

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

First working draft of revised standards

Executive summary and recommendations

### **Introduction**

This paper includes a first working draft of the revised standards, taking into account the discussion and decisions of the PLG to date.

This is very much intended to be a working document rather than the finished draft for consultation and the PLG's discussions at this meeting will inform a further draft which will be the main agenda item at the next meeting.

### **Decision**

The PLG is invited to discuss the attached paper.

### **Background information**

None. A copy of the existing standards is included on the agenda to note.

### **Resource implications**

None

### **Financial implications**

None

### **Appendices**

None

### **Date of paper**

9 September 2014

## First working draft of revised standards

### 1. Introduction

- 1.1 The attached document is a working draft of revised standards of conduct, performance and ethics. Further drafts will be presented at the PLG's meetings in November and December 2014 and therefore this draft may change significantly.
- 1.2 The Executive has put this draft together taking into account the decisions and discussion of the PLG to date. However, further work will be required to refine the draft in future iterations. The following will need to be taken into account in refining the draft further.
  - The discussion of the PLG at this and future meetings, including the decisions on the themed papers being considered at this meeting and the PLG's views and comments on how well the Executive has reflected its previous decisions and discussion.
  - Further consideration by the Executive of the outcomes of the various pieces of research and stakeholder engagement activities. The PLG has considered papers related to the main themes identified in these activities, and copies of the reports from specific research activities. These activities produced a rich range of views about all of the standards and how their content and style might be improved, and all of this can be considered in refining the draft still further.
  - The Executive will need to seek legal input to inform the drafting – for example, ensuring that the standards remain consistent with the law on consent and confidentiality.
  - In light of the above, the Executive considers that there is further scope to 'rationalise' and refine the draft (particular those standards which have not fallen within the themes considered to date) to ensure that it is clear, easy to understand, applicable as far as possible across all of the professions and principles-based. This includes a thorough review of the terminology used.
- 1.3 The PLG is invited to discuss the draft to inform a further draft which will be brought to the next meeting in November 2014. The PLG may particularly wish to focus on the following standards in the revised draft which relate most directly to its discussion to date.
  - Standard one – which relates to a number of areas discussed by the PLG to date, including collaborative approaches to care.
  - Standard three – which relates to the PLG's discussion about reporting and escalating concerns and dealing with mistakes (incorporating the principles of the proposed 'professional duty of candour').

- Standard four – which relates to the PLG’s previous discussion about combining the existing standards about personal conduct and honesty and integrity and also relates to the themed paper on professional conduct being considered at this meeting.
- Standard eight – which includes a new ‘sub-standard’ attempting to capture the PLG’s previous discussion about the use of social media.

## 2. Summary of revisions

2.1 The number of proposed changes to the structure and content of the existing standards make tracked changes problematic. Instead, a summary is provided below of the changes in each area. This is not intended to be exhaustive – in addition to those detailed below a number of minor wording or internal ordering changes have been made.

### Structural changes

- Standard three in the draft is a new standard – ‘You must act appropriately to protect service users’. This incorporates the principles of reporting and escalating concerns which were already included in the existing standard one, in addition to content about dealing with mistakes, agreed at the PLG’s meeting in July 2014.
- In addition to the principles agreed by the PLG at the last meeting, the Executive has suggested a further principle be included here as articulated in 3.6 – ‘You must explain fully and promptly to the person affected what has happened and any likely effects’. This would ensure that the standard was consistent with all the principles advocated in the common professional duty of candour discussed by the health and care professional regulators (and this principle was implicit in any event in those agreed by the PLG).
- Standard four in the draft – ‘You must justify the trust other people place in you by acting with professionalism, honesty and integrity at all times’ - has been written to combine a number of existing standards.
  - Firstly, to combine standards three (‘You must keep high standards of personal conduct’) and 13 (‘You must behave with honesty and integrity and make sure that your behaviour does not damage the public’s confidence in you or your profession’). The PLG previously discussed that these standards could be combined and this was a frequent comment in the research / stakeholder engagement activity.
  - Secondly, to include relevant content from the existing standard 14 (‘You must make sure that any advertising you do is accurate’). The PLG previously discussed that a dedicated standard on this topic was unnecessary. The PLG suggested that this might be covered in bullet points under the communication standard (standard 8 in the revised

draft). The Executive has suggested that the most salient principles from this existing standard that should be retained are those which are more relevant to matters of honesty and integrity and more appropriately placed here.

- Standard 11 in the existing standards – ‘You must deal fairly and safely with the risks of infection’ – has been removed in light of the PLG’s discussion at this meeting. However, appropriate reinstatement / revisions will be made in the next draft in line with the PLG’s discussion at this meeting.

### **Commentary on the other draft standards**

#### **Standard one – ‘You must promote and protect the interests of service users and carers’**

- At a previous meeting, it has been mentioned that the wording of the existing standard one ‘You must act in the best interests of service users’ might need to change, given the specific currency of the phrase ‘best interests’.
- This has also been raised in previous correspondence from registrants and was raised in the registrant research. This feedback has been about the meaning of this phrase in professions such as social work and the contestability generally of what is in the ‘best interests’ of service users.
- The draft includes a suggested alternative – borrowing and amending language used in the first sentence of the first paragraph of the existing standard – ‘You are personally responsible for making sure that you promote and protect the best interests of your service users’.
- Other changes and additions to reflect the previous discussion of the PLG include reference to treating service users and carers as individuals (1.1) and the need to empower service users to maintain health and wellbeing (1.5). The content related to anti-discrimination has also been rationalised to avoid the long list given in the existing standards.

#### **Standard two – ‘You must respect the confidentiality of service users’**

- This is also standard two in the existing standards. Content relating to following best practice and keeping up to date has been removed here. This is because this is arguably applicable across all the standards; is addressed overall in the introduction; and, with reference to keeping up to date, is addressed in standard six of the revised draft.
- Otherwise, this standard remains essentially the same at this stage and will need to be considered further in future iterations.
- In particular, registrants commented on the standard and its silence on the ability and expectation of registrants to disclose information in the public

interest where it was necessary to prevent continuing harm. Some wording to cover this is suggested in 2.4 but this will need to be subject to discussion with HCPC's solicitor to Council and discussed at a future meeting of the PLG.

**Standard five – ‘You must disclose any important information about your conduct and competence.’**

- This is standard four in the existing standards and bar some minor wording amendments is essentially unchanged at this stage.

**Standard six – ‘You must keep your professional knowledge and skills up to date’**

- This is standard five in the existing standards.
- Some minor changes have been proposed here to remove content that the Executive considers is extraneous and is covered in the introduction to the standards. In addition, it seems unnecessary to cross-refer to other standards which have a statutory status. For example, the reference to the standards for CPD has been removed as undertaking CPD which meets these standards is a statutory condition of registration and therefore does not need to be addressed here.

**Standard seven – ‘You must act within the limits of your knowledge, skills and experience and, if necessary, refer the matter to another practitioner’**

- This is standard six in the existing standards and bar some minor wording amendments is essentially unchanged at this stage.

**Standard eight – ‘You must communication appropriately and effectively.’**

- This is standard seven in the existing standards.
- The standard ‘header’ has been amended in light of previous PLG discussion about making this standard broader in its applicability than to just service users and other practitioners.
- The PLG previously agreed that the revised standards should include some kind of reference which might encompass social media, although not a specific standard on this topic. The Executive has drafted 8.5: ‘You must make sure that you communicate appropriately and effectively in all contexts, including in both face-to-face and electronic communication.’
- The PLG is invited to consider whether this is a helpful addition to the standards which sufficiently reflects its discussion. For comparison, the NMC's recent consultation on a revised code for nurses and midwives, included the following specific standard on electronic communication: ‘You

must ensure that you use social networking sites and other forms of electronic communication responsibly and in line with our guidance, in particular by not referring to employers, colleagues or past or current people you have cared for’.

**Standard nine – ‘You must effectively supervise tasks you have asked other people to carry out’**

- This is standard eight in the existing standards. This is essentially the same as the existing standard at this stage, although some amendments have been made to rationalise the content in line with the agreed approach to sectioning the revised standards.

**Standard ten – ‘You must get informed consent to give treatment (except in an emergency).’**

- This is standard nine in the existing standards and bar some minor amendments is essentially the same at this stage.

**Standard eleven – ‘You must keep accurate records.’**

- This is standard ten in the existing standards. Some minor amendments have been made to move away from specific reference to paper records. This standard is likely to need to be refined in further iterations.

**Standard twelve – ‘You must limit your work or stop practising if your performance and judgement is affected by your health.’**

- This is standard twelve in the existing standards.
- Some minor amendments have been made for clarity. The existing wording refers to the need to seek the advice of a ‘consultant in occupational health or another suitably qualified medical practitioner’. This has been replaced with a simpler reference to ‘appropriate medical advice’, as in the view of the Executive the existing wording appears to be unnecessarily detailed.

## **Standards of conduct, performance and ethics**

### **1. You must promote and protect the interests of service users and carers**

- 1.1 You must treat service users and carers as individuals and with respect and dignity.
- 1.2 You must not abuse the relationship you have with service users and carers.
- 1.3 You must not unfairly discriminate against service users and carers by allowing your personal views to affect the services that you provide. This includes, for example, your views about a service user or carer's age, disability, gender, race, religion or sexual orientation.
- 1.4 You must work in partnership with service users and carers, wherever possible and appropriate, involving them in decisions about the care, treatment or other services you provide.
- 1.5 You should try wherever possible to empower service users to maintain their health and wellbeing and support them to make informed decisions wherever appropriate.
- 1.6 You must not do anything, or allow someone else to do anything, which would cause concerns about the health or safety of a service user.
- 1.7 You are responsible for your actions and any failure to act.
- 1.8 You must be able to justify your decisions if asked to.

## **2 You must respect the confidentiality of service users**

- 2.1 You must treat information about service users as confidential and use it only for the purposes they have provided it for.
- 2.2 You must not knowingly release confidential information to anyone who is not entitled to it, and you should check that people who ask for information are entitled to it.
- 2.3 You must only use information about a service user:
  - to continue to care for or provide services to that person; or
  - for purposes where that person has given you specific permission.
- 2.4 You may disclose confidential information where it is in the public interest to do so, such as when this is necessary to prevent harm to other people.

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**3. You must act appropriately to protect service users**

- 3.1 You must report any concerns about the safety of service users promptly and appropriately.
- 3.2 You should follow up concerns you have reported and escalate them wherever necessary.
- 3.3 You must be open and honest with service users and carers about mistakes you make and take action wherever possible to put matters right.
- 3.4 You should apologise to service users and carers for mistakes wherever possible.
- 3.5 You must explain fully and promptly to the person affected what has happened and any likely effects.
- 3.6 You must give a constructive and honest response to anyone who complains about the care, treatment or services they have received.

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**4 You must justify the trust other people place in you by acting with professionalism, honesty and integrity at all times**

4.1 You must not get involved in any behaviour or activity which is likely to damage the public's confidence in you or your profession.

4.2 You must keep high standards of personal and professional conduct.

4.3 You must make sure that any advertising you do is fair and accurate.

4.4 You must make sure that any potential financial reward does not influence any professional advice or recommendations you make.

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## **5 You must disclose any important information about your conduct and competence**

5.1 You must inform us and any other relevant regulators if you are:

- convicted of a criminal offence, receive a conditional discharge for a criminal offence, or if you accept a police caution;
- disciplined by any organisation responsible for regulating or licensing a health or social care profession; or
- suspended or placed under a practice restriction by an employer or similar organisation because of concerns about your conduct or competence.

5.2 You should co-operate with any investigation into your conduct or competence, the conduct or competence of others or the care or services provided to a service user.

5.3 We can take action against you if you are convicted of a criminal offence or have accepted a police caution. We will always consider each case individually to decide whether we need to take any action to protect the public.

We will consider rejecting an application for registration, or removing you from the Register if you are already registered, if you are convicted of a criminal offence or accept a police caution that involves one of the following types of behaviour.

- Violence
- Abuse
- Sexual misconduct
- Supplying drugs illegally
- Child pornography
- Offences involving dishonesty
- Offences for which you received a prison sentence

This is not a full list. We will always look at any convictions or cautions we find out about, and we have arrangements in place to be told about convictions and cautions involving registrants.

- 6 You must keep your professional knowledge and skills up to date.**
- 6.1 You must make sure that your knowledge, skills and performance are of a good quality, up to date, and relevant to your scope of practice.
- 6.2 You need to make sure that whatever your area of practice, you are capable of practising safely and effectively.

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- 7 You must act within the limits of your knowledge, skills and experience and, if necessary, refer the matter to another practitioner.**
- 7.1 You must keep within your scope of practice and only practise in the areas in which you have appropriate education, training and experience.
- 7.2 Your duty of care when accepting a service user includes the duty to refer them for further treatment if it becomes clear that the task is beyond your own scope of practice.
- 7.3 If you refer a service user to another practitioner, you must make sure that the referral is appropriate and that the service user understands why you are making the referral.
- 7.4 In most circumstances, a person is entitled to be referred to another practitioner for a second opinion. In these cases, you must accept the request and make the referral as soon as you can.
- 7.5 If you accept a referral from another practitioner, you must make sure that you fully understand the request.
- 7.6 You should only provide the referred treatment if you believe that this is appropriate. If this is not the case, you must discuss the referral with the practitioner who made the referral, and also the service user, before you begin any treatment or provide any advice.

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## **8 You must communicate appropriately and effectively**

- 8.1 You must take all reasonable steps to make sure that you communicate properly and effectively with service users. This includes listening to their needs and checking their understanding of care or treatment.
- 8.2 You should also make sure you communicate appropriately and effectively with carers to inform the decisions you make.
- 8.3 You must communicate appropriately, co-operate, and share your knowledge and expertise with other colleagues, for the benefit of service users and carers.
- 8.4 You must make sure that you communicate appropriately and effectively in all contexts, including in both face-to-face and electronic communication.

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**9 You must effectively supervise tasks you have asked other people to carry out.**

- 9.1 You must be sure that people you ask to carry out tasks on your behalf have the knowledge, skills and experience to carry them out safely and effectively.
- 9.2 You must not ask other people to do work which is outside their scope of practice.
- 9.3 You are responsible for the appropriateness of any decisions to delegate.
- 9.4 You must not force anyone to carry out a task if they tell you they do not think they are capable of doing so safely and effectively. If their refusal raises a disciplinary or training issue, you must deal with that separately, but you should not put the safety of the service user in danger.
- 9.5 You must always give appropriate supervision to whoever you ask to carry out a task.

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- 10 You must get informed consent to give treatment (except in an emergency).**
- 10.1 You must explain to the service user the treatment you are planning on carrying out, the risks involved and any other possible treatments.
- 10.2 You must make sure that you get their informed consent to any treatment you do carry out.
- 10.3 You must make a record of the person's decisions for treatment and pass this on to other members of the health-care or social-care team involved in their care. In emergencies, you may not be able to explain treatment, get consent or pass on information to other members of the health-care or social-care team. However, you should still try to do all of these things as far as you can.
- 10.4 You must respect that a person who is capable of giving their consent has the right to refuse treatment.
- 10.5 You must also make sure that the person is fully aware of the risks of refusing treatment, particularly if you think that there is a significant or immediate risk to their life.
- 10.6 You must keep to your employers' procedures on consent and be aware of any guidance issued by the appropriate authority in the country you practise in.



**11 You must keep accurate records.**

- 11.1 You must keep records for everyone you treat or who asks for your advice or services.
- 11.2 You must complete all records promptly.
- 11.3 You have a duty to make sure, as far as possible, that records completed by students under your supervision are accurate and appropriate.
- 11.4 You should update records when you review them and if appropriate include a record of any arrangements you have made for the continuing care of the service user.
- 11.5 You must not delete information that was previously there when updating records, or make that information difficult to read. Instead, you must mark it appropriately.
- 11.6 You must protect information in records from being lost, damaged, accessed by someone without appropriate authority, or tampered with.

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**12 You must limit your work or stop practising if your performance or judgement is affected by your health.**

12.1 You must take appropriate action if your physical or mental health could harm your fitness to practise.

12.2 You should seek appropriate medical advice and act on it.

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