest the registrant is likely to be able to resolve or remedy their failings, particularly in cases where the registrant has demonstrated they have begun to do so or given a credible explanation for how they will do so.

## **How long should a suspension order be imposed for?**

- 7.30 A suspension order should be imposed for a specified period up to one year. When determining how long a suspension order should be imposed for, panels must ensure that their primary consideration is what is necessary and proportionate in order to ensure that the public is protected (refer to Proportionality section).
- 7.31 Whilst short-term suspensions can have long-term consequences for a registrant (including being dismissed from their current employment), they are likely to be appropriate where a staged return to practice is required. For example, where the registrant has previously engaged in the process but is currently unable to respond to and comply with conditions of practice but may be capable of doing so in the future.
- 7.32 Short-term suspensions can also be appropriate in cases where there is no ongoing risk of harm, but where further action is required in order to maintain public confidence in the health and care profession.
- 7.33 A staged return to practice may be appropriate in cases involving substance dependency, where at the time of the hearing the registrant is seeking or undergoing treatment (and the panel has received medical evidence confirming this to be the case) but has not reached the stage where they are safe to return to practice, even if that registrant is subject to conditions of practice.
- 7.34 In these cases, the panel should clearly explain the purpose of the sanction and the expectations it has of the registrant. At the review hearing, the panel can then determine, if the registrant's fitness to practise remains impaired, what further sanction is necessary.
- 7.35 Article 29(7)(b) of the 2001 Order enables panels to specify a minimum period (of up to ten months) for which a suspension order is to have effect before the registrant can apply to vary, replace or revoke it. Panels should only exercise that power in cases where it is clear from the evidence that earlier review is unlikely to be of value.

## **Striking off order**

### **What is a striking off order?**

- 7.36 A striking off order removes a registrant's name from the Register and prohibits the registrant from practising their profession.
- 7.37 Striking off is a long-term sanction. Article 33(2) of the 2001 Order provides that, unless new evidence comes to light, a person may not apply for restoration to the Register within five years of the date of a striking off order being made, and panels do not have the power to vary that restriction.

7.38 A striking off order may not be made in respect of an allegation relating to concerns about their competence or ability to manage their health unless the registrant has been continuously suspended, or subject to a conditions of practice order, for a period of two years at the date of the decision to strike off. Interim orders do not count towards the period of two years.

### **When is a striking off order appropriate?**

7.39 A striking off order will be appropriate for serious, persistent, deliberate or reckless acts which may include (this list is not exhaustive):

- [dishonesty](#);
- [failure to raise concerns](#);
- [failure to work in partnership](#);
- [discrimination against service users, carers, colleagues and other people](#);
- [conduct which represents a serious breach of professional boundaries towards service users, carers, colleagues and other people](#);
- [abuse of professional position, particularly when involving a vulnerable person](#);
- [conduct which is sexual in nature or sexually motivated](#);
- [sexual abuse of children or indecent images of children<sup>17</sup>](#);
- [sexual offenders' database](#);
- [criminal convictions, cautions and community sentences for serious offences](#); and
- [violence which is serious or otherwise adversely affects public confidence in the profession](#).

7.40 A striking off order is likely to be appropriate, whether or not the conduct is included in the examples of such conduct in the list above, where the nature and gravity of the concerns are such that any lesser sanction would be insufficient to protect the public, public confidence in the profession and public confidence in the regulatory process. Some examples of such conduct include (this list is not exhaustive), where the registrant:

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<sup>17</sup> For the avoidance of doubt, 'indecent images of children' refers to any indecent photographs, pseudophotographs or prohibited images of children.

- lacks insight;
- continues to repeat the misconduct or, where a registrant has been suspended for two years continuously, fails to address a lack of competence (for example, due to health impairment); or
- is unwilling to resolve matters.

7.41 A striking off order has a significant impact on a registrant, and so when a panel imposes a striking off order, it should provide clear and detailed reasons for doing so, making clear why a less restrictive sanction was insufficient.

## **Interim orders to cover the appeal period**

### **What is an interim order?**

7.42 If a panel imposes a conditions of practice order, suspension order, or striking off order, Article 31 of the 2001 Order provides the panel with the discretionary power to also impose an interim condition of practice order or an interim suspension order to cover the appeal period. These interim orders are different to the interim orders referred to under [Proportionality section](#) above, which are imposed to cover the period until the case has been disposed of and which are automatically revoked at the sanction stage of the substantive proceedings.

7.43 Sanctions imposed by panels do not take effect until 28 days after they are imposed or, if a registrant appeals, the appeal is concluded or abandoned. To cover that period, during which a registrant could otherwise practice unrestricted, the Panel can impose an interim order of conditions or suspension.

### **When is an interim order appropriate?**

7.44 The power to impose an interim order is discretionary, and so panels should not consider it to be an automatic outcome. The panel should carefully consider whether or not an interim order is necessary and should provide the parties with an opportunity to address the panel on whether an interim order is required.

7.45 An interim order is likely to be required in cases where:

- there is a serious and ongoing risk to service users or the public from the registrant's lack of professional knowledge or skills, conduct, or unmanaged health problems; or
- the allegation is so serious that public confidence in the profession would be seriously harmed if the registrant was allowed to remain in unrestricted practice.

## Multiple sanctions

7.46 Article 29 of the 2001 Order provides an escalating range of sanctions and panels may only impose one sanction at any one time, so it will be rare for a registrant to be subject to more than one sanction at a time. However, if that situation does arise, panels should ensure the duration and effect of each sanction is clear.

7.47 A registrant is only likely to be subject to multiple sanctions in cases where a sanction has been imposed in relation to one allegation, and a second sanction needs to be imposed in respect of an entirely separate and unconnected allegation.

7.48 However, where the second allegation involves any of the following, then escalation to a more stringent sanction is likely to be the more appropriate course of action:

- a repetition of the conduct which gave rise to the first sanction;
- conduct or behaviour similar in nature to the previous concerns; or
- a breach of the existing sanction.

7.49 In these cases, the more restrictive sanction may have the effect of overriding the less restrictive sanction, for example, a suspension order will override a conditions of practice order because the registrant is no longer able to practise.<sup>18</sup>

## 8. Review hearings

8.1 The review process is not a mechanism for appealing against or 'going behind' the original finding that the registrant's fitness to practise is impaired. The purpose of review is to consider:

- whether the registrant's fitness to practise remains impaired; and
- if so, whether the existing order or another order needs to be in place to protect the public.

8.2 When reviewing sanctions under Article 30 of the 2001 Order, a panel may vary, extend, replace or revoke an existing sanction, but cannot impose a second, additional sanction for the same allegation. Where there are multiple sanctions against a registrant, review panels must consider each sanction separately.

8.3 At a review hearing, the panel's primary role is to consider the information available to it with regard to the conduct of the registrant since the previous hearing, and whether the registrant's fitness to practise remains impaired. If it does, the panel

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<sup>18</sup> The panel would need to make an order to bring the existing sanction to an end.



then needs to consider whether the original sanction ought to be varied, extended or replaced in order to protect the public.

8.4 In making its decision the panel should take account of the wider public interest, which includes:

- the deterrent effect to other registrants;
- public confidence in the profession concerned; and
- public confidence in the regulatory process.

8.5 The panel should take account of the same considerations it would for a new hearing, including the information available to it about the initial allegations, any further information received including about the wider circumstances of the case and the risk posed to the public.

8.6 No registrant should resume unrestricted practice until it is safe and appropriate for them to do so.

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## Annex 3: Draft equalities impact assessment

### Equality Impact Assessment (Level 2)

For background information on how to complete this form, read **Appendix 2**. Delete [guidance text](#) as you complete the form. Guidance text is suggested (not required) content.

#### Section 1: Project overview

<b>Project title: Proposed Sanctions Policy Review 2025</b>	
<b>Name of assessor: Allison Whitenack</b>	<b>Version: 1</b>

#### What are the intended outcomes of this work?

The work is intended to set out the principles that practice committee panels (panels) should consider when deciding on the appropriate sanction, if any, in fitness to practice (FTP) cases. It is also intended to provide more clarity on the policy and to ensure the content is relevant and up to date. Since the last review in 2019, we have revised our standards<sup>1</sup> and updated and produced new Health and Care Professions Tribunal Service (HCPTS) practice notes.<sup>2</sup>

The HCPC recognises the significant impact of the proposed sanctions policy on both registrants and the general public, including service users and colleagues in health and care. As a core aspect of our regulatory function, it is essential that the policy is applied in a way that is fair, consistent, and free from bias.

The policy plays a key role in supporting panel members to make transparent, proportionate and equitable decisions that uphold public protection and maintain confidence in the regulatory process. The aim of the proposed changes is to ensure that decisions are fair, proportionate and consistent, and that sanctions are sufficient to protect the public and to promote and maintain appropriate standards and public confidence in the professions regulated by the HCPC.

The proposed changes are intended to support implementation of updated professional standards which came into effect on 1 September 2023 (standards of proficiency) and 1 September 2024 (standards of conduct, performance, and ethics), and reflect emerging caselaw and feedback from key stakeholders. They aim to provide greater clarity on the factors panels should consider in relation to apology and insight, professional boundaries, discrimination, seriousness and culpability, reasons for sanctions and striking off.

The HCPC has carefully considered the impact of the policy's position on discrimination, victimisation and harassment and has revised these sections accordingly to increase consistency, equity and clarity in the execution of the sanctions policy and tribunal process. We've also proposed some minor changes to style, language and tone to improve the accessibility and clarity of the document.

<sup>1</sup> [Standards of Proficiency](#) and [Standards of conduct, performance and ethics](#).

<sup>2</sup> [hcpts-practice-notes---consolidated.pdf](#)

### **Who will be affected?**

- panels;
- registrants<sup>3</sup> and potential registrants, including students or trainees;
- the public, including service users and colleagues in health and care;
- education and training providers;
- legal representatives;
- health and care providers, professional bodies and consumer groups; and
- HCPC employees and partners.

## **Section 2: Evidence and Engagement**

Lack of data should not prevent a thorough EIA. Be proactive in seeking the information you need.

### **What evidence have you considered towards this impact assessment?**

- new and relevant case law;
- revised standards and new practice notes;
- feedback and guidance from the Professional Standards Authority (PSA);
- HCPC fitness to practice annual report 2024;
- stakeholder feedback from pre-consultation engagement activities (described in the next section);
- internal team discussions, meetings or minutes; and,
- relevant published research

### **How have you engaged stakeholders in gathering or analysing this evidence?**

- We have discussed the proposals and collected feedback from the Equity, Diversity and Inclusion (EDI) Forum. Members of the forum are external stakeholders with expertise in EDI and lived experience; membership includes registrants and EDI professionals in relevant stakeholder organisations.
- We engaged the HCPC FTP Partnership Forum comprised of individuals from FTP and key professional bodies and unions.
- We've also engaged FTP Partners who consist of panel members with expertise in FTP processes.

<sup>3</sup> HCPC Regulates 15 professions: Arts therapists, Biomedical scientists, Chiropodists / podiatrists, Clinical scientists, Dietitians, Hearing aid dispensers, Occupational therapists, Operating department practitioners, Orthoptists, Paramedics, Physiotherapists, Practitioner psychologists, Prosthetists / orthotists, Radiographers, Speech and language therapists.

- We will continue to seek feedback from external stakeholders including professional bodies, the PSA, other regulators such as NMC and GMC, and employers, through our standing meetings and on an ad-hoc basis where necessary.
- We have discussed our proposals with the HCPC's Council, which includes both registrant and lay members.
- We will carry out a public consultation on our proposed changes and ask the respondents to reflect on the impact of on groups with protected characteristics. Following the consultation period, we will analyse the responses and reshape our proposals where necessary.

### Section 3: Analysis by equality group

The Equality and Human Rights Commission offers information on the [protected characteristics](#).

Describe any impact to groups or individuals with the protected characteristics listed below that might result from the proposed project. Draw upon evidence where relevant.

For all characteristics, consider **discrimination, victimisation, harassment and equality of opportunity** as well as issues highlighted in the guidance text.

#### Summary

The proposed changes to the sanctions policy are intended to improve clarity for panels when applying sanctions; support fair and proportionate decision-making in FTP cases; reflect recent legal developments and feedback from key stakeholders; strengthen public protection and maintain trust in the regulatory process.

Overall, we believe that the changes will promote equality and fairness in the interpretation and application of the sanctions policy for all of the below groups. Most notably, we are proposing to clarify that all forms of discrimination are unacceptable and ensure appropriate action is taken in response to failure to maintain professional boundaries. This will support the protection of the public by providing a clearer context for how panels should address these issues.

**Age** (includes children, young people and older people)

#### Registrants

- According to the HCPC fitness to practice annual report 2024,<sup>4</sup> older registrants are more likely to be subject to decisions under our sanctions policy. This means that older registrants are more likely to be involved in the FTP process and therefore, more likely to be affected by the proposed changes. In particular older male registrants are overrepresented among those involved in the FTP process and are therefore likely to be disproportionately impacted by the FTP process.
- We will continue to explore the underlying causes of these trends and consider appropriate steps to mitigate any disproportionate impacts on particular groups where possible and appropriate.

<sup>4</sup> [hpcp-fitness-to-practise-annual-report-2023-24.pdf](#)

## **General Public**

- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation and consistency in the sanctions process which safeguards public safety.

We are seeking feedback on equality impacts such as which service users are more or less likely to be impacted by breach of professional boundaries in our consultation and will ensure any identified impacts are considered in our analysis and response.

**Disability** (includes physical and mental health conditions. Remember ‘invisible disabilities’)

## **Registrants**

- Registrants with disabilities are over-represented in FTP data.<sup>5</sup> This is not unexpected as a registrant’s failure to manage a health condition or disability could be a factor in their FTP referral process.<sup>6</sup> This means that registrants with disabilities are more likely to be involved in the FTP process and therefore be disproportionately affected by the proposed changes.
- The proposed sanctions policy indicates that effective remediation may require a registrant to address concerns about their ability to manage their health to ensure they can practice safely. However, for some registrants with disabilities, the ability to fully remediate such concerns may be limited by the nature or severity of their condition. Therefore, the mitigating factors typically available to registrants in the FTP process may not always be available to registrants with disabilities. Registrants with disabilities are likely to be considered differently – although not less favourably – by this policy. However, these impacts may be unavoidable, given the central goal of public protection.
- The proposed sanctions policy identifies CPD and training as mitigating factors which should be considered by panels to assess seriousness and culpability during the FTP process. Registrants with disabilities are less likely to be in full-time employment,<sup>7</sup> so remedial training may be less available to them.
- Furthermore, registrants with disabilities are more likely to be lower paid and may be less likely to afford the costs associated with CPD remediation.<sup>8</sup>
- Similarly, registrants with neurodiversity and/or cognitive differences may also be disproportionately impacted by the policy’s clauses on remorse and apology if they do not make an apology or their apology is not considered sincere. Cultural factors may also affect whether or not somebody apologises, and how they frame an apology. The proposed Sanctions Policy outlines that panels should be mindful that neurodiversity and cultural differences may impact the expression of insight, remorse, or apology.
- Finally, registrants who have a disability are likely to benefit from the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.

We are seeking feedback on equality impacts such as whether registrants with specific characteristics are more or less likely to work independently or for an employer and how these

<sup>5</sup> [fitness-to-practise-data---supplementary-analysis-2023-24.pdf](#)

<sup>6</sup> [standards-of-conduct-performance-and-ethics-2024.pdf](#)

<sup>7</sup> [The employment of disabled people 2024 - GOV.UK](#)

<sup>8</sup> [Estimated £2 per hour pay gap for Disabled employees | Disability Rights UK](#)

impacts on access to training in our consultation and will ensure any identified impacts are considered in our analysis and response.

### **General Public**

- We have proposed changes to emphasise the importance of panels providing reasons for their decisions at every stage. We anticipate this proposed change will better support the general public, including service users and colleagues in health and care with disabilities, in understanding the outcomes of the FTP process.
- We are continuing to investigate ways to engage service users in the FTP process to improve accessibility and transparency in the process while maintaining confidentiality. We are seeking feedback on this and other equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.
- The general public, including service users and colleagues in health and care, are likely to benefit from the proposals which are designed to ensure strong regulation and consistency in the sanctions process to safeguard public safety.

**Gender reassignment** (consider that individuals at different stages of transition may have different needs)

### **Registrants**

- When a sanction is applied to a registrant, the HCPC usually publishes details of that sanction, including the reason for the decision, online so that members of the public are able to see the registrant's FTP history. We are continuing to review how our approach to information governance and publication of FTP and sanctions data may disproportionately impact registrants who are transitioning. Our core objective remains public protection. Therefore, it is essential that all registrants remain identifiable and associated with the individual practitioner, and that when a registrant changes their name, or any other relevant identifying information, this association is not lost.
- We are committed to managing registrants' gender reassignment rights sensitively and lawfully in accordance with the Equality Act 2010 and the Gender Recognition Act 2004.
- The proposed sanctions policy aims to provide more information to increase protections against all forms of discrimination. Registrants who are transitioning are likely to be benefitted by the proposals which are designed to ensure strong regulation and protection against all forms of discrimination.

### **General Public**

- Service users and colleagues in health and care who are undergoing gender reassignment are likely to benefit from the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- The general public, including service users and colleagues in health and care, are likely to benefit from increased consistency and robustness of the sanctions process which is intended to enhance public protection.
- Through our proposals, we propose to clarify our commitment to preventing discrimination against all individuals on the basis of any protected characteristics, while also safeguarding the interests of the wider public. We believe that not implementing these proposals, could undermine both regulatory effectiveness and public confidence.

## **Marriage and civil partnerships** (includes same-sex unions)

### **Registrants**

- No differential impacts have been identified relating to registrants who are married or in civil partnerships. Registrants who are divorced or separated are more likely to be involved in our FTP processes,<sup>9</sup> and although this is not covered by this protected characteristic, we are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

### **General Public**

- No differential impacts have been identified relating to the general public, including service users and colleagues in health and care, who are married or in civil partnerships. The HCPC complaint hub<sup>10</sup> will enable us gather more information about protected characteristics of those who make a complaint enabling us to gather more information about this in the future. We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.
- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation and consistency in the sanctions process to safeguard public safety.

## **Pregnancy and maternity** (includes people who are pregnant, expecting a baby, up to 26 weeks post-natal or are breastfeeding)

### **Registrants**

- Because of the temporary nature of the protected characteristic, the data we have for this is limited – for example, we would not be able to definitively say if the women involved in our FTP processes had ever been covered by the protection in the Equality Act, so could not say whether being pregnant or recently giving birth affected the likelihood of being impacted by the proposed sanctions policy. However, research has shown that people returning to work after breaks in practice can need additional support to ensure they are able to practise safely:<sup>11</sup> and that without this support, there is a risk that they could be more likely to be involved in fitness to practise processes.
- The proposed sanctions policy identifies CPD and training as mitigating factors which should be considered by panels to assess seriousness and culpability during the FTP process. Remedial training including CPD may be more accessible to registrants in full-time employment. However, registrants who are pregnant, on maternity leave, or have caring responsibilities are less likely to be in full-time employment or may have taken career breaks, so these mitigating factors may be less available to them. As a result, they may have fewer opportunities to demonstrate the types of actions or behaviours that are viewed favourably in the FTP process.
- Our proposals recognise the potential barriers faced by some registrants such as those who are pregnant, on maternity leave or have caring responsibilities.

<sup>9</sup> Table 8: Registrants with one or more FTP concern in 2023/24, counts and percents by marriage and civil partnership, <https://www.hcpc-uk.org/globalassets/resources/2024/fitness-to-practise-data---supplementary-analysis-2023-24.pdf>

<sup>10</sup> [How to make a complaint to the Health and Care Professions Council \(HCPC\) | The HCPC](https://www.hcpc-uk.org/globalassets/resources/2024/fitness-to-practise-data---supplementary-analysis-2023-24.pdf)

<sup>11</sup> <https://www.gmc-uk.org/education/hidden-documents/sharing-good-practice/supporting-those-returning-from-a-break-in-clinical-work>



## **General Public**

- Service users and colleagues in health and care who are pregnant, on maternity leave or have childcare responsibilities are likely to be positively benefited by the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- The general public, including service users and colleagues in health and care, who are pregnant, on maternity or have caring responsibilities, is expected to benefit from the proposed changes, which aim to strengthen regulation and promote greater consistency in the sanctions process to safeguard public safety.

**Race** (includes nationality, citizenship, ethnic or national origins)

## **Registrants**

- Registrants who may be subject to race-based discrimination by their HCPC-registered colleagues are likely to be positively impacted by the proposed changes to the policy which increase protections against all forms of discrimination.
- One of the proposed changes to the policy is to clearly define insight, remorse, and apology as distinct mitigating factors in the sanctions process to provide clarity and more tailored guidance for panels. However, registrants from overseas, and those from non-UK backgrounds, and other countries may have different cultural understandings of the appropriateness or expression of apologies in FTP processes.<sup>12</sup> Different cultural factors and lived experience may impact on whether or not someone apologises, or how they frame an apology or insight.
- To support fairer assessments, explanations of apologies and remorse have been expanded to support the panel in assessing the impact of presence of an apology during the sanction process. The proposed change includes clarifying that while an apology might be considered a mitigating factor, it should not be considered an admission of guilt and should not be considered an aggravating factor when assessing appropriate sanctions. This proposed change should increase fairness and ultimately serve in the best interest of the public. Furthermore, guidance has been added to ensure panels consider the various reasons why an apology may not be given.
- According to the Fitness to Practice data: supplementary analysis 2023-24,<sup>13</sup> while most FTP concerns are for registrants reporting white ethnicities, registrants reporting non-white ethnicities are more likely to be subjected to an FTP concern than their white counterparts. Therefore, non-white registrants are likely disproportionately impacted by the proposed sanctions policy.
- Similarly, the above supplementary analysis shows that while the majority of registrants with one or more FTP concern are UK nationals, registrants from Africa and North and South America are more likely to have one or more FTP concern. Therefore, registrants from these continents are more likely to be subject to a decision under the proposed Sanctions Policy and our proposed changes.
- One of the key determinants in the outcomes of the FTP process is whether or not a registrant has legal representation. Registrants who are of non-UK nationality or national origin are less likely to have access to legal representation and may be

<sup>12</sup> [Maddux, W., Kim, P.H., Okumura, T. and Brett, J.M. 2011. Cultural differences in the function and meaning of apologies. \*International Negotiation\*, 16\(3\): 405-425.](#)

<sup>13</sup> [fitness-to-practise-data---supplementary-analysis-2023-24.pdf](#)



disproportionately impacted by the policy as a result. We encourage panels to apply the sanctions policy consistently, reducing the impact of having legal representation.

We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

### **General Public**

- The proposed changes broaden the scope of discrimination that panels should consider in FTP cases to more inclusively encompass people's experiences of discrimination – not only unlawful discrimination related to protected characteristics but also all forms of discrimination.
- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation which safeguards public safety.

### **Religion or belief** (includes religious and philosophical beliefs, including lack of belief)

#### **Registrants**

- Registrants who are subjected to discrimination on the basis of religion are likely to be positively benefited by the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- No further differential impacts have been identified relating to registrants based on religion or belief. Our data does not show any significant relationships between religion and the likelihood of being involved in our FTP processes. We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

#### **General Public**

- Similarly, service users and colleagues in health and care who are subjected to discrimination on the basis of religion are likely to be positively benefited by the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- No further differential impacts have been identified relating to the general public, including service users and colleagues in health and care, based on religion or belief. We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.
- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation to safeguard public safety.

### **Sex** (includes men and women)

#### **Registrants**

- FTP data<sup>14</sup> show that males are consistently more than two times more likely to have one or more FTP concern than women of the same age group. Furthermore, the percentage of males with an Investigating Committee Panel (ICP) decision is considerably higher than females by nearly ten percentage points. However, females are more likely to receive a

<sup>14</sup> [fitness-to-practise-data---supplementary-analysis-2023-24.pdf](#)

sanction from tribunals than males. The HCPC is continuing to investigate these data and consider the differential impacts on registrants by sex.

- As mentioned previously regarding disability, pregnancy, and maternity, registrants who take time off or have career breaks may find that remedial training is less available to them. Women are more likely to take career breaks or work part time due to pregnancy/maternity or other caring responsibilities and, therefore, be disproportionately impacted.
- The proposed changes now include greater clarity regarding sexually motivated misconduct to support panels considering matters involving sexual misconduct or sexually motivated misconduct. This aims to ensure panels have a consistent and fair approach in their decision making for registrants.

We are seeking feedback on equality impacts in relation to failures to maintain professional boundaries or discrimination in our consultation; and will ensure any identified impacts are considered in our analysis and response.

### **General Public**

- The changes to the policy's section on sexual misconduct and sexually motivated misconduct will add clarity and support the general public, including service users and colleagues in health and care, who raise concerns and reports to the HCPC.
- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation which safeguards public safety.

**Sexual orientation** (includes heterosexual, lesbian, gay, bi-sexual, queer and other orientations)

### **Registrants**

- Registrants who are subjected to discrimination on the basis of sexual orientation are likely to be positively benefited by the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- No further differential impacts have been identified relating to the sexual orientation of registrants, and our data does not show any significant or strong relationships between sexual orientation and the likelihood of being involved in our FTP processes. We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

### **General Public**

- Similarly, service users and colleagues in health and care who are subjected to discrimination on the basis of sexual orientation are likely to be positively benefited by the proposed changes which aim to increase protections against all forms of discrimination. Panels will be better able to identify and act on concerns raised in the FTP process where discrimination on these grounds has occurred.
- No further differential impacts have been identified relating to the general public, including service users and colleagues in health and care, based on sexual orientation. We are seeking feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

- The general public, including service users and colleagues in health and care, are likely to be positively impacted by the proposals which are designed to ensure strong regulation to safeguard public safety.

## Other identified groups

### 1. *Socio-economic background*

- One of the key determinants in FTP outcomes is whether a registrant has legal representation.<sup>15</sup> Registrants from a lower socio-economic background or those with limited access to family or community resources may be less likely to access legal representation in the FTP process meaning they could be disproportionately impacted as a result of this lack of access. This could be particularly exacerbated by other intersecting factors such as nationality or national origin.

### 2. *Criminal justice history*

- The proposed sanctions policy has a general policy of not allowing registrants who have been convicted of a serious criminal offence, conviction, or caution from continuing to or return to unrestricted practice until their sentence has been satisfactorily completed. Given the known and well-documented disparities within the criminal justice system, those groups that are overrepresented in the criminal justice system may be impacted disproportionately by this policy. However, panels are instructed that it may be disproportionate to impose a suspension or removal from the Register solely because part of the sentence remains outstanding. Therefore, panels should carefully consider the nature of the offence, the stage of the sentence, and any evidence of rehabilitation when determining an appropriate sanction.
- The proposed sanctions policy clearly states that the role of the panel is not to impose additional punishment to any already imposed by the courts, but to protect the public and the wider public interest. Therefore, the panel must provide clear reasoning for its decisions at every stage of the process to provide clarity for both the registrant and the general public.

We are seeking feedback on any further equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

## Four countries diversity

We will be engaging stakeholders across the UK nations to seek their feedback on our proposals. Any issues identified through our consultation and engagement process that are specific to any of the UK nations will be carefully considered in preparing our response to the consultation.

## Section 4: Welsh Language Standards

**What effects does this policy have on opportunities for persons to use the Welsh language and engage with our commitments under the Welsh Language Standards?**

The new revised policy will be translated and published in Welsh.

<sup>15</sup> [The concept of seriousness in fitness to practise – a cross-regulatory research](#)

Overall, the proposed changes to the policy intend to provide greater clarity and support for panels and registrants as well as to protect the public. Given that the changes are largely in language, style and tone to remain consistent with new practice notes and case law, we do not believe that these proposals impact our commitments under the Welsh language scheme.

**How does this policy treat the Welsh language no less favourably than the English language?**

The proposed policy will be translated and published in Welsh and English.

Otherwise, we do not believe that these proposals impact on our commitments under the Welsh language scheme.

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## Section 5: Summary of Analysis

### What is the overall impact of this work?

We expect the proposed changes to have overall positive impacts for registrants and the general public, providing clarity and consistency for the sanctions process to stay up to date with new practice notes and case law.

Most of the impacts indicated above in Section 3 highlight the ways that the proposed Sanctions Policy more broadly might impact different groups in different ways. We acknowledge that the changes to the policy may also disparately impact these groups in similar ways. Generally, the changes that we are proposing are aimed at increasing the clarity and consistency of the policy and an appropriate response to all forms of discrimination and failures to maintain professional boundaries which we believe will mitigate instances of inequitable impacts to various groups.

The proposed changes relate to interim orders, insight and remorse, seriousness and culpability, sexual misconduct and sexually motivated misconduct and discrimination. The improved clarity of the guidance on these issues is intended to support the panel in making fair and consistent decisions. Therefore, we anticipate this to have a positive impact on fairness and equity in the sanctions process.

Proposed changes to suspension orders, interim orders, striking off, assessing seriousness and culpability, professional boundaries and dishonesty all include clarification and expansion of guidance on these topics in order to support the panel in their function. Each of these changes is anticipated to provide a clearer context and lead to more consistent and reasoned decision-making. It is possible that the proposed changes may impact certain groups differently. Some of these differences may be as a consequence of some groups being disproportionately represented within our FTP processes (which this policy has no influence over), and some may be because certain mitigating factors may be more difficult for some groups to evidence, as described above. HCPC will continue to consider how to mitigate disproportionate impacts where appropriate and possible.

Overall, we believe these proposed changes are necessary to ensure we can continue to meet our public protection obligations. We are committed to exploring these issues further and to adding suitable mitigations into any final policy materials and guidance.

## Section 6: Action plan

Summarise the key actions required to improve the project plan based on any gaps, challenges and opportunities you have identified through this assessment.

Include information about how you will monitor any impact on equality, diversity and inclusion.

## Summary of action plan

As indicated above, we are seeking views on our changes to the proposed Sanctions Policy. Our proposal aims to create an equitable, fair, and transparent policy for sanctions in use by the sanctions panels. We will seek to minimise and mitigate any adverse impacts.

We will undertake the following actions to review and improve our proposals where necessary and monitor EDI impacts:

- We will carry out a full public consultation on our proposed changes. The consultation will ask respondents a series of questions to obtain feedback on our proposals. The consultation will specifically inquire for additional information about the potential negative or positive equality impacts of these proposals and for information about potential mitigations to those with protected characteristics.
- We will seek input from groups who share protected characteristics and organisations that represent them about the impacts of the proposals in respect of their protected characteristics as well as seeking general feedback on these issues from employers, professional bodies, panels, and service users.
- If our proposals are accepted, we will continue to monitor any potential impacts of these changes on registrants and members of the general public with one or more protected characteristics who engage with or are impacted by the Sanctions Policy. We will take appropriate action to redress any negative effects.
- We will also continue to take feedback from our EDI forum and external informal feedback from any interested parties, with a view to informing any future policy development in this area.

Below, explain how the action plan you have formed meets our public sector equality duty.

### How will the project eliminate discrimination, harassment and victimisation?

Maintaining HCPC's ability to be an effective regulator is key to ensuring that registrants and members of the public needing and receiving healthcare are not subject to discrimination, harassment and victimisation, either by prevention or by addressing through our work registering and supporting our registrants or our FTP process. We believe this proposed policy clarifies elements of the Sanctions Policy to further promote this aim, to provide fairness and equity in the sanctions process, and generally promote the protection of the public.

### How will the project advance equality of opportunity?

Maintaining the HCPC's ability to be an effective regulator is key to ensuring that registrants are able to provide healthcare services equitably and based upon patient need, and that members of the public are able to access effective and appropriate healthcare services in a timely manner. This proposal will ensure that the sanctions policy is executed with more fairness and clarity for registrants and members of the public.

### How will the project promote good relations between groups?

Securing these changes will support equality by maintaining public protection and ensuring positive service outcomes are delivered for the public irrespective of their background, including their protected characteristics.



EDI should be an ongoing consideration throughout any project.

Where EDI issues are raised after this impact assessment and action plan have been agreed, you should make a note and update this document if necessary. Alternatively, you might choose to record changes using an EDI reflection form.

**Any project identified as unlawfully discriminatory must not be progressed.**

**Reflection completed by: Allison Whitenack**

**Date: 1 May 2025**

**Reflection approved by: Eniola Awoyale**

**Date: 8 May 2025**