

18 September 2020

Health and Care Professions Council response to the Parliamentary and Health Service Ombudsman's consultation on the Complaints Standards Framework

1. About us

We welcome the opportunity to respond to this consultation.

The Health and Care Professions Council (HCPC) is a statutory regulator of healthcare and psychological professions governed by the Health Professions Order 2001. We regulate the members of 15 professions. We maintain a register of professionals, set standards for entry to our register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our role is to protect the public.

2. Response to the consultation

Introduction

Question 1: In what capacity are you providing feedback?

Other – Regulator

Clarity of Framework

Question 15: Do you think it's clear what the Framework is trying to achieve?

Yes

Support for the Framework

Question 17: Do you support what the Framework is trying to achieve?

Yes

Question 18: Do you think the Framework makes it clear what organisations are expected to do?

Yes

Question 20: Thinking about the recent impact of coronavirus on the NHS and public services, is there anything new or different the Framework should focus on to support complaints handling and learning?

The impact of coronavirus has put services under increased pressure. With increased pressure, the proper handling of complaints can be de-prioritised, seen as too much work or of limited value. This can result in valuable learning being lost. It is important the Framework and associated guidance therefore recognises these challenges. Instilling a learning culture is key, but this can be hindered if the process is too burdensome.

One example of this relates to training. The impact of COVID-19 means it is likely organisations will have greater challenges rolling out training on complaints handling. This might be because employees have been redeployed to other roles, to support the wider organisation's needs, and therefore training in these areas has to be prioritised. Alternatively, there may be less opportunities to deliver training in a suitable format due to social distancing or remote working.

Another potential challenge would be the reduced opportunities for organisations to engage its managers, leaders and the public on what it has learnt from feedback. National and local groups who represent service users may not be able to meet in the same format, or be less likely to engage (whether that be because it is delivered remotely, reducing accessibility, or because it is delivered face to face and participants who are more vulnerable feel unable to attend). Leaders and managers may also have less capacity to consider learning from complaints due to pressures elsewhere.

These challenges do not necessarily require amendments to the Framework. However, the wider guidance and communications surrounding implementation of the Framework will need to acknowledge this and be sufficiently flexible to adapt to the impact of COVID-19 at any given time.

Question 21: Is there anything else that you think is missing, or not yet fully explained, in the Framework.

Yes

Question 22 (If yes to Q21) Please explain what else you would like to see included in the Framework.

The 'About the Complaints Standards Framework' sets out clearly from the outset what the Framework does not cover. This includes fitness to practise concerns and serious patient safety issues.

We believe that the Complaints Standards Framework does not set this out as clearly. On page 6 it states 'Organisations ensure staff identify when issues raised in a complaint might be better addressed via another route (such as through a regulator or by a legal claim).' This is also addressed in slightly more detail under the heading 'Complaints and fitness to practise procedures, legal action and other procedures' within the Supporting information on the Complaint Standards Framework for the NHS. However, we believe there also needs to be some more detail in any guidance targeted at the public that covers what regulators can and can't do and when to contact us. We believe this will help clarify the public's expectations of our processes and help organisation's understand where their responsibilities lie.

The Framework also refers to both concerns and complaints in its definition of a complaint. In the context of both regulation and some organisations within the NHS, these terms can mean two different things, so it may cause confusion if these terms are used interchangeably. We would welcome some clarity about this either in the Framework or supporting guidance to manage the public's expectations.

Question 23. The Framework is based on My Expectations, which describes what the public expect to experience when they make a complaint about the NHS.

Do you think that My Expectations fully captures what you would expect if making a complaint?

Yes

Embedding the Framework and reporting progress against it

PHSO expects the Complaint Standards Framework guidance to be adopted by the organisations it investigates and be used by them to monitor their own performance towards meeting the Framework's expectations.

PHSO will also play an active role in capturing and reporting on how organisations are doing to embed the Framework, and will help organisations to achieve that.

Question 25: What steps do you think PHSO should take to ensure organisations embed the Framework in their own complaints processes?

It is always going to be challenging to ensure organisations embed the Framework into their processes when this is merely best practice guidance. We would therefore support the PHSO's plans to gain legislative powers in this area, which will place more pressure on organisations to comply.

Reflecting on our previous responses, it is also important that the Framework recognises the current challenges organisations and health professionals are facing. The PHSO needs to offer flexibility in implementation, emphasising the value to patient safety and the longer term benefits for organisations.

Question 26: Do you think PHSO should regularly report on how organisations are performing towards meeting the Framework expectations?

Yes

Question 27: Do you think PHSO should undertake regular reviews to update the Framework in the future?

Yes

Question 28: To what extent would you agree or disagree that PHSO should be given legislative powers to set and enforce national complaint standards for the organisations it investigates?

Agree

Closing Complaints Standards Framework question

Question 29: Please provide any other comments you would like us to take into account

The HCPC is very supportive of the Framework and its underlying purpose. We entirely agree that an effective complaints handling system must promote learning, positively seek feedback, be thorough and fair and give a fair and accountable decision.

Raising concerns and being open and honest when concerns are raised are key focuses for our Standards of conduct, performance and ethics. We expect our registrants to:

- report any concerns about the safety or well-being of service users promptly and appropriately (SCPEs 7.1);
- support and encourage others to report concerns and not prevent anyone from raising concerns (SCPEs 7.2); and
- acknowledge and act on concerns raised to [them], investigating, escalating or dealing with those concerns where it is appropriate for [them] to do so (SCPEs 7.6).

When dealing with concerns and complaints, our standards say registrants must:

- support service users and carers who want to raise concerns about the care, treatment or other services they have received (SCPEs 8.1); and
- give a helpful and honest response to anyone who complains about the care, treatment or other services they have received (SCPEs 8.2).

Therefore registrants should be positively engaging with existing complaints processes and ensure they act on concerns raised. We believe that this Framework will help positively support registrants to meet our standards, by creating clear guidelines for their employers and other service providers to follow.

We would also like to commend the presentation of the Complaints Standards Framework. The video and use of graphics are particularly engaging. Our one comment on presentation is that the About the Complaints Standards Framework and Supporting information pages on the website are quite hidden, and not obviously accessible from the consultation page at the bottom of the page. It might therefore be hard for users to get this context without a direct link / prompt from the PHSO. When the Framework is rolled out, we think it is important this is clearly signposted, potentially directly within the Framework to ensure that it is not lost.

About the Complaints Standards Framework

Additional information has been produced which explains more about the background to the Framework, what it is, why we need it and the benefits it will bring.

Question 30 Would you like to answer a few final questions about this document?

Yes

Question 31 To what extent would you agree or disagree that the document is easy to understand?

Agree

Question 32 After reading the document, how would you rate your understanding about what the Framework aims to achieve?

Good

Question 33 Does the document cover all the background information you would expect it to about the Framework?

Yes