

Agenda Item 9

Enclosure 6

Paper ETC 70 / 02

Education and Training Committee

STANDARDS OF PROFICIENCY

From the Secretary

for discussion and agreement

STANDARDS OF PROFICIENCY

1. **Background**

The Council is required to establish " standards of proficiency necessary to be admitted to the parts of the register being the standards it considers necessary for safe and effective practice under that part of the register ".

2. **Current Position**

This is a new requirement and no such standards exist as such at present. HPC has asked the Quality Assurance Agency (QAA) to facilitate production of Standards of Proficiency (SoPs) based on their successful previous facilitation of Subject Benchmarks for 8 of the 12 professions.

Concern was expressed in the consultation exercise that HPC might be taking too narrow a view of SoPs and basing them too firmly on Subject Benchmarks.

The Committee and QAA are mindful of this, and legal advice has been obtained to clarify some of the issues around SoPs (attached) – particularly their status and purpose.

3. **Options**

The options only really exist around the formatting of SoPs, and QAA started a debate on these options at its workshop on 31 October 2002.

QAA prepared a brief for the exercise, which is also appended.

4. **Recommendations and Timetable**

The Committee is recommended to proceed with the QAA project. The timetable for completion of the work is currently under urgent discussion to correlate it with the work needed elsewhere at HPC. An urgent meeting of the project steering group is being convened to look at the timetable and other issues which emerged from discussion on 31 October 2002.

Encs.

Peter Burley

From: BRACKEN Jonathan [JonathanBracken@bdb-law.co.uk]
Sent: Thursday, October 31, 2002 7:11 PM
To: Gerald Milch
Cc: Executive Management Team
Subject: Grandparenting

Gerald,

Grandparenting is a matter for the HPC alone, so the criteria for grandparenting which must be set under Article 13(3) are not subject to approval by the Privy Council.

So far as standards of proficiency are concerned, these will only apply to Article 13(2)(b) applicants. Those applicants who have practised lawfully, safely and effectively for the requisite three out of five years under Article 13(2)(a) (and who pass any test of competence imposed upon them) must be assumed to meet those standards.

Article 13(2)(b) makes clear that the standards are those "for admission to the [relevant] part of the register" so they are no different from the standards of proficiency which other applicants need to meet.

As a threshold for entry to and retention on the register they are, of course, always minimum standards. Article 5(2)(a) of the 2001 Order refers to necessary standards and refusing or removing registration on the basis of a failure to meet a standard higher than that strictly necessary for safe and effective practice would be *ultra vires* the 2001 Order and likely to be in breach of the Human Rights Act on proportionality grounds.

What needs to be understood is that the standards of proficiency are the minimum necessary for registration whereas subject benchmarks are optimum standards of education and training for those seeking an approved qualification leading to registration. Therefore, the latter should set a far higher threshold than the former.

Once the transitional period is over and access to the register is limited to only those with approved qualifications, it is to be expected that all applicants will have qualifications which provide a level of proficiency which exceeds the Council's standard of proficiency by a significant measure. During the grandparenting period it must be accepted that applicants will only need to meet the lower standard of proficiency.

As we have previously discussed, the drafting of Article 13 creates a statutory presumption that those who do not meet the "three out of five years" test will nonetheless be able to register in the transitional period without having to obtain an approved qualification (or being required to undertake additional training or experience which is tantamount to having to obtain such a qualification). Equating standards of proficiency with subject benchmarks would be setting too high a threshold and thus negate the whole purpose of Article 13, exposing the Council to legal challenge by way of judicial review.

Kind regards,

Jonathan

HEALTH PROFESSIONS COUNCIL

Standards of Proficiency

BRIEFING PAPER

For Working Groups

October 2002

INTRODUCTION

1. Following the publication of The NHS Plan (CM4818.1) in July 2000, there has been a range of initiatives taken to put into place aspirations for the reform of the NHS. In November 2000, Meeting the Challenge: A Strategy for the Allied Health Professions was published describing the means by which the Government saw the professions contributing to these aspirations. Central to this was modernisation of the regulatory framework for the allied health professions, and the proposal to establish a new Health Professions Council. The Council formally came into being on 1 April 2002. Further background information about the Council is attached at annex 1.
2. The Health Professions Order 2002, requires the Council to establish and maintain a register of members of the different professions and from time to time -

“to establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register”
3. The Education and Training Committee is a statutory committee of the Council. Early meetings of the Committee considered how work on establishing standards of proficiency might be taken forward. Amongst these considerations, the Committee agreed that standards of proficiency should not be regarded in isolation but should be common reference points for all of the Council's work and related activities. The Committee's thinking was informed in this respect by a diagrammatic description which is copied at annex 2.
4. The Committee also considered the potential benefit in drawing on the experience of the Quality Assurance Agency for higher education (QAA) in facilitating the preparation of standards of proficiency. The QAA has previously facilitated the production of benchmarked standards for higher education awards relating to 9 of the 12 professions and the processes and methodology developed have some transferability. Accordingly, the HPC has contracted with the QAA for the management of a project that will facilitate the preparation of standards of proficiency for each of the sections of the HPC Register.

PROJECT OBJECTIVES

- agree a working brief with the project steering group;
- establish 12 working groups, representing the 12 professions in the HPC register;
- provide support and monitor the progress of each working group according to the agreed timetable;
- report on progress to the project steering group;
- supervise the preparation of draft standards of proficiency for presentation to the Council.

PRINCIPLES

5. The management of the project will:
 - respect the autonomy of the individual health professions involved and have regard for the role and locus of the related professional, statutory and other associated bodies and organisations;
 - promote the concept of "professionalism" and its associated values as the underlying principle of the project;
 - produce statements of standards of proficiency that are coherent with and build upon existing published information and documentation about health professions standards, and will ensure that the statements do not contradict or challenge the latter.

THE TASK

6. Defining and articulating standards of proficiency has to be approached in the context of the Council's overarching role of protecting the public. If the standards are to be used as common reference points for all the Council's activities, consideration has to be given to both the SUBSTANCE and STYLE of the standards, the latter being significant in light of the purposes to which the standards will be put.
7. Approaching the task in terms of safe and effective practice merely begs the question in many respects. The project steering group has pointed out also that standards of proficiency must include "meeting any appropriate and relevant legal requirements".
8. There is a relationship also between standards of proficiency and other expressions of profession – related standards, although it may not be straightforward to pin down the nature of that relationship. Other statements of "standards" would include:
 - various guidelines published by the professional and statutory bodies for the design and validation/accreditation of qualifying HE education programmes;
 - codes of conduct, ethics and scopes of practice published by the professional and statutory bodies;
 - benchmark statements about academic and professional standards published by the QAA;
 - National Occupational Standards (NOS);
 - Handbooks/guidelines for quality assurance by external bodies of HE programmes.
9. The project steering group believes it would be misguided if too much time and effort were to be spent in identifying the exact nature of the relationship between standards of proficiency and other expressions of standards. Equally, it believes that it would be inappropriate to set out on the task from a blank sheet of paper.

10. Therefore, in considering the initial drafting of their documents, groups may find it helpful to focus on the 3 elements identified in paragraph 7 above, but to do so in the wider context of articulating the notion of professionalism and professional competence in the respective specialisms. **The aim would be to articulate a profile of competence necessary for effective, safe and legal practice.** This approach would provide a working link between the task in hand and work completed previously and work currently ongoing.
11. Two sources of references are important in this respect:
 - (i) **The emerging health professions framework (QAA).** This framework developed as a result of the benchmarking work undertaken collaboratively by eight of the professions regulated by HPC together with the 3 professions regulated by the NMC. It provides a generic framework for describing the attributes and capabilities that are appropriate for professional competence.
 - ii) **Draft Common Framework: Demonstrating Competence through CPD MAY 2002 (AHP).** The draft framework seeks to emphasise the holistic nature of professional competence and defines a number of principles through which that core of professional practice can be described. Currently, work is underway on drafting profession specific competences/outcomes based on the generic principles.

Copies of these 2 documents are attached at annex 3.
12. Groups will also need to be aware of the statements of standards of proficiency published by the General Osteopathic Council and the General Chiropractic Council. Copies of both these publications are at annex 4. Copies of relevant documentation for each of the professions are included at annex 5.

A WAY FORWARD

13. The 12 working groups will each meet on 3 occasions at the same venue and dates. These have been agreed and members have received information separately. The work of the groups will be supported by 2 QAA officers each of whom will be associated with 6 groups. The officers are David Edwards and Mike Laugharne, the latter being the project manager. The project administrator will be Rachel Curtin.
14. The role of the QAA is a facilitator and working groups will have autonomy within the overarching aims of the project. Each group will have a designated chair/convenor.
15. At the first meeting of the groups, there will be a joint briefing and opportunities for clarification of aims and scheduling. For this initial session, members of the project steering group will be present and HPC officers will be in attendance.
16. For the most part, the drafting of the standards of proficiency will be undertaken outside of the group meetings and the financial basis of the project has been arranged to reflect this. Group meetings will be for agreeing strategies, deciding on working arrangements, and reflecting on the drafting process.

17. The objectives of the first meeting of each group is to:
 - determine the framework and indicative headings for drafting an initial document;
 - allocate responsibilities amongst members for drafting;
 - agree the means whereby the individual contributions can be coordinated so that an initial draft will be available and circulated in readiness for the second meeting of groups;
 - agree for the chair/convenor to submit to the QAA support officer and copied to the project administrator by e-mail the above arrangements within 1 week of the meeting.

18. The objectives of the second meeting of each group is to:
 - agree a draft document for consultation;
 - agree a date by which a draft will be submitted to QAA for processing;
 - provide QAA with an agreed distribution list for consultation.

19. The objective of the third meeting of each group is to:
 - receive and consider responses to the consultation;
 - agree any redrafting that is seen as appropriate in light of the responses;
 - agree a date with QAA officers for submission to QAA of a final draft for presentation to the HPC.

20. The QAA officers will report to regular meetings of the Steering Group on the process being made against the above Schedules.

21. Separate documentation exists for group members on the administrative arrangements for submitting travel and subsistence claims and for the final payment of fees. These are included at annex 6.

October 2002

HPC Draft Briefing Paper – FINAL VERSION