

Consultation on the revised Guidance on Health and Character

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1. Introduction

About this consultation

- 1.1 This consultation seeks the views of stakeholders on a revised version of our Guidance on Health and Character.
- 1.2 Applicants and registrants renewing their registration must make a health and character declaration to the HCPC. The Guidance on Health and Character provides applicants and registrants with information about making a health and character declaration. When someone applies to join the register or renew their registration, they must declare that they are of good health and character and that neither their health nor character will impair their ability to practice in their profession. The Guidance document provides guidance to applicants and registrants about the types of information the HCPC considers relevant and when they should or must disclose this information to us.
- 1.3 The document, entitled 'Guidance on Health and Character'¹, was first developed in 2005. The Guidance on Health and Character has been updated since its first publication, with the most recent version published in 2017.
- 1.4 We have undertaken a thorough review of the existing Guidance and are seeking the views of our stakeholders on a proposed revised version. The review is taking place in order to ensure the guidance reflects our up to date processes and recently published online information on self-referrals. This updated guidance will reflect the Health and Character Policy as well as the procedures of the Fitness to Practise Department.
- 1.5 This document explains the background to the Guidance as well as the approach we took in reviewing it and the changes we are proposing.
- 1.6 The consultation will be of particular interest to HCPC registrants, professionals applying to be on the register, professional bodies, legal representatives, and service users and carers.
- 1.7 The consultation will run from 18 January 2021 to 12 April 2021. We will keep this consultation period under review, taking into consideration any impact of COVID-19.

¹ To read the existing Guidance on Health and Character, please see: <https://www.hcpc-uk.org/globalassets/resources/guidance/guidance-on-health-and-character.pdf?v=637106443070000000>

About this document

1.8 This document is divided into five sections.

- **Section 1** introduces the document.
- **Section 2** provides background to the Guidance on Health and Character.
- **Section 3** explains our approach in reviewing the Guidance.
- **Section 4** summarises the changes we are proposing.
- **Section 5** sets out the next steps following the consultation.

About us

1.9 We are a regulator and were set up to protect the public. To do this, we keep a Register of professionals who meet our standards for their professional skills and behaviour. Individuals on our Register are called 'registrants', while those applying to be on the register are called 'applicants'.

1.10 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

Consultation questions

- 1.11 We would welcome your response to this consultation. We have listed some consultation questions below to help you. These questions are not exhaustive and we would also welcome your comments on any related issue. Please provide reasons alongside your answers where possible.

Questions for the guidance for applicants and registrants

- Q1. [Standard 9.5](#) of our Standards of Conduct, Performance and Ethics sets out when a registrant must let the HCPC know about a change in their character. This differs from the current criteria for making a character declaration in the Guidance on Health and Character. We are proposing to change this so that the two align and we only use the approach in standard 9.5.
Do you think it is appropriate to align the criteria for character declarations in this guidance to be the same as those in our existing Standards?
- Q2. In the current guidance, there are slight difference for character declarations for applicants and those made by registrants. For instance, applicants are asked to disclose any civil cases brought against them (other than a divorce) where registrants are not.
Do you think it is appropriate to align the criteria for character declarations for applicants and registrants to the current requirement for registrants?
- Q3. Do you think that the Guidance clearly explains how and when an applicant should make a health declaration?
- Q4. Do you think that the Guidance clearly explains how and when an existing registrant should make a health declaration?
- Q5. Do you think that the Guidance clearly explains how and when an applicant should make a character declaration?
- Q6. Do you think that the Guidance clearly explains how and when an existing registrant should make a character declaration?
- Q7. Do you think it is appropriate to merge the Health and Character Policy and Guidance on Health and Character to maintain a single public document on this topic for applicants and registrants?
- Q8. Do you think it is appropriate to separate the Guidance on Health and Character document to provide a document specifically aimed at education providers?
- Q9. We want to make use of visuals and flow charts in the guidance to explain the process. Do you think this would be helpful? And if so, what parts of the guidance would benefit from this?
- Q10. Do the case studies in the Guidance provide sufficient detail to help you understand complicated health and character issues?
- Q11. Do you have any other comments about the revised Guidance?

Additional question for the Guidance on Health and Character for Education Providers

- Q12. Do you think the Guidance clearly explains how an education provider should manage the application of a student with a health condition?

- Q13. Do you think the Guidance clearly explains how reasonable accommodations for students with health conditions and disabilities impact an applicant's later admission to the Register?
- Q14. Do you think the Guidance clearly explains how an education provider should manage the application of a student who would have to make a character declaration on applying to join the Register?
- Q15. Do you think the Guidance clearly explains how an education provider can manage student misconduct during their programme?

Questions for both guidance documents

Q16. Do you consider there are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one or more of the following protected characteristics, as defined by the Equality Act 2010 and equivalent Northern Irish legislation²? If yes, please explain what could be done to change this.

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Q17. We would be particularly interested in any opinions you have about potential unintended consequences for groups who are more likely to have had a conviction or caution because of their race, ethnic background, mental health or national origin. If you think there may be unintended consequences, please explain what could be done to change this.

How to respond to the consultation

1.12 The consultation closes on 12 April 2021. We look forward to receiving your comments. We will keep this consultation period under review, taking into consideration any impact of COVID-19.

1.13 You can respond to this consultation in one of the following ways:

- By completing our easy-to-use online survey at this [link](#)
- By emailing us at: consultation@hcpc-uk.org
- By writing to us at:

Consultation on Guidance on Health and Character
Policy and Standards Department

² <http://www.equalityni.org/Footer-Links/Legislation>

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

- 1.14 Please note, due to COVID-19, the organisation is partly working from home and so post is not checked frequently. If you are able to respond by email or online survey, we would encourage you to do so.
- 1.15 Please note that we do not normally accept responses by telephone or in person. We ask that consultation responses are made in writing to ensure that we can accurately record what the respondent would like to say. However, if you are unable to respond in writing please contact us on +44 (0)20 7840 9815 to discuss any reasonable adjustments which would help you to respond.
- 1.16 Please note that, due to COVID-19, this telephone line is not staffed. However, you will be able to leave a message for the team to review and get back to you as soon as possible.
- 1.17 **Please contact us to request a copy of this document in an alternative format, or in Welsh.**
- 1.18 If you would like us to not make your response public, please indicate this when you respond.

2. Background

- 2.1 We first published the document “Guidance on Health and Character” in 2005 and it was most recently updated in 2017.
- 2.2 Those seeking to apply to join the register, to re-join the register or those renewing their registration must satisfy HCPC as to their good health, good character, and their ability to practise safely and effectively under the part of the Register concerned.
- 2.3 While registered, registrants also have a continuing duty to ensure they review their practice and make changes to how they practise, or stop practising if their ‘physical or mental health’ may affect their ‘performance or judgement, or put others at risk for any reason’.
- 2.4 Applicants and registrants must declare information relevant to their character, this would include:
 - cautions, charges or convictions of criminal offences;
 - action or adverse findings by other health or social care regulators; and
 - restrictions placed on their practice, suspensions or dismissals by their employer about concerns about their conduct or competence.

2.5 Our Guidance on Health and Character informs registrants and applicants about how we consider declarations relating to their health and character when they:

- apply to join or re-join the register;
- renew their registration; or
- report changes to their health or character while they are registered (these are known as self-referrals).

2.6 The Guidance on Health and Character is accompanied by the Policy on Health and Character. The Policy sets out the operational processes we follow when considering declarations pertaining to the health and character of its applicants and registrants.

3. Reviewing the policy

3.1 We periodically review our guidance to ensure it is up to date and relevant, and that the review has been informed by research we have undertaken and the need to align with up to date information.

3.2 Findings from the HCPC commissioned research '[People Like Us?](#)', conducted by the University of Surrey, revealed a disproportionately high number of self-referrals by certain professions regulated by HCPC. A self-referral includes any declaration about changes to a registrant's health or character which they make outside of a normal renewal window. This led to the Policy and Standards team developing [online information on self-referrals](#) in 2018.

3.3 During the development of online information on self-referrals, we identified that the current Guidance on Health and Character needed to be updated. In particular, the Guidance refers to the previous version of the Standards of Education and Training (SETs) and no longer reflects the organisation's current operational approach to health and character declarations.

3.4 Our amendments to the Guidance aim to:

- make it consistent with our approach when dealing with health and character declarations from registrants and applicants;
- ensure it is consistent with and reflects other policies and Guidance we issue to registrants, such as our online self-referrals information;
- better signpost to support for registrants during the process, to achieve our strategic priorities regarding registrant health and wellbeing;
- ensure we adequately take account of equality impacts; and
- takes account of public and stakeholder opinion.

In amending the Guidance on Health and Character, we have worked closely with colleagues in Registration, Fitness to Practice and Education

departments to ensure that the Guidance reflected the experiences of registrants and applicants who make health and character declarations.

3.5 The changes we are proposing to make are summarised in the next section.

4. Proposed changes to the guidance.

4.1 The Guidance is significantly shorter than the 2017 version and is targeted at specific questions which registrants and applicants are likely to have. The changes we are proposing are primarily aimed at providing a succinct and understandable document which addresses the needs of applicants and registrants and which is consistent with other Guidance and policies of the HCPC. A summary of these is set out below:

Criteria for character self-referral

4.2 In general, the Guidance has been amended so to align with the criteria set out in Standard 9.5 of our Standards of Conduct, Performance and Ethics³. Standard 9.5 states that you must tell us as soon as possible

- you accept a caution from the police or you have been charged with, or found guilty of, a criminal offence;
- another organisation responsible for regulating a health or social-care profession has taken action or made a finding against you; or
- you have had any restriction placed on your practice, or been suspended or dismissed by an employer, because of concerns about your conduct or competence.

4.3 This means that a registrant would have to let the HCPC know when there had been a change in their character 'as soon as possible' (as opposed to waiting for their usual renewal period) when:

- they accept a caution from the police or have been charged with, or found guilty of, a criminal offence;
- another organisation responsible for regulating a health or social-care profession has taken action or made a finding against them; or
- they have had any restriction placed on their practice, or been suspended or dismissed by an employer, because of concerns about their conduct or competence.

4.4 While the focus is on Registrants being able to meet Standard 9.5 we also continue to mention that registrants can tell us about other concerns that do not meet these criteria. If they do, we will review this concern in the same way as any other self-referral or other fitness to practise matter.

Aligning criteria for character declarations for applicants and registrants

³ The Standards of Conduct, Performance and Ethics (SCPE) can be found at: <https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/>

- 4.5 The current Guidance provides criteria for an applicant's character declaration which are broader than those set out in standard 9.5 of the Standards of Conduct, Performance and Ethics. As registrants are only asked to make self-referrals based on the criteria of standard 9.5, this creates a situation where applicants' and registrants' characters are assessed against different criteria.
- 4.6 The current approach in the guidance also differs to that set out in the Health and Character Policy which states that no action needs to be taken when a civil matter is declared.
- 4.7 We propose aligning the criteria for applicants and registrants with standard 9.5 in the interests of consistency and proportionality.

Changes to self-referral information

- 4.8 We have made several updates to the self-referral sections in the Guidance. By making these updates we are trying to emphasise that self-referrals should only be made in the circumstances set out in standard 9.5. This is in order to reduce the number of unnecessary self-referrals being made by registrants.
- 4.9 In line with this, we have removed wording in the Guidance which praises self-referrals or suggests that making one shows insight. Self-referrals about relevant matters are a requirement of registration, but do not in themselves demonstrate insight.
- 4.10 The self-referral sections have also been updated to align with the new FTP Threshold policy as well as the online information for self-referrals.

Merger with Health and Character Policy

- 4.11 We believe that it is in the interests of registrants and applicants to be able to refer to a single public document from the HCPC which discusses Health and Character declarations. To achieve this, we propose removing the Health and Character Policy and maintaining all information in an updated Guidance on Health and Character document.
- 4.12 These documents already had significant overlaps and, where the Policy on Health and Character had information in addition to the Guidance, we have added that information to the Guidance.

Separation of advice for education providers

- 4.13 We have removed the section aimed at education providers.
- 4.14 We believe that it is more useful to have guidance aimed at applicants and registrants and guidance aimed at education providers as separate pieces.
- 4.15 This decision will help with clarity but also responds to the HCPC's digital first strategy which would see targeted information hosted on the relevant sections of the website, rather than a single home for all information on a given theme.

Inclusion of new case studies

- 4.16 We have replaced the case studies in the current Guidance and have specifically chosen areas where we think applicants and registrants will have more questions.
- 4.17 The new case studies involve situations where deciding to make a health or character declaration are complicated. They include a case study on a serious and managed mental health condition; how registrants should assess their management of a degenerative illness; and finally, when a conviction or caution meets the criteria for immediate disclosure according to Standard 9.5.

Other changes

- 4.18 In addition to the substantive changes above, we have made a number of minor editing amendments for clarity.

5. Next steps

- 5.1 Once the consultation period has finished, we will analyse the responses we have received. We will then publish a document detailing the comments received and explaining the decisions we have taken as a result, including any further amendments needed. This will be available on our website.
- 5.2 The updated Guidance will be published and communicated to our stakeholders.