

Education and Training Committee - 8 September 2011

## **Updating the 'Guidance on health and character' – consultation response analysis**

Executive summary and recommendations

### **Introduction**

We consulted between 11 April and 1 July 2011 on proposed changes to our 'Guidance on health and character'. Changes to the guidance are needed as a result of our recent decisions to remove the health reference requirement for registration and to change the way we consider information given to us by registrants through self-referral.

This paper sets out the process of the consultation, an analysis of the responses received for each question, and our conclusions. In response to the submissions we received as part of the consultation, we have made a number of revisions to the guidance document to improve the clarity of the guidance. We recommend that the amended guidance should now be approved for publication, subject to legal scrutiny and 'Plain English' requirements.

### **Decision**

The Committee is invited to discuss, agree and recommend to the Council:

- That the amended 'Guidance on health and character' should be approved for publication (subject to legal scrutiny and 'Plain English' editing requirements); and that
- The text of the consultation responses document (subject to minor editing amendments and legal scrutiny) should be approved for publication on the HPC website.

### **Background information**

Paper agreed by Council, 31 March 2011:

[www.hpc-uk.org/aboutus/committees/archive/index.asp?id=533](http://www.hpc-uk.org/aboutus/committees/archive/index.asp?id=533) (enclosure 20)

Paper agreed by Education and Training Committee, 18 November 2010:

[www.hpc-uk.org/aboutus/committees/educationandtraining\\_archive/index.asp?id=544](http://www.hpc-uk.org/aboutus/committees/educationandtraining_archive/index.asp?id=544) (enclosure 5)

Paper agreed by Council, 7 July 2010:

[www.hpc-uk.org/aboutus/council/councilmeetings\\_archive/index.asp?id=528](http://www.hpc-uk.org/aboutus/council/councilmeetings_archive/index.asp?id=528)  
(enclosure 7)

Paper agreed by Education and Training Committee, 8 June 2010:

[www.hpc-uk.org/aboutus/committees/educationandtraining\\_archive/index.asp?id=492](http://www.hpc-uk.org/aboutus/committees/educationandtraining_archive/index.asp?id=492) (enclosure 9)

**Resource implications**

- The resource implications are accounted for in the Policy and Standards department workplan for 2011-2012.

**Financial implications**

- The financial implications are accounted for in the Policy and Standards Department budget for 2011-2012.

**Appendices**

Revised 'Guidance on health and character'

**Date of paper**

26 August 2011

**DRAFT – subject to HPC Education and Training Committee approval**

**Updating the ‘Guidance on health and character’**

Analysis of responses to the consultation on updating the ‘Guidance on health and character’, and our decisions resulting from responses received.

**1. Introduction..... 3**

    About the consultation ..... 3

    About us..... 3

    Why we are updating the ‘Guidance on health and character’ ..... 3

    About this document ..... 4

**2. Analysing your responses..... 5**

    Method of recording and analysis ..... 5

    Quantitative analysis..... 5

**3. Summary of responses ..... 7**

    The self-declaration of health..... 7

    Demonstrating insight and understanding of health..... 7

    How the HPC uses information an applicant or registrant gives us about their health ..... 8

    Self-referrals ..... 8

    How the HPC uses information an applicant or registrant gives through the self-referral process ..... 9

**4. Guidance on self-declarations ..... 10**

    Clarity of guidance about self-declarations ..... 10

    Lack of clarity about the issue of self-declaration..... 10

**5. Demonstrating insight and understanding of health ..... 12**

    The guidance is clear about how a registrant can show insight and understanding into their own health ..... 12

    The guidance is not clear about how a registrant can show insight and understanding of their health..... 12

**6. How the HPC uses information about health ..... 14**

The guidance is clear about how the HPC uses information about health .	14
The guidance could be clearer about how the HPC uses information about the health of applicants and registrants .....	14
<b>7. Guidance on self-referrals .....</b>	<b>15</b>
The guidance is clear about what a self-referral is, and how a registrant can make one .....	15
The guidance could be clearer about what a self-referral is and how it is made .....	15
<b>8. Guidance on self-referrals .....</b>	<b>17</b>
The guidance is clear about how the HPC will use information given to us through the self-referral process .....	17
The guidance could be clearer about how the HPC will use information given to us through self-referrals.....	17
<b>9. General comments .....</b>	<b>18</b>
<b>10. Our comments and decisions .....</b>	<b>19</b>
<b>11. List of respondents .....</b>	<b>23</b>

DRAFT FOR DISCUSSION/APPROVAL ETC 8/19/2017

# 1. Introduction

## About the consultation

- 1.1 We consulted between 11 April and 1 July 2011 on proposed changes to our 'Guidance on health and character'. The 'Guidance on health and character' is a document that explains our requirements about health and character for applicants and registrants. Changes to the guidance are needed as a result of our recent decisions to remove the health reference requirement for registration and to change the way we consider information given to us by registrants through self-referral.
- 1.2 We sent a copy of the consultation document to around 600 stakeholders including professional bodies and education and training providers, and advertised the consultation on our website.
- 1.3 We would like to thank all those who took the time to respond to the consultation document. You can download the consultation document and a copy of this responses document from our website: [www.hpc-uk.org/aboutus/consultations/closed](http://www.hpc-uk.org/aboutus/consultations/closed).

## About us

- 1.4 We are the Health Professions Council (HPC). We are a regulator and our job is to protect the health and wellbeing of people who use the services of the professionals registered with us.
- 1.5 To protect the public, we set standards that professionals must meet. Our standards cover the professionals' education and training, behaviour, professional skills, and their health. We publish a Register of professionals who meet our standards. Professionals on our Register are called 'registrants'. If registrants do not meet our standards, we can take action against them which may include removing them from the Register so that they can no longer practise.

## Why we are updating the 'Guidance on health and character'

- 1.6 We have recently made two separate changes to our policies which require changes to our 'Guidance on health and character' to explain our new requirements.
- 1.7 In April 2011 we removed the requirement to provide a health reference for entry to the Register. Previously, a health reference completed by a doctor ('a registered medical practitioner') was required for entry to our Register. After consulting on the issue in 2010, the Council decided that the health reference should be replaced with a self-declaration to confirm that the applicant does not have a health condition which would affect the safe and effective practice of their profession.
- 1.8 Now we have removed the health-reference requirement, the guidance we provide to applicants and registrants on our health-related requirements needs updating. We have revised the guidance notes linked to the application forms which explain how to complete the self-declaration. Relevant amendments have also been made to our

'Guidance on health and character' explaining the principles of self-declaration and associated issues for applicants and registrants to consider.

- 1.9 The other changes we need to make to the 'Guidance on health and character' relate to our self-referral process. When a registrant gives us information about their conduct or competence at any other time than during the registration application or renewal process, they are making what we call a 'self-referral'. As a result of a recent review of our process for considering self-referrals, our Education and Training Committee agreed in November 2010 that the process for considering self-referral cases should be changed.
- 1.10 Previously, when a registrant made a self-referral the information was referred to a registration panel to decide whether it should be considered as a fitness to practise issue. Following the Committee's decision, self-referrals are now assessed by our Fitness to Practise Department when they are received to decide if the information is sufficiently serious to suggest a fitness to practise concern. If the issue is serious enough, the case is referred directly to our fitness to practise process for consideration as a fitness to practise allegation.
- 1.11 As a result of this change in policy, relevant amendments have been made to the 'Guidance on health and character' explaining how self-referrals are now considered.

#### **About this document**

- 1.12 This document summarises the responses we received to the consultation. The results of this consultation will help the HPC to decide whether proposed updates to the current 'Guidance on health and character' are appropriate, or whether further amendments are needed.
- 1.13 The document starts by explaining how we handled and analysed the responses we received, providing some overall statistics from the responses. Section 3 provides a summary of the responses. Sections 4-9 are structured around the questions we asked in the consultation document. Our response to the comments we received in the consultation, and our decisions as a result are set out in section 10.
- 1.14 In this document, 'you' or 'your' is a reference to respondents to the consultation, 'we, 'us' and 'our' are references to the HPC.

## 2. Analysing your responses

2.1 Now that the consultation has ended, we have analysed all the responses we received. While we cannot include all of the responses in this document, an overall summary can be found in section 3.

### Method of recording and analysis

2.2 We used the following process in recording and analysing your comments.

- We recorded each response to the consultation, noting the date each response was received and whether it was submitted on behalf of an organisation or by an individual;
- We also recorded whether the person or organisation agreed or disagreed with each question (please see the section on quantitative analysis below);
- We read each response and noted the comments received against each of the consultation questions, and recorded any general comments;
- Finally, we analysed all the responses.

2.3 When deciding what information to include in this document, we assessed the frequency of the comments made and identified themes. This document summarises the common themes across all responses, and indicates the frequency of arguments and comments made by respondents.

### Quantitative analysis

2.4 We received **43** responses to the consultation document. (We have included and taken into account late responses to the consultation if they were received on or before 8 July 2011 but were unable to consider comments made in responses received after this date.) 4 responses (9%) were made by individuals and 39 (91%) were made on behalf of organisations.

2.5 Table 1 on the next page provides some indicative statistics for the answers to the consultation questions. Please note: some respondents did not clearly indicate the question to which they were responding, or responded more generally. Responses to question 6, which invited general comment on any other issues related to the consultation have been summarised in section 9.

2.6 The number of respondents who suggested that the guidance could be improved is taken from a combination of comments made by respondents who felt that the guidance wasn't clear, as well as a few who felt the guidance was clear, but that some further information could be added.

**Table 1: Quantitative results**

<b>Question</b>	<b>Yes guidance is clear</b>	<b>No guidance is not clear</b>	<b>Unsure/no response</b>	<b>Guidance could be improved</b>
Question 1: Is the guidance clear about what a self-declaration is, and what the implications of making a self-declaration about health are? Could it be improved? If so, how?	30 (69.8%)	8 (18.6%)	5 (11.6%)	11 (25.5%)
Question 2: Is the guidance clear about how a registrant can show insight and understanding into their own health? Could it be improved? If so, how?	30 (69.8%)	8 (18.6%)	5 (11.6%)	16 (37.2%)
Question 3: Is the guidance clear about how the HPC uses information an applicant or registrant gives us about their health? Could it be improved? If so, how?	32 (74.4%)	4 (9.3%)	7 (16.3%)	5 (11.6%)
Question 4: Is the guidance clear about what a self-referral is, and how a registrant makes one? Could it be improved? If so, how?	31 (72.1%)	5 (11.6%)	7 (16.3%)	8 (18.6%)
Question 5: Is the guidance clear about how the HPC will use information given to us during the self-referral process? Could it be improved? If so, how?	31 (72.1%)	5 (11.6%)	7 (16.3%)	7 (16.3%)

DRAFT FOR DISCUSSION/APPROVAL ETC 8/9/2017



### 3. Summary of responses

- 3.1 The following is a high-level summary of the comments we received in response to the consultation document. Please see sections 4-8 for more detailed analysis. The more general comments we received are summarised in section 9.

#### The self-declaration of health

- 3.2 A majority of respondents—69.8 percent—felt that the guidance was clear about what a self-declaration is, and what the implications of a self-declaration about health are. Some respondents qualified their answers by outlining issues the HPC should consider and address when establishing any self-declaration requirement, and a number of respondents suggested minor amendments to clarify certain parts of the guidance on this issue.
- 3.3 Comments supporting the changes to the guidance about self-declarations included:
- ‘These changes are appropriate. Self-declaration is a suitable replacement for the health reference previously sought. Self-declaration puts the responsibility on the aspiring registrant.’
  - ‘The information for applicants is clear, however we think it could be improved by giving a range of examples which included physical and mental health issues.’
- 3.4 Comments from respondents who did not support the changes to the guidance about self-declarations included:
- ‘The implications of making a self-declaration are not clear. The registrant needs reassurance that removal from the register is not the only option.’
  - ‘The generalised use of the term “health” is too wide’ and does not convey enough that the guidance is specifically relating only to those *conditions of health* that affect the professional practice and judgements of the registrant.’
  - ‘More details are required...regarding the types of health conditions that should be declared...’

#### Demonstrating insight and understanding of health

- 3.5 Most respondents—69.8 percent—agreed that the guidance was clear about how a professional could demonstrate insight and understanding of their own health. Just over a third of respondents—37.2 percent—suggested amendments.
- 3.6 Comments supporting the proposed amendments to the guidance on the issue of demonstrating insight and understanding of health included:
- ‘The guidance is also clear about how a health professional can show insight and understanding into their own health. However,

there could be difficulties surrounding mental health as people may not realise how their condition is affecting them or may not have enough knowledge due to a lack of understanding and / or support.'

- 'The explanation of judging the potential impact and ability to manage a condition is very clear and written in a way that should enable people to offer information for consideration.'

3.7 Comments that did not support the proposed amendments to the guidance on the issue of demonstrating insight and understanding of health included:

- '...it may be helpful to indicate in the earlier sections that the HPC will need to be satisfied as to insight and understanding and will apply a number of considerations in making that assessment.'
- 'Not clear - there is a lack of clarity around at which point a registrant may become unfit to practice. For example, if a registrant has Parkinson's disease, who decides when the member is unfit to practice? The registrant may self-assess fitness to practice and fill the declaration in accordingly.'

### **How the HPC uses information an applicant or registrant gives us about their health**

3.8 74.4 percent of respondents agreed that the proposed amendments to the guidance are clear on the issue of how the HPC uses health information supplied to us by an applicant or registrant, with only four respondents feeling that the guidance was unclear on this issue.

3.9 Some comments supporting the amendments to the explanation of how the HPC uses health information were:

- 'The flowchart is particularly helpful.'
- 'The guidance seems essentially clear about how information is used. However, it can be seen to give confusing messages by effectively eliding issues of health with those of disability, while also having the stated intention to ensure a distinction is drawn between the two.'

3.10 Comments disagreeing with the proposed explanation of how the HPC uses health information included:

- 'The guidance is very long winded and contradictory in nature. We feel that HPC training events could support a greater understanding and insight into individual registrant's roles and responsibilities in relation to self-declaration.'

### **Self-referrals**

3.11 Most respondents—72.1 percent—agreed that the amended guidance is clear about what a self-referral is, and how a registrant makes one. A number of respondents felt the guidance was clear, but would benefit from some amendments or new material. 11.6 percent of respondents felt the guidance was not sufficiently clear.

- 3.12 Some comments supporting the amendments regarding self-referrals included:
- ‘The self-referral process is clear, and [we] endorse the revised approach which will reduce the decision making period for individuals. However the consequences to the individual of a self declaration [referral] are not made clear’
  - ‘The guidance is clear about what self-referral is and how it is done, but I found some inconsistency in whether it applied to both health and conduct or just conduct.’
- 3.13 Comments critical of the amendments to the guidance on the issue of self-referrals included:
- ‘It would be helpful for the guidance to explain the concept of ‘self-declaration’ [referral] in a way that has relevance in broad terms to each of the audiences the document addresses, rather than only explaining it separately for discrete audiences.’

### **How the HPC uses information an applicant or registrant gives through the self-referral process**

- 3.14 A majority of respondents—72.1 percent—agreed that the proposed amendments to the guidance are clear on the issue of how the HPC uses information supplied to us by an applicant or registrant through self-referral. A small number of respondents felt that the guidance could be improved.
- 3.15 Some comments supporting the amendments to the explanation of how the HPC uses information supplied through self-referral were:
- ‘The guidance on how the HPC will use information is clear, however it is not clear whether subsequent self-referrals would refer or be impacted by previous information received.’
  - ‘The document plainly states how the HPC will use information given during the self-referral process.’
- 3.16 Comments disagreeing with the proposed explanation of how the HPC uses information supplied through self-referral included:
- ‘While the stages of the process are set out, it would be helpful to provide more information about how the HPC interprets the information it receives at each stage.’

## 4. Guidance on self-declarations

**Q1. Is the guidance clear about what a self-declaration is, and what the implications of making a self-declaration about health are? Could it be improved? If so, how?**

### Summary

4.1 30 respondents—69.8 percent—agreed with this question, while eight respondents (16.8 percent) felt that the guidance was not clear about what a self-declaration is, and what the implications of a self-declaration about health are. 11 respondents suggested amendments to the guidance. A number of respondents—both those who responded positively and negatively, qualified suggested issues the HPC should consider and address when in establishing the self-declaration requirement and how we issue guidance on it.

### Clarity of guidance about self-declarations

4.2 We received the following comments supporting the guidance on making self-declarations and the implications of doing so.

### Appropriate

4.3 We received a number of comments from respondents who supported the changes to the guidance, and felt that the guidance provides clarity on what a self-declaration is and the implications of making one.

### Concrete terminology

4.4 Two respondents who agreed that the guidance was reasonably clear on the issue of self-declaration, felt that the principles of self-declaration could be described in more 'concrete' terminology, to describe when a professional's health *does* affect their ability to practise, rather than whether it *may* affect their practice. One respondent suggested more links to other supporting information should be provided in support of these statements. Some respondents who did not support the proposed changes to the guidance on this issue also shared similar comments.

### List health conditions

4.5 One respondent felt this section it could be strengthened by adding a list of possible conditions that would need to be declared to the HPC. Similar comments were also made by some of those who did not support the changes to the guidance on the issue of self-declaration.

### Lack of clarity about the issue of self-declaration

4.6 We received the following comments that did not support the proposed amendments to the guidance on the issue of self-declarations.

## **Implications of self-declaration**

- 4.7 We received some opposing comments on whether the guidance reflected the implications of self-declaration accurately. Some respondents felt that the guidance should be more reassuring so that those using the guidance would know that if their health does affect their ability to practice, that they won't necessarily be removed from the HPC Register. Other respondents felt that the implications were not stated strongly enough, and that the guidance should emphasise a registrant's duty of care and be clearer about the possible actions the HPC could take if it had concerns about a registrant's health.

## **Definition of a health condition and when to declare one**

- 4.8 A number of respondents commented on the use of the terms 'health' and 'health condition' within the guidance. Some felt that the terms related to health within the document are not well-defined, and that the guidance does not adequately convey that the health issues the HPC is concerned about are those conditions of health that affect professional practice and judgement.
- 4.9 Some respondents felt that clearer terminology should be used to define when a registrant must declare a health condition to the HPC. Some respondents suggested that a list of relevant health conditions to be declared should be added to the guidance. Alternatively, one organisation suggested that there should be fewer references to particular health conditions within the document as this may imply that those conditions were more serious than others that may also need to be declared.

## **'Reasonable adjustment'**

- 4.10 Two organisations felt that the guidance did not adequately reflect the need for employing organisations to make reasonable adjustments to support a registrant's practice with an existing health condition. These respondents suggested that the guidance be amended to reflect these issues.
- 4.11 One respondent was concerned that the guidance was not clear about whether a registrant could potentially lose their registration if they could not fulfil the HPC's standards within the context of their work and the employer did not allow for adjustments to allow them to continue to practice.
- 4.12 In a related comment, one respondent felt that the emphasis within the document on 'allopathic' or traditional medical professions as a means of health support was narrowly-focused, and the guidance should broaden its scope of support to include a wider range of support.

## **5. Demonstrating insight and understanding of health**

**Q2. Is the guidance clear about how a registrant can show insight and understanding into their own health? Could it be improved? If so, how?**

### **Summary**

- 5.1 A majority of respondents—69.8 percent—agreed with the statement, with 18.6 percent disagreeing. Some respondents commented on the principles associated with insight and understanding more generally. A significant minority of respondents—37.2 percent which included some who felt the guidance was clear—suggested amendments they felt were necessary to make the guidance clearer.

### **The guidance is clear about how a registrant can show insight and understanding into their own health**

- 5.2 We received the following comments which agreed that the proposed amendments to the guidance document are clear about how a registrant can demonstrate insight and understanding of their own health.

### **Clear and useful examples**

- 5.3 A number of respondents commented that the guidance was clear and useful. One respondent felt that 'the explanation of judging the potential impact and ability to manage a condition is very clear and written in a way that should enable people to offer information for consideration'.

### **Ability to show insight and understanding**

- 5.4 A number of respondents who otherwise felt the guidance was clear on the issue of insight and understanding expressed some concern about the ability of some applicants or registrants with mental health conditions to be able to understand accurately whether their condition affected their ability to practise safely and effectively.
- 5.5 Some respondents suggested that additional links to further relevant information on this issue should be included in the guidance at this point. Other respondents suggested that the guidance should clarify the support mechanisms that could be put in place by the HPC and/or employers to support those who declared mental health conditions. Respondents who felt the guidance was not clear enough also made a number of similar comments on these issues.

### **The guidance is not clear about how a registrant can show insight and understanding of their health**

- 5.6 We received the following comments from respondents who felt that the guidance could be clearer about the issue of insight and understanding of health conditions.

### **Ability to show insight and understanding**

- 5.7 We received a number of comments regarding the limits of when a professional will be able to recognise and understand that their health could affect their ability to practise safely and effectively. Some respondents were concerned about the point when a registrant could be certain that they were not able to practise safely and effectively, and whether they would always be able to accurately determine this for themselves if they were affected by a mental health condition. Some respondents suggested that there should be some guidance on situations where if a professional cannot self-declare reliably for themselves, whether others would be able to make a declaration on their behalf, or whether the HPC should require registrants to seek independent advice as appropriate before declaring.
- 5.8 One organisation suggested that the terms 'insight' and 'understanding' should be more clearly individually defined or used separately to reduce the potential for confusion. Two respondents also suggested some related amendments to the examples of registrants managing epilepsy to clarify these issues.
- 5.9 Several respondents suggested that some clearer criteria about showing insight and understanding (for example - based on issues the HPC may consider information about health shown on page 23 of the guidance) could be usefully inserted on page 10 of the document.
- 5.10 Another organisation suggested that the principles of insight and understanding should be given more overarching emphasis across the whole document.

#### **When to declare**

- 5.11 Some respondents suggested that the guidance should make it clear that registrants should advise the HPC of health conditions that affect their practise at any time during the registration cycle, rather than just when they are renewing their registration.

## **6. How the HPC uses information about health**

**Q3. Is the guidance clear about how the HPC uses information an applicant or registrant gives us about their health? Could it be improved? If so, how?**

### **Summary**

- 6.1 74.4 percent of respondents agreed that the guidance is clear about how the HPC uses information an applicant or registrant gives us about their health. 9.3 percent felt that the guidance could be clearer on this aspect, with 5 respondents suggesting amendments to the guidance.

### **The guidance is clear about how the HPC uses information about the health of applicants and registrants**

- 6.2 We received a small number of comments in support of the guidance, although most respondents felt that the guidance was clear on how the HPC uses health information given to us by applicants and registrants. One organisation that felt the information was generally clear suggested a number of amendments around the definition of 'information' and what 'relevant' information would be considered by the HPC.

### **Flowchart**

- 6.3 A number of respondents felt that the flowchart was particularly helpful in assisting their understanding of the issue.

### **Additional information needed**

- 6.4 One respondent felt that while the guidance was clear on how health information is used, some additional information could be added to the section on how a professional could be removed from the register, and how they could appeal the decision. This respondent also felt that the guidance should emphasise the importance of telling the HPC of health concerns as and when they arise, rather than waiting registration renewal.

### **The guidance could be clearer about how the HPC uses information about the health of applicants and registrants**

- 6.5 We received the following comments from respondents who felt the guidance could be clearer on this issue.

### **Contradictions**

- 6.6 One respondent felt that the guidance was 'long-winded and contradictory'. This respondent suggested that 'HPC training events could support a greater understanding and insight into individual registrant's roles and responsibilities in relation to self-declaration'.



## 7. Guidance on self-referrals

### Q4. Is the guidance clear about what a self-referral is, and how a registrant makes one? Could it be improved? If so, how?

#### Summary

- 7.1 Most respondents—72.1 percent—agreed that the amended guidance is clear about what a self-referral is, and how a registrant makes one. 18.6 percent of respondents felt the guidance was clear, but would benefit from some amendments or additional new material. 11.6 percent of respondents felt the guidance was not sufficiently clear.

#### The guidance is clear about what a self-referral is, and how a registrant can make one

- 7.2 We received a number of supportive comments about proposed changes to the guidance about self-referral. The majority of respondents to this question felt the guidance was sufficiently clear, and that it appropriately emphasised a registrant's duty to report issues of concern about their fitness to practise to the HPC.

#### When to declare

- 7.3 One respondent, whilst they felt the text was clear, thought it should be made clearer in the guidance whether a registrant should self-refer if they are under investigation for an offence, prior to any charges being laid. Some similar comments were also made by respondents who felt the guidance was not sufficiently clear.

#### The guidance could be clearer about what a self-referral is and how it is made

- 7.4 We received the following comments from respondents who felt the guidance could be clearer on this issue.

#### Difference between self-declaration and self-referral

- 7.5 While we did not receive many detailed comments on this section of the guidance, it was apparent from the content of a small number of responses to questions 4 and 5 that some respondents had misunderstood the self-declaration of health and the self-referral of potential fitness to practise concerns related to conduct or competence to be different parts of the same process. We have taken these concerns into account in our recommendations and conclusions in section 10.

#### When to declare

- 7.6 Two respondents felt that the guidance should be clearer about when a registrant should self-refer matters of their conduct or competence to the HPC immediately, and situations where it would be acceptable for a registrant to wait to self-refer when they renewed their registration.

### **Relationship with employers**

- 7.7 Some respondents felt that an employer's responsibilities in relation to a registrant's fitness to practise should be made clearer within the guidance, with particular advice provided on when or how employers should act when they have concerns.

DRAFT FOR DISCUSSION/APPROVAL ETC 8/9/2017

## **8. Guidance on self-referrals**

**Q5. Is the guidance clear about how the HPC will use information given to us during the self-referral process? Could it be improved? If so, how?**

### **Summary**

8.1 The same number of respondents who responded positively to the previous question—72.1 percent—agreed that the guidance is clear about how the HPC will use information given to us through the self-referral process. 11.6 percent felt that the guidance was not clear enough, while seven respondents suggested changes to the guidance.

### **The guidance is clear about how the HPC will use information given to us through the self-referral process**

8.2 We received a few comments in support of the proposed changes to the guidance about how we will use information supplied to us through the self-referral process.

### **Interpretation of information**

8.3 Two respondents felt that while the guidance is clear, it would be helpful to include some further information in the guidance about how the HPC interprets information it receives through self-referral, and whether previous information received about a registrant would or would not be considered.

### **Links to additional information**

8.4 One respondent felt that links to further relevant information – such as membership of fitness to practise panels – should be signposted in the guidance.

### **The guidance could be clearer about how the HPC will use information given to us through self-referrals**

8.5 We received the following comments from respondents who felt the guidance could be clearer on this issue. We received some similar comments in answers to this question which showed that some respondents understood self-referral of conduct and competence and self-declaration of health to be the same process.

### **Explanation of possible sanction**

8.6 Two respondents felt that additional information should be included to explain the types of sanctions available to panels when considering self-referrals, and what registrants would be expected to do in these circumstances.

## 9. General comments

### Summary

- 9.1 In this section we have summarised the comments we received of a more general nature which were not directly related to each of the consultation questions, but commented on issues about the guidance or the issues covered in the guidance more generally. Many of them touch upon the themes outlined in responses to the individual questions. Those general comments from respondents which more closely related to one of the consultation questions have been summarised in the appropriate section above.
- 9.2 A small number of respondents chose not to answer some or all of the consultation questions, but instead focussed on a particular aspect of the guidance which they felt was significant. Those comments are summarised here.

### Content, structure, and audience

- 9.3 A significant minority of respondents commented on what they felt was the complex, lengthy, and sometimes confusing nature of the guidance. Some respondents were confused by the variety of audiences the guidance document is aimed at. Others felt that combining guidance on the different issues of health and character was inappropriate, even if the approach taken to the consideration of the issues by the HPC is similar. We also received a number of comments on aspects of internal consistency within the document.
- 9.4 Some respondents felt that the guidance document as a whole would benefit from significant restructuring. One responding organisation suggested that there may be merit in producing guidance on health and character as discrete documents.

### HPC processes

- 9.5 Whilst not about the guidance document specifically, we received a number of comments about detail of the HPC's processes as reflected in the guidance. These comments were:
- Concern about the length of time the processes covered in the document take to complete;
  - Concern about how a character reference is obtained by applicants;
  - Suggestion that the HPC should amend guidance offered to education programmes on health and character requirements related to admissions; and
  - A recommendation that now the HPC has removed the health reference requirement for registration, that we should similarly remove the character reference requirement at point of registration.

## 10. Our comments and decisions

- 10.1 The following section sets out our response to the range of comments we have received to the consultation, and our recommendations for further action. We are pleased that a majority of respondents to the consultation welcomed the proposed amendments to the guidance, with a smaller number of respondents suggesting amendments. We take this as a positive sign that overall the amended guidance is achieving its purpose. Where amendments have been suggested, we have considered those suggestions, and our response is set out below. We have not responded to every individual suggestion, but grouped those suggestions thematically and outlined the principles of our response.
- 10.2 When considering amendments to the guidance, we needed to keep in mind that the relevant sections of the guidance document are aimed at those who are applying for, or renewing their registration. Because of this we have to balance providing accurate information about our role and requirements, as well as positively encouraging applicants and registrants to responsibly self-declare their health conditions, or self-refer issues related to their conduct or competence. We also need to ensure that the language we use meets 'Plain English' requirements, and is easy to understand. We have carefully considered all the comments, and have made a number of changes to improve the clarity of the guidance document.

### Demonstrating insight and understanding

- 10.3 A number of respondents commented on whether the risk to the public can be balanced with the self-declaration requirement, with a number of respondents suggesting some changes to the guidance and/or policy to take this issue into account. While we consider that the proposed self-declaration is an appropriate way of assessing a professional's health and ability to practise safely and effectively, we understand respondents' concern that those applicants and registrants who cannot or will not self-declare responsibly should be taken into account in the guidance we provide. We consider that there are some small changes we can make to the guidance to make these requirements clearer – these are detailed under our conclusions.
- 10.4 A number of respondents felt that relevant health conditions should be more clearly defined in the guidance. We assess each self-declaration on an individual basis, looking at the particular circumstances. While we appreciate that it may be easier to determine whether someone should self-declare if we set out a list of specific health conditions that we would expect to be declared, there are a number of reasons why we cannot provide such a list within the guidance. For similar reasons we cannot amend the language we have used about health conditions that 'may' or 'might' affect a registrant's or applicant's ability to practise. As explained in the guidance, we recognise that professionals on our Register or applying to join the Register could have any of a very wide

range of health conditions or disabilities. The possible range of those conditions means that it would be impracticable to try to produce a comprehensive list of conditions that we would potentially need to know about. We consider that lengthening the current list of conditions would increase the risk that someone with an unmanaged condition may not declare it to us because their condition was not listed. In addition, some registrants/applicants will be able to manage their conditions in a way that will mean that they do not need to self-declare them to us. However, other professionals may not be able to manage the same health conditions effectively. This means we cannot say that a particular condition would definitely affect a person's ability to practise, and we cannot require that anyone with particular conditions should always declare them to us. We believe that this is made clear in the examples we have provided.

- 10.5 There is a small risk that some applicants and registrants will not self-declare their health responsibly regardless of any guidance we produce. However, we have only had a small number of cases where we have needed to take action against an applicant or registrant because of inappropriately managed health conditions or disabilities, and we expect this trend to continue under our self-declaration requirements.
- 10.6 Some respondents suggested adding additional detail about our fitness to practise processes within the guidance. We believe that the guidance is clear that if someone made a false declaration when applying for registration with us, we would investigate and could take action against that person – which could include removing them from the Register. Because of the stated purpose of the document, we do not believe that the guidance should include further detail about our fitness to practise processes or list possible sanctions that could be imposed if concerns about a registrant/applicant's health were upheld. For those who need to find out more about sanctions, detailed guidance about the HPC's fitness to practise processes is available separately.
- 10.7 A few respondents suggested that we should include guidance for employers and others who might need to let the HPC know about an applicant/registrant who is not capable of declaring their health responsibly, or introducing a requirement to ask a third person to verify the self-declaration. Introducing these types of requirements would effectively mean we were reintroducing a type of health-reference, which we do not believe would be necessary or proportionate. It is likely that any applicant or registrant who is unaware of their own inability to manage their health would be brought to our attention through a variety of means—including colleagues and employers. We do not provide additional guidance for those who would wish to raise concerns in this way within the 'Guidance on health and character' because it is aimed at applicants and registrants and their specific responsibility for their own fitness to practise. Separate guidance is available on our website for those who wish to raise a concern about

HPC registrants – including employers and members of the public. In addition, our standards of conduct, performance and ethics require our registrants to take action to protect service users which can include raising concerns about other registrants or health professionals they work with.

#### **‘Reasonable adjustments’**

10.8 We received some comments on the need for additional guidance for employers to advise them on reasonable adjustments needed to allow registrants to continue to practise safely and effectively with a health condition or disability. We recognise that this is an important step in allowing a professional to continue to practise if they have a managed condition. However, the guidance is aimed at professionals and is about they should manage their own fitness to practise regardless of their employment situation. HPC registration is not based on employment. A registrant would not lose their registration with the HPC simply because their employer had refused to make adjustments for their practise. Separate guidance on these issues is available in our guidance documents for applicants and registrants - ‘Managing your fitness to practise’ and ‘A disabled person’s guide to becoming a health professional’.

#### **Difference between self-declaration of health and self-referral of fitness to practise concerns**

10.9 We noted the small number of responses we received that appeared to confuse the changes we have made to the guidance in relation to the self-declaration of health and self-referral of issues related to primarily to character and conduct. We consider that some confusion may have been caused by the way we asked respondents to focus on discrete parts of the guidance without necessarily referring to the introductory section which explains how the document is structured. That said, we have taken these comments into account and have adjusted the guidance document to hopefully make it clearer what the two terms mean and how we use them.

#### **Guidance on self-referrals**

10.10 Some of the comments we received about the guidance on self-referrals were similar to those we received about the self-declaration of health. In relation to the actions the HPC could take if a registrant did not self-refer responsibly, we believe that the guidance is clear that we are able to investigate fitness to practise concerns about registrants, and that the HPC can take action where it has concerns. Keeping the purpose of the guidance in mind, we do not believe that it is appropriate for this guidance document to include further detail about our fitness to practise processes. Further detailed guidance on how we consider fitness to practise issues, and guidance for employers and members of the public on how to refer concerns to the HPC is readily available separately.

## **Content, structure and audience**

10.11 We have noted the range of comments we received on the structure, range of audiences, and content of the document. In response to these comments, we have made some changes to the document to ensure internal consistency. We believe that the general structure and content of the guidance is appropriate. However, we will consider the comments we have received about how the guidance could potentially be restructured when we come to revise the entire document in the future.

## **Conclusions/recommendations**

10.12 In response to the comments we have received, we have made a number of minor amendments throughout the document to improve clarity. This includes further references to other relevant documents or places to go for further information. More substantial amendments are noted below.

## **Demonstrating insight and understanding**

10.13 In response to the comments we have received on this issue, we have amended the wording in the relevant parts of the guidance to provide some clearer criteria to those who may be uncertain about whether they should or should not declare a health concern to us. We have also provided more references within the document to other sources of relevant information.

## **Difference between self-declaration of health and self-referral of fitness to practise concerns**

10.14 To clarify the difference between self-declarations and self-referrals, we have amended the text in appropriate parts of the guidance, and provided definitions of these processes within the glossary of the document. The amendments clarify when we expect to receive information about health, and why self-referrals are usually about character and competence.

## **Timescales**

10.15 Following consideration of this paper by the Education and Training Committee and Council, if agreement is reached on the amendments to the 'Guidance on health and character', the approved guidance will be edited and published in late 2011.



## 11. List of respondents

Below is a list of all the organisations that responded to the consultation.

1. Allied Health Professions in NHS Forth Valley
2. Allied Health Professions Team at NHS Education for Scotland
3. Association for Clinical Biochemistry and Federation of Clinical Scientists
4. Association for Perioperative Practice
5. Association of Directors of Adult Social Services
6. Board of Community Health Councils in Wales
7. British Association of Social Workers
8. British Blood Transfusion Society
9. British Psychological Society
10. Care Council for Wales
11. Care Quality Commission
12. Chartered Society of Physiotherapy
13. College of Occupational Therapists
14. East Kent Hospitals University NHS Foundation Trust
15. General Optical Council
16. General Social Care Council
17. Institute of Biomedical Science
18. NHS Dumfries and Galloway
19. NHS Lothian - Lothian Allied Health Profession Advisory Committee
20. Northern Ireland Ambulance Service
21. Nursing and Midwifery Council
22. Registration Council for Clinical Physiologists
23. Royal College of General Practitioners
24. Royal College of Nursing
25. Society and College of Radiographers
26. Society for Vascular Technology of Great Britain and Ireland
27. Society of Chiropodists and Podiatrists
28. South Eastern Health and Social Care Trust
29. South West Strategic Health Authority
30. Southern Health and Social Care Trust Senior AHP Governance Forum

31. The British Dietetic Association
32. The Patients Association
33. United Kingdom Council for Psychotherapy
34. University Hospital of North Staffordshire
35. University of East Anglia, School of Allied Health
36. University of Huddersfield
37. Welsh Ambulance Services NHS Trust
38. Western Health and Social Care Trust
39. Weston Area Health Trust

DRAFT FOR DISCUSSION/APPROVAL ETC 8/9/2017

**Please note: all revisions to this document are shown as underlined text**

**Guidance on health and character – how we consider information that applicants or registrants declare**

<b>Guidance on health and character – how we consider information that applicants or registrants declare .....</b>	<b>1</b>
<b>Who is this document for? .....</b>	<b>3</b>
About the structure of this document .....	3
<b>Section 1 – Introduction.....</b>	<b>5</b>
About us (the HPC).....	5
How we are run.....	6
Approving education programmes .....	6
Our Register.....	6
Health and character.....	7
<b>Section 2 – Information for applicants .....</b>	<b>8</b>
Other useful publications .....	8
Applying to be on our Register.....	8
The health declaration .....	9
The implications of making a self-declaration .....	10
Insight and understanding.....	10
Public protection and the information you give us about your health .....	11
The character declaration .....	12
The character reference.....	13
The registration panel .....	14
Appeals process .....	15
<b>Section 3 – Information for registrants.....</b>	<b>16</b>
Other useful publications .....	16
Professional self-regulation.....	16
The standards of conduct, performance and ethics .....	16

Telling us about changes to your health or character .....	17
Self-referrals .....	18
The registration panel .....	21
Appeals process .....	22
<b>Section 4 – How we consider health information .....</b>	<b>23</b>
Information we consider .....	23
Guidance on how we will consider information about health.....	23
How we consider information supplied to us through self-declaration of health .....	24
<b>Section 5 – How we consider character information.....</b>	<b>26</b>
Information that we consider .....	26
Issues the panel considers .....	26
Convictions and cautions received when you were young .....	28
Driving offences.....	28
<b>Section 6 – Information for education providers.....</b>	<b>29</b>
Other useful publications .....	29
The standards of education and training.....	29
Deciding whether to accept an applicant with a conviction .....	30
Deciding whether to accept an applicant with a health condition .....	31
Misconduct during the programme.....	32
<b>Section 7 – More information .....</b>	<b>34</b>
<b>Glossary of terms.....</b>	<b>35</b>

## Who is this document for?

We, the Health Professions Council (the HPC), have written this document to provide guidance on our processes when assessing the health and character of people who apply to, or who are on, our Register.

You may find this document useful if you are:

- applying to us to be registered or considering applying to us to be registered ('an applicant');
- currently registered with us (a 'registrant');
- working in education and making decisions about students applying to a programme; or
- working in education and advising students on applying for registration.

This is not a full list of possible audiences, but it should help to give you an idea of whether this document will help you.

## About the structure of this document

To help you get the information you need, we have divided this document into seven sections. There are different sections for applicants, registrants and education providers. We have done this because the processes are slightly different for applicants and registrants. Some of the information provided for applicants and registrants may also be useful to education providers.

Sometimes we have repeated the same information in more than one section to make sure that we provide the relevant information to all those reading the document. Below is a guide to what we have included in the following sections:

- Section one, the **Introduction**, contains information about us, our standards and what we do. This section is for everyone.
- Section two, **Information for applicants**, is aimed at people who are interested in working within one of the professions we regulate and applying for registration with us. It gives information about the application process, and the information we need to know about an applicant's health and character. 'You' in this section refers to the applicant applying to us.
- Section three, **Information for registrants**, is aimed at people who are already on our Register. In this section 'you' refers to the professional registered with us. This section explains the process of making health and character declarations at different times, and how we consider the information we receive from these declarations.

- Section four, **How we consider health information**, is aimed at applicants and registrants. In this section 'you' refers to an applicant or registrant. This section explains how we look at information about your health, and the processes we use. This section may also be useful for education providers.
- Section five, **How we consider character information**, is aimed at applicants and registrants. In this section 'you' refers to an applicant or registrant. This section explains how we look at information about your character and conduct and our fitness to practise processes. This section may also be useful for education providers.
- Section six, **Information for education providers**, is aimed at admissions staff and staff on the programme team. In this section 'you' refers to the education provider or staff on the programme team. This section provides guidance to staff who need to advise students on health or character requirements when they are applying to enter a programme, or when they are applying to the HPC register.
- Section seven, **More information**, includes more information about us. This section contains a glossary of some of the terms we have used in this document.

## Section 1 – Introduction

### About us (the HPC)

We are the Health Professions Council (the HPC). We are a regulator, and we were set up to protect the public. To do this, we keep a Register of professionals who meet our standards for their training, professional skills, behaviour and health.

Professionals on our Register are called 'registrants'. We currently regulate 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 may regulate other professions in the future. For an up-to-date list of the professions we regulate, please see our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

Each of these professions has one or more 'protected titles' (protected titles include titles like 'physiotherapist' and 'dietitian'). Anyone who uses one of these titles must be on our Register. Anyone who uses a protected title who is not registered with us is breaking the law and could be prosecuted.

You can see our Register on our website. Anyone can search it, so they can check that their professional is registered.

Another important part of our role is to consider any complaints we receive about registrants. We look at every complaint we receive to decide whether we need to take action. We may hold a hearing to get all the information we need to decide whether someone is 'fit to practise'.

### **How we are run**

We were created by the Health Professions Order 2001. This sets out the things that we must do and gives us our legal power. We have a Council which is made up of registrants and members of the public. The Council sets our strategy and policies and makes sure that we are fulfilling our duties under the Health Professions Order 2001.

Professionals must register with us before they can use a protected title for their profession. This means that even if you have completed a programme in, for example, physiotherapy, you will still not be able to call yourself a 'physiotherapist' unless you are registered with us.

### **Approving education programmes**

Part of our role includes approving education programmes. Professionals must complete these programmes to become registered with us. However, completing an approved programme does not guarantee that someone will be able to register with us. Sometimes a student who has completed an education programme declares very serious information which may mean that we reject their application for registration. It is important to stress that this only happens very rarely.

### **Our Register**

Being on our Register shows that a professional meets our standards for their profession.

We have a Register to show the public that professionals are fit to practise, and that they are entitled to use the protected title for their profession. It shows that registrants are part of a profession with nationally recognised standards set by law.

When we say that someone is 'fit to practise', we mean that they have the skills, knowledge, character and health to do their job safely and effectively.



## Health and character

We must check the health and character of everyone that applies to join our Register. This is to make sure that applicants will be able to practise safely and effectively within their profession. We can also take action to protect the public if a registrant's health or character raises concerns about their ability to practise safely and effectively.

The relationship between a registrant and the service user is based on trust, confidence and professionalism. By checking an individual's health and character, we can help to reduce the risk of harm and support the public's trust in the professions that we regulate.

When making decisions about character, we look at whether someone is of 'good character' or whether there is any evidence of past actions which might suggest that the person is not of 'good character'. Evidence that someone might not be of 'good character' could include evidence of untrustworthiness, dishonesty, actions which harmed a service user or a member of the public or actions which might affect the public's confidence in the registered professions.

When we talk about 'health' we mean health conditions which may affect either an applicant's or a registrant's fitness to practise. We are not asking whether an applicant or registrant is 'healthy'. This is because someone may be unwell or may have a health condition which they manage appropriately but they may still be able to practise their profession safely. We do not need information about any health condition unless it affects a person's fitness to practise. We recognise that a disability may not be seen as a health condition. So, we only need information about a disability or a health condition if it affects an applicant's or registrant's fitness to practise.

It is rare that any information we receive about a registrant's or applicant's health or character affects their registration with us. For example, in 2009-2010, we received information about 282 cases related to applicants' health or character. We only refused registration in two cases where people declared serious information. However, it is important that applicants or registrants tell us this information so we have it for making decisions about whether they should be registered with us.

## Section 2 – Information for applicants

This section provides information on the application process and the information that you need to provide give us about your health and your character. 'You' in this section refers to the applicant applying to join our Register.

It explains what happens to information which you give to us. It also explains what happens to information about you which someone else, such as a doctor or your character referee, gives to us.

### Other useful publications

A number of the topics in this section are also covered in other publications we have produced. You may want to refer to the following publications for more information:

- 'Guidance on conduct and ethics for students'
- 'Standards of conduct, performance and ethics'
- 'A disabled person's guide to becoming a health professional'
- 'Standards of Proficiency' for each profession
- 'Managing fitness to practise'

You can download a copy of these publications from our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

### Applying to be on our Register

Completing an approved programme does not guarantee that you will become registered. But it does show us that you meet our professional standards and so are eligible to apply for registration. So that we can register you, we need more information from you.

When you first apply for registration, as part of your application you need to send us information which includes:

- a character reference;
- a certified document containing your photograph; and
- a certified document proving your current address.

All of the information that we need from you helps us to make sure that:

- you are who you say you are;
- you meet our standards; and

- we can contact you if we need to.

You can find out more about the application process on our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

When you fill in your application we ask you to declare information about your health and character. We work on the principle of 'professional self-regulation'. This means that you have a personal responsibility, once regulated, to maintain and manage your own fitness to practise. This includes giving us any information about changes to your health or character which might affect your ability to practise safely and effectively.

As an applicant, we expect you to follow the same principle. Being registered places extra responsibilities on you to act in a professional way. This includes declaring any new information about either your character or health.

If you do not provide accurate information in your application or if you fail to provide all the relevant information, you will be making a 'false declaration'. Making a false declaration can result in you being removed from our Register.

### **The health declaration**

Standard 12 of our standards of conduct, performance, and ethics says: t 'You must limit your work or stop practising if your performance or judgement is affected by your health.

When you apply to our Register we ask you to sign a declaration to confirm that you do not have a health condition that would affect your ability to practise your profession. We call this a 'self-declaration'. You only need to declare information about a health condition if you believe that your health may affect your ability to practise safely and effectively. If you tell us you have a health condition that might affect your fitness to practise, we will use the information you give us to decide whether you should be registered.

You do not need to tell us about your health condition or disability if it does not affect your ability to practise safely and effectively, or you know you are able to adapt, limit, or stop your practise if your condition does affect your ability to practise.

You should tell us about your condition if it affects your ability to practise safely and effectively, and/or if you are not sure whether you will be able to adapt, limit, or stop practising as needed if your condition affects your ability to practise.

When we talk about 'health' we are not making judgements about whether people are 'healthy' or in 'good health'. We are also not making judgements about disabilities. You may have a disability or long-term health condition which

would mean that you would not consider yourself to be in 'good health'. However, as long as you manage your condition or disability appropriately, and have insight and understanding, this will not prevent you from registering.

Having a disability should not be seen as a barrier to becoming a health professional. We have produced guidance for disabled applicants called 'A disabled person's guide to becoming a health professional' which you should refer to for more information on this issue.

### **The implications of making a self-declaration**

We work on the principle of 'professional self-regulation'. This means that when we ask you to declare whether you have a health condition that could affect your fitness to practise, we are trusting you as an autonomous professional to make an informed and reasoned judgement about whether your health will affect your ability to practise safely and effectively.

You should complete the health declaration honestly. If we find out later that you did not declare a relevant health issue when making your application, we will investigate, and this could affect your registration. It is important to know that making a declaration to us about a health condition that could affect your ability to practise is a positive action, which shows that you have an awareness of the possible impact of your health on your ability to practise safely and effectively.

If after reading this guidance you are still unsure about whether you should tell us about a health condition you may have, you should disclose it and provide us with as much information as you can, so we can assess whether your condition could affect your ability to practise.

For more information about how we use the information you give us about your health, please refer to the section 'How we consider health information' on page 23.

### **Insight and understanding**

If you declare a health condition to us, we will want to be sure that you have insight and understanding into your health and how that could affect your ability to practise safely and effectively. By insight and understanding we mean that you have a realistic, informed idea of the limits of your safe practice. 'Safe practice' means practice that does not put service users at risk and that there is no danger to yourself. An applicant or registrant who has insight or understanding into their condition will adapt their practice where necessary to minimise any risk to service users.

The two examples below show how the same health condition may or may not affect a professional's ability to practise, depending on their insight and understanding.

#### Example

A recent graduate with epilepsy is applying for registration with the HPC. While the applicant has had epilepsy since he was a child, he has been taking the same kind of medication for over two years, and has not had a seizure during this time. He has made plans for combining work with his condition, which include telling his colleagues and keeping a small supply of his medication safely at work in case he needs it. The applicant's insight and understanding of his condition, and the way he is taking responsibility for his continuing treatment mean that his epilepsy should not affect his ability to practise his profession. He signs the health declaration to confirm that his health condition would not affect his fitness to practise.

#### Example

Someone with epilepsy is applying for HPC registration. While this applicant has been prescribed medication by his doctor to help manage his condition, he often avoids taking the medication because he experiences side-effects. Because of this, he has had seizures recently. He is unwilling to discuss ways of better managing his epilepsy with his doctor. This applicant cannot sign the health declaration, because his health condition is not being managed appropriately and is likely to affect his ability to practise safely and effectively.

In a case such as this, it is not the health or disability of the applicant that means we need to look at the situation, instead it is concerns about the impact of the health condition or disability on the applicant's ability to practise safely and effectively.

### **Public protection and the information you give us about your health**

We were set up to protect the public. We do this by setting the standards our registrants must meet. This means that we only need to know information about your health which may affect the safety of the service users you come into contact with in the course of your work.

If you declare an ongoing health condition or disability to us, this does not mean that we need to be told about your full medical history, as we do not want to receive information that is not relevant to protecting the public. It is rare that any information you give us about your health will affect your registration. We look at every case individually and base our decision on the particular circumstances of each case. As a result, we do not have a list of health conditions which would or would not prevent you from practising as a registered professional. In any situation, the key factor is not that you have a health condition or disability, but

whether that the health condition or disability affects your ability to practise safely and effectively.

We would suggest that the kind of information that may be relevant could include infectious diseases, alcoholism, and mental health issues that might affect the safety of service users (including information on whether the condition can be or is managed with medication or other treatment). We are not suggesting that any of these health issues necessarily affect a person's fitness to practise, but questions of insight and understanding are relevant to some of them.

#### Example

A student has graduated and returned from travelling for several months. While away, she was involved in a serious accident and needed urgent treatment. She was then flown home for continuing treatment and therapy.

She is still recovering and getting her application for registration ready for when she is able to start work. She considers whether her health will affect her ability to practise safely once she has recovered from her injury enough to enter employment. She takes into account the fact that, once registered, she will have to take steps to make sure that she only practises in those areas where she is confident she can meet our standards. Because she is not going to enter work until she is sufficiently recovered to a point that her health will not affect her fitness to practise, she signs her health declaration, giving no further information about her accident.

#### Example

An applicant to the Register has been receiving treatment for alcoholism for six months. While the applicant is honest about his alcoholism and his treatment is progressing well, he is aware that he has only relatively recently started his treatment programme and he is still concerned that his condition might be a factor that could affect public safety. So, he decides not to sign the health declaration, but instead gives the HPC information about his condition and the treatment programme he is undertaking.

More information about how we consider the health information you give us, including the issues we look at when deciding if your health affects your ability to practise is on page 23.

### **The character declaration**

We ask you to fill in a self-declaration about your character as part of your application. In this declaration you need to tell us if you:

- have ever been convicted of a criminal offence, received a police caution or been convicted of a criminal offence for which you received a conditional discharge;
- have ever been disciplined by a professional or regulatory organisation or your employer; or
- have ever had civil proceedings (other than a divorce or dissolution of a civil partnership) brought against you.

We ask you to declare this information as part of our process of checking that you are of 'good character'. We ask about these areas as we believe that they help us to make a judgement about whether, on the basis of past behaviour, you are of good character and should be allowed to register. It is rare that any information we receive affects registration, but it is important that it is declared.

All of the professions that we regulate are exempt from the requirements of the Rehabilitation of Offenders Act 1974. This means that when you apply to join the Register, you must declare any convictions or cautions that you have. This includes any convictions or cautions that are considered 'spent' because they happened some time ago. It also includes convictions or cautions that you may have received in countries outside the United Kingdom, if the offence is one that could have resulted in a conviction or caution in the UK.

Civil proceedings are any action in a court other than being prosecuted for a crime. They can include lawsuits brought to claim compensation or for breaking the terms of a contract.

If you answer 'yes' to any of the above on the application form, you should provide extra details on a separate piece of paper. We will look at the information and decide whether it raises concerns. If it raises concerns, it will be passed on to a registration panel. Please see the section below called 'The registration panel' for more information on the process for those cases referred to a panel.

### **The character reference**

As well as the character declaration, you must also provide a character reference.

A character reference needs to be provided by 'a person of professional standing in the community'. This can include:

- a registrant;
- a doctor;
- an academic tutor or lecturer;
- a solicitor;

- an accountant;
- a bank manager;
- a justice of the peace;
- a minister of the church;
- a rabbi; or
- an imam.

This is not a full list. The person who gives the character reference must also have known you for at least three years and must not be related to you. We will accept a character reference from your academic tutor or course leader, if they have known you for three academic years.

When the person completes your reference, we ask them to declare the number of years they have known you. They must also confirm that they know of no reason why you would not practise your profession with honesty.

You can find more information about how we consider character in the section 'How we consider character information' on page 26.

### **The registration panel**

If information about your health or character needs to be considered by a registration panel, we will write to you to let you know. This is because it may delay your registration by a short time. We normally hold at least one registration panel a month for each profession we regulate to try to reduce any delays in becoming registered.

We will write and tell you about the date of the panel at least 14 days before it takes place. At this time, we will write and ask you to send us any more information that you would like the panel to look at.

The panel will include at least one person from the profession you want to be registered in and at least one lay member (someone who is not registered with us).

The panel make their decision based entirely on the documents you have provided. They may also consider other information that we may have collected. The panel meets in private so you cannot go to the meeting. We will send you a copy of all the information that the panel looks at and you will have 14 days to respond to anything that you have not seen before.

The panel will decide whether the information you have declared affects your ability to practise safely and effectively or will affect public confidence in your



profession. It is rare that information on health and character affects an application for registration.

## **Appeals process**

We will write to you and let you know the panel's decision. If we refuse your application, we will also provide detailed information about making an appeal. You will have 28 days from the date of our letter to make your appeal to us in writing.

The appeal will be heard by a registration appeal panel. The panel will include one of our Council members, at least one person from the profession you want to be registered in and a lay person.

You can choose to have your appeal decided on the basis of documents only, or you can go to the hearing yourself. You can also provide extra information for the panel to look at. The extra information could include more character references or extra information from your doctor, if this is appropriate. **Whichever way you choose to have your appeal considered, we can make the hearing accessible for you. We just need to know your needs beforehand so we can meet them for you.** For example, we can provide documents in other formats, we can hold the hearing in an accessible building, we can provide a hearing loop to assist people with hearing difficulties, or we can provide a British Sign Language interpreter, or an assistant, as appropriate.

As well as any assistant or interpreter that you need, you can bring someone with you to the appeal. This could be a solicitor, union representative, colleague, or friend, who can support or represent you.

If your appeal is not successful, you can appeal that decision in the county court (or sheriff's court in Scotland).

## **Section 3 – Information for registrants**

This section explains the process of making health and character declarations either as a 'self-referral' or as part of renewing your registration. This section also explains what happens to the information you tell us. In this section, 'you' refers to registrants.

### **Other useful publications**

We cover a number of the topics in this section in other publications we have written. You may want to refer to the following publications for more information.

- Standards of conduct, performance and ethics
- Managing fitness to practise
- What happens if a concern is raised about me?

You can download these publications from our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

### **Professional self-regulation**

We work on the principle of 'professional self-regulation'. This means that you have a personal responsibility to maintain and manage your own fitness to practise. You also have to make decisions about whether you are fit to practise your profession. This includes deciding whether changes to your health affect your fitness to practise.

As a registrant, you are expected to meet certain extra responsibilities linked to your professionalism. This includes the professional responsibility to declare information to us about any changes to your health or character.

### **The standards of conduct, performance and ethics**

Our standards of conduct, performance and ethics explain the ethical behaviour that we expect you to meet and keep to. The standards play an important role in helping us make decisions about whether someone is fit to practise.

The standards of conduct, performance and ethics say that:

“You must tell us (and any other relevant regulators) if you have important information about your conduct or competence, or about other registrants and health professionals you work with. In particular, you must let us know straight away if you are:

- convicted of a criminal offence, receive a conditional discharge for an offence, or if you accept a police caution;

- disciplined by any organisation responsible for regulating or licensing a health-care 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.”

Telling us this information is called a ‘**self-referral**’.

### **Telling us about changes to your health or character**

As we have said above, you have a responsibility to maintain and manage your fitness to practise, including giving us important information about your character or health.

There are two different ways in which you can give us this information. You can either tell us at any point during your two year registration cycle, which is called a ‘self-referral’. Or, you can give us the information when you come to renew your registration. You do this by declaring it on your renewal form.

You only need to self-declare changes to your health that affect your ability to practise when you renew your registration, but you can choose to tell us about changes to your health at any other time if you wish to. Please refer to page 19 of the guidance for more information about these requirements.

However, you must let us know straight away if you are:

- convicted of a criminal offence, receive a conditional discharge for an offence or accept a police caution;
- disciplined by any organisation responsible for regulating or licensing a health-care 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.

The requirement to tell us straight away about changes to your character means that you would usually give us this information through a self-referral rather than waiting until you next renew your registration. This means that almost all the self-referrals we receive are about changes to character. The following guidance on self-referrals only refers to character, although if a registrant chose to make a self-referral about their health, we would consider the information in the same way.

Information supplied as a self-referral follows a slightly different process to information which is supplied during registration renewal. In registration renewal cases, we pass information to a registration panel if this is necessary. If serious information about you is provided during registration renewal, the panel can recommend that you should not be allowed to renew your registration.

A self-referral takes place outside the registration renewal process. When we receive a self-referral, we will consider the information to decide whether we should take any further action. The information received will be passed to the Fitness to Practise Department. If after assessing the information they decide that it raises concerns about your ability to practise safely and effectively, they may decide that the matter should be investigated further.

## **Self-referrals**

We understand that you may be worried about the effect on your registration if you tell us about changes to your character. Declaring this information is part of your professional responsibility as a registrant and we believe that it shows insight and understanding. We hope that this section will explain the process we use and also reassure you.

All of the professions we regulate are 'notifiable occupations'. This means that the police should tell us automatically if you are cautioned or convicted of an offence.

However, you should still tell us as soon as possible if you are convicted of an offence, receive a caution, are disciplined by your employer or placed under any practise restriction because of concerns about your conduct or competence. You must do this by writing to our Fitness to Practise Department. You can find the address in the section called 'More information' on page 34.

When you give us information about your character at any time other than through the registration application or renewal process, you are making what we call a 'self-referral'. If you make a self-referral and give us information about your character, the Fitness to Practise Department will consider that information and decide whether the issues could affect your fitness to practise. If the information suggests that your ability to practise safely and effectively is affected, they will investigate the matters in more detail. You can find out more about the fitness to practise process on our website at: [www.hpc-uk.org](http://www.hpc-uk.org).

If we do not think that the issues raised will affect your fitness to practise, we will write to you and let you know. We will not take any further action.

If we refer the case to our fitness to practise process, we will let you know. An Investigating Committee panel will meet to consider the issue. This panel will decide whether there is a 'case to answer' and, if so, whether the case should be considered at a full hearing by a panel of the Conduct and Competence Committee or Health Committee. Before the Investigating Committee considers the case, you will have the chance to give this panel extra information if you want to.

The panel at a final hearing can make the following decisions. They can decide to:

- take no further action;
- send the case for mediation;
- caution you;
- place a conditions of practice order on you;
- suspend you; or
- in very serious circumstances, strike you off the Register.

You have the right to appeal the decision to the High Court or Court of Session in Scotland.

You only need to tell us about changes to your health when you renew your registration. We set this requirement because we expect you to manage your health appropriately during the course of your registration, which includes adjusting or stopping your practice if you need to. (Please see the section called 'Renewing your registration' for more information). However, if you do decide to tell us, we will look at that information and carefully consider whether we might need to take any action.

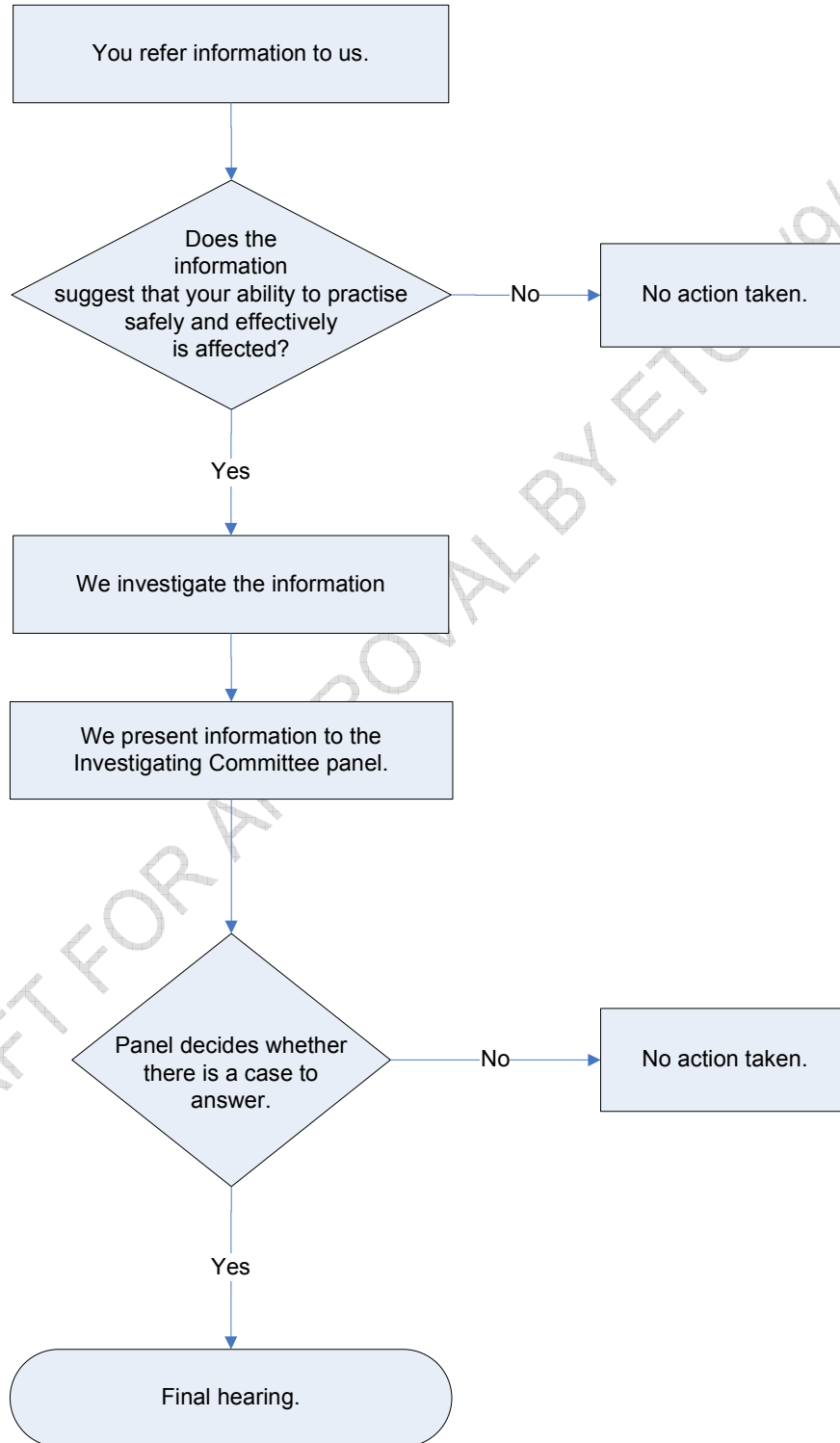
You must still keep to the standards of conduct, performance and ethics.

Standard 12 says:

“You have a duty to take action if your physical or mental health could be harming your fitness to practise. You should get advice from a consultant in occupational health or another suitably qualified practitioner and act on it. This advice should consider whether, and in what ways, you should change your practice, including stopping practising if this is necessary.”

On page 20 we have added a diagram which outlines the process for self-referrals.

## Self referrals



## Renewing your registration

Each time you renew your registration, you must sign a 'professional declaration'. By signing the professional declaration you confirm that:

- you have continued to meet our standards of proficiency for the safe and effective practice of your profession; and
- there have been no changes to your health or your 'good character' which you have not told us about, and which would affect your ability to practise safely and effectively.

Changes to your good character could include:

- being convicted or cautioned for an offence or receiving a conditional discharge;
- disciplinary action taken by your employer or professional body or restrictions placed on your practice by your employer because of concerns about your conduct or competence; and
- civil proceedings.

If the information you provide about your health or character is serious enough, we will pass it to a registration panel. You can find out more about the registration panel in the section below.

### The registration panel

If we send information about you to a registration panel, we will write to you to let you know. This is because this may delay the renewal of your registration by a short time. We normally hold at least one registration panel a month for each profession we regulate to try to reduce any delay in renewing registration.

If you have made a declaration about your health or character on your renewal form, you will stay on the Register while we process your declaration.

You may want to refer to the sections 'How we consider information about health' on page 23 and 'How we consider information about character' on page 26 for some of the issues that we consider when looking at health and character information.

At least 14 days beforehand, we will write and tell you the date when the panel will meet. We will ask you to send us any more information that you would like the panel to consider. We will send you a copy of all the information that the panel looks at and you will have 14 days to respond to anything that you have not previously seen.

The panel will include at least one person from your profession and at least one lay member.

The panel make their decision based entirely on the documents you have provided. They may also consider other information that we may have collected. The panel meets in private so you cannot go to the meeting.

The panel will decide whether the information you have declared affects your ability to practise safely and effectively or undermines public confidence in your profession. It is rare that health and character information affects your ability to renew your registration.

### **Appeals process**

We will write to you and tell you if we refuse to renew your registration. You can appeal this decision by writing to us within 28 days of the date of our letter.

The appeal will be heard by a registration appeal panel. The panel will include one of our Council members, at least one person from the profession you are registered in and a lay person.

You can choose to have your appeal decided on the basis of documents only, or you can go to the hearing yourself. You can also provide extra information for the panel to look at. The extra information could include more character references or extra information from your doctor, if this is appropriate. **Whichever way you choose to have your appeal considered, we can make the hearing accessible for you. We just need to know your needs beforehand so we can meet them for you.** For example, we can provide documents in other formats, we can hold the hearing in an accessible building, we can provide a hearing loop to assist people with hearing difficulties, or we can provide a British Sign Language interpreter, or an assistant, as appropriate.

As well as any assistant or interpreter that you need, you can bring someone with you to the appeal. This could be a solicitor, union representative, colleague, or friend, who can support or represent you.

If your appeal is not successful, you can appeal that decision in the county court or sheriff's court in Scotland.

We provide detailed information about making a registration appeal if we write to you to say that your registration renewal has not been successful.



## **Section 4 – How we consider health information**

This section explains how we consider information that you declare about your health. In this section we use ‘you’ to refer to both applicants and registrants. When we look at information about your health, we consider whether the health condition affects your ability to practise safely and effectively.

### **Information we consider**

A panel may look at an applicant’s health declaration and any other relevant information when making decisions about their health.

When we make decisions about a registrant’s health, we look at any information that the registrant has declared on their registration renewal form.

### **Guidance on how we will consider information about health**

We look at each case individually and make our decision based on the particular circumstances of the case. As a result, we do not have a list of health conditions which would prevent you from practising as a registered professional.

The panel look at various issues when making a decision about whether your health would affect your ability to practise safely and effectively. They may look at:

- how you currently manage your condition;
- whether you have shown insight and understanding into your condition;
- whether you have got medical or other support;
- whether you have made reasonable adjustments to your placement conditions or employment conditions; or
- whether you have agreed reasonable adjustments with your placement providers or employers.

In most cases where registration panels have looked at information about an applicant’s health, we have not refused their application for registration. This may be because the applicant has shown insight and understanding into their condition or perhaps because their condition does not actually affect their ability to practise safely and effectively. It is also rare that a registrant’s health condition affects their registration, often for similar reasons.

An example of a health condition which might affect registration is an alcohol dependency problem which the person is not managing appropriately and which is affecting their ability to practice. However, it is still important that we treat every case individually and that we avoid stereotypes and misinformed judgements.

## **How we consider information supplied to us through self-declaration of health**

When you apply for registration with us, we ask you to sign the health self-declaration to confirm that you do not have a health condition that could affect your ability to practise your profession safely and effectively. Once you are registered, when you renew your registration every two years you are asked to confirm that your health does not affect your ability to practise. In both these situations we trust you as an autonomous professional to make an informed and reasoned judgement about whether your health will affect your ability to practise.

You only need to self-declare changes to your health that affect your ability to practise when you apply for, or renew your registration, but you can choose to tell us about changes to your health at any other time during your registration if you wish to. We set this requirement because we expect you to manage your health appropriately during the course of your registration, which includes adjusting or stopping your practice if you need to. Please refer to the section on self-referral on pages 17-20 of the guidance for more information about these requirements.

Most of the time, when you tell us about a health condition if you are applying to the register, or if you tell us about a change in your health if you are a registrant, you are showing insight and understanding and managing your fitness to practise. By insight and understanding we mean that you have a realistic, informed idea of the limits of your safe practice. 'Safe practice' means practice that does not put your service users at risk and that there is no danger to yourself.

In serious circumstances, we may pass the information on to a registration panel who will consider whether your fitness to practise is affected by your health. The panel meets in private to consider, on a case-by-case basis all the information they receive.

The panel will make decisions based on looking at the factors outlined on the previous page. You may have already made or identified amendments you can make to your practice in response to your health. If so, we do not need to take action to protect the public. At this point, if you are applying to the Register, the panel will agree that you should be registered. If, however, the registration panel is concerned that your management of your health condition or disability could affect your ability to practise, they may recommend that you should not be allowed to register.

Making amendments to your practice, if necessary, is part of managing your fitness to practise. We have produced a document on this topic which you can download from our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

If you are a registrant and can demonstrate that you have made appropriate amendments to your practise in response to your health we would not need to take action to protect the public, the registration panel would not pass the case on to the Fitness to Practise Department and we would not take any further action. However, in very serious circumstances the panel can pass the case on to our fitness to practise process for a hearing. In every case referred for a hearing, we will ask whether you will give your permission to be examined by a doctor so that the panel can make an informed decision.

The cases we consider under our fitness to practise process are usually those where a registrant has continued to practise while unfit to do so, and this has directly led to harm, or the risk of harm to the service user or to you. In these cases, it is not the health or disability of the registrant that means we have to take action, but the poor conduct or practice that it has contributed to.

DRAFT FOR APPROVAL BY ETC

## Section 5 – How we consider character information

This section explains how we consider information that applicants and registrants declare about their character. In this section we use ‘you’ to refer to both applicants and registrants.

### Information that we consider

We look at a number of pieces of information when making decisions about an applicant’s character. They are:

- the information provided on the character reference;
- whether the applicant has declared any convictions or cautions;
- whether another regulator or professional body has made a decision about the applicant; and
- any other information which might be relevant such as disciplinary action taken by an employer.

When we make decisions about a registrant’s character, we look at:

- any information that the registrant has declared on their registration renewal form; or
- any information that the registrant has passed to us through self-referral.

### Issues the panel considers

When making decisions about character, we are considering whether your behaviour in the past means you can practise in a way which does not put the public at risk or affect public confidence in you or your profession.

The information you give us about your character when you are applying for or renewing your registration will be considered by a registration panel. Please see the section on page 14 for more information about registration panels.

When you give us information about your character at any time other than through the registration application or renewal process we will consider the information, and if it is serious we will refer it to our fitness to practise process for consideration. Giving us information in this way is called a ‘self-referral’. We consider self-referrals in this way to make sure that the management, investigation, and decisions made about self-referral cases are consistent with the other decisions our panels make through our fitness to practise process. Please see the section on page 18 for information about the self-referral process.

When someone declares a conviction or caution, we do not re-examine the nature of the evidence or retry the case. If you are an applicant, the registration panel considers the effect it will have on your application for registration. If you are a registrant, our panels will consider the effect it will have on your registration. They might look at whether the conviction or caution affects public confidence in your profession.

Whether information about your character is considered by a registration panel, or through our fitness to practise process if you have made a self-referral, the panel will consider only the factors relevant to your case. The panels will consider on a case-by-case basis all the information we receive, looking at the particular circumstances around the event. This means that we can only provide guidance on how we will consider the information and we cannot provide answers about what the outcome of the case will be.

When looking at issues around your character, our panels may consider:

- the number and nature of offences or events;
- the seriousness of the offence or event;
- when and where the offences or events took place;
- any information you have given to help explain the circumstances; and
- your character and conduct since the offence.

This is not a full list of factors which can help to decide the seriousness or significance of the issues we consider.

A panel may consider the circumstances surrounding the case and whether you show that you understand what made you behave in the way you did. A panel may also consider the punishment that was given, but they recognise that the sentence given does not necessarily reflect the seriousness of the offence. When the panel makes a decision, they look at a number of factors, including whether the conviction or caution might undermine public confidence in the particular profession.

The types of convictions which might result in a registrant being struck off the Register usually relate to offences of a sexual nature, violence or dishonesty. It is likely that similar convictions would also prevent you from becoming registered with us.

We have produced standards of conduct, performance and ethics which give you information on ethical behaviour for both registrants and applicants. These say:

“...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 of the types of convictions or cautions that could lead to us rejecting your application for registration or removing you from the Register. If you have a criminal conviction, we will decide on your case by considering the particular circumstances of the case.

More information and guidance about how we consider fitness to practise concerns is available on the fitness to practise section of our website.

### **Convictions and cautions received when you were young**

All of the professions that we regulate are exempt from the requirements of the Rehabilitation of Offenders Act 1974. This means that you must declare any convictions or cautions that you may have, even if you received them when you were under the age of 18.

Unless the offence is very serious, it is unlikely that these types of convictions or cautions would normally affect your application for registration. However, you should still declare them.

### **Driving offences**

You may have received a conviction or caution for a driving offence. When making a decision about the offence, the panel may consider the sentence you were given. If it was a drink-driving offence, they may also consider whether the alcohol level was significantly higher than the legal limit, or if someone was injured as a result.

It is rare for driving offences to affect an application for registration, but you should still declare them as we need to make our decisions on a case-by-case basis.

However, you do not need to declare fixed-penalty motoring offences such as speeding or parking offences.

## **Section 6 – Information for education providers**

In this section, we try to cover three areas of interest to those working in education and training. In this section ‘you’ refers to the education provider or staff on the programme team. The section provides guidance if you are advising applicants who have declared convictions or cautions or a health condition and are making decisions about their entry on to an approved programme. We also provide information for you if you are advising students about the process for applying to join the Register.

This section is also useful if you are advising students and making decisions about how issues of student misconduct or changes in their health will be dealt with while they are studying.

This section offers guidance which you can use as part of your decision-making, but cannot cover every circumstance.

### **Other useful publications**

We also cover a number of the topics in this section in other publications we have produced. You may want to refer to the following publications for more information:

- ‘A disabled person’s guide to becoming a health professional’
- ‘Standards of conduct, performance and ethics’
- ‘Standards of education and training’
- ‘Standards of education and training guidance’
- ‘Guidance on ethics and conduct for students’

You can download these publications from our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

### **The standards of education and training**

We set the standards of education and training (SETs) which programmes are approved and monitored against.

SET 2 is about the admissions procedures to a programme. SET 2.3 says that ‘you, as an education provider, must apply selection and entry criteria, including criminal convictions checks. SET 2.4 says you must also comply with any health requirements which are appropriate to the programme concerned’. This means that the requirements you set may depend on the nature of the profession and the programme you are providing.

SET 3.16 says that you must have a process in place throughout the programme for dealing with concerns about students' profession-related conduct. We believe that this will help you to identify students who may not be fit to practise and help them to manage any concerns about their conduct in relation to their profession.

### **Deciding whether to accept an applicant with a conviction**

Someone with a criminal conviction or caution may apply to your programme. Or you may become aware of a conviction or caution once they are on the programme. You may be concerned about whether you should allow the applicant on to your programme or to continue on your programme. This may be perhaps because you are worried that they may not be able to register with us after they have completed their programme.

We consider the information we receive about applicants on a case-by-case basis. As a result, we cannot provide a list of convictions and cautions that would definitely lead to us rejecting an application for registration. We also cannot provide a list of convictions or cautions that should definitely lead to you rejecting an application.

However, there are certain types of offences which we believe are usually incompatible with being registered within one of the professions we regulate. The types of convictions which might result in us removing a registrant from the Register usually relate to offences of a sexual nature or dishonesty. These types of convictions might prevent an applicant registering with us.

We also provide some general guidance in our standards of conduct, performance and ethics. These standards apply to both registrants and prospective registrants. By 'prospective registrants' we mean people who are applying to join the Register, which includes students on approved programmes. The standards say:

"However, 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".



You can find more guidance about how we look more broadly at convictions and cautions and character in the section 'How we consider character information' on page 26.

When you make admissions decisions, you may want to consider the standards of conduct, performance and ethics. You may also want to consider whether the individual's conviction or caution might affect their suitability for registration or affect the public's confidence in their profession.

When making a decision, you may want to consider:

- the number and nature of offences or misconduct;
- the seriousness of the offence or misconduct;
- when the offences or misconduct took place;
- any information provided by the applicant to help explain the circumstances of the offence; and
- the applicant's character and behaviour since the offence.

However, this is not a full list to help you decide the seriousness or significance of the issues you will need to consider. An understanding of the offence or misconduct is extremely important. Someone may have a greater understanding of the importance of 'good character' as a result of a previous minor offence.

We know that deciding whether to accept an applicant with a criminal conviction or caution can be difficult. It is important to remember that even if you make your own decision about an applicant and allow them to join your programme, they will still have to go through our character process when they apply to join the register. However, it is rare for us to refuse an applicant from an approved programme. You can find out more about this in the section of this document called 'Information for applicants' on page 8.

### **Deciding whether to accept an applicant with a health condition**

You may receive an application from someone with a health condition or you may become aware of a health condition once the student is on your programme. When we talk about 'health' we do not mean people who are 'healthy' or in 'good health'. Instead, we consider the effect that a health condition may have on someone's ability to practise safely and effectively.

We look at each case and make our decision based on the particular circumstances of the case. As a result, we do not have a list of conditions which would prevent someone from practising in any of the professions we regulate. This also means that we cannot provide a list of the health conditions which would prevent someone from completing an approved programme.

You have certain responsibilities in dealing with admissions to a programme approved by us. You may have specific legal duties under equality and non-discrimination laws and, because your programme is approved by us, you have the responsibility to make sure that individuals who complete your programme meet our standards of proficiency.

How you meet these duties is up to you, but we suggest that when assessing applications you should first consider the reasonable adjustments that you could make for the applicant.

Having considered this, you might then want to consider separately whether, having made these adjustments, the applicant would, at the end of the programme, meet our standards of proficiency.

We have produced a guide for prospective registrants and admissions staff called 'A disabled person's guide to becoming a health professional'. You can download a copy of this guide from our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

When making a decision about an applicant or a student with a health condition, there are a number of other factors that you may want to look at. These are:

- how they currently manage their condition;
- whether they have shown insight and understanding of their condition; or
- whether they have got medical or other support.

Most applicants who declare health conditions find that their declaration does not affect their application for registration. This is because often the applicant shows an insight and understanding of their condition. Or, the health condition concerned does not affect their ability to practise safely and effectively.

When you make admissions decisions about applicants, you may want to set up an advisory panel to help you make the decision. You may also want to refer to the section 'How we consider information about health' on page 23.

### **Misconduct during the programme**

You will have your own procedures for handling misconduct which happens while a student is on a programme. These procedures are often separate from those which may look at concerns about academic performance.

When looking at misconduct, you may want to refer to the standards of conduct, performance and ethics. You may also want to look at the guidance we have produced called 'Guidance on ethics and conduct for students'. Any decision you make about a student's misconduct will not affect whether that person could join

the Register. The student would still need to go through our health and character process and provide any relevant information.

If you remove a student from your programme because of misconduct, you should tell us. If we believe the misconduct is serious enough, we can keep the information and look at it if the person ever applies to us for registration in the future.

DRAFT FOR APPROVAL BY ETC 8/9/11

## Section 7 – More information

You can find out more information about us and our processes on our website ([www.hpc-uk.org](http://www.hpc-uk.org)).

Here we publish information about how we work, including the standards that we produce, our registration and fitness to practise processes, all of our forms, news releases and much more.

If the information that you need is not on our website, you can also contact us at:

The Health Professions Council  
Park House  
184 Kennington Park Road  
London  
SE11 4BU.

Phone: +44 (0)20 7582 0866  
Fax: +44 (0)20 7820 9684

DRAFT FOR APPROVAL BY ETC 8/9/17

## **Glossary of terms**

### **Certified**

When you apply for registration, we ask you to supply 'certified' documents. This means that they are confirmed as a true copy of the original document by a person of professional standing in the community. The person you ask to certify your document/s must write on it 'I certify that this is a true copy of the original document' and must sign it and print their name and professional title.

### **Civil proceedings**

An action in a court which does not involve a crime or criminal proceedings. Civil proceedings can include lawsuits to get compensation or deal with contract term which has been broken.

### **Criminal conviction check**

A check to see if someone has been convicted of a criminal offence or has received a police caution.

### **Disabled person**

The Equality Act 2010 defines a disabled person as 'someone with a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'. 'Long-term' is defined as lasting at least 12 months.

### **Education provider**

The place where a programme is delivered or where a qualification is awarded.

### **Fit to practise**

When someone has the skills, knowledge, character and health to do their job safely and effectively.

### **Lay member**

A panel member who is not a registrant or eligible to be registered by us.

### **Professional body**

These organisations carry out work which may include promoting a profession, representing members, producing curriculum frameworks, overseeing post-

registration education and training, and running continuing professional development programmes.

## **Register**

A published list of professionals who meet our standards. The Register is available online at [www.hpc-uk.org](http://www.hpc-uk.org).

## **Registrant**

A professional who appears on our Register.

## **Regulator**

An organisation that protects the public by making sure people keep to certain laws or requirements.

## **Self-declaration**

The declarations of health and character applicants or registrants must sign to confirm that their health and character does not affect their ability to practice safely and effectively.

## **Self-referral**

When a registrant gives us information about their health, character, or conduct at any time outside of the registration application or renewal process.

## **Service user**

Anyone who uses or is affected by the services of registrants.

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

Standards that we expect from professionals who are registered with us.

## **Standards of education and training**

Standards which education providers must meet to make sure that all those students who complete an approved programme meet the standards of proficiency.