Council meeting, 20 May 2010

Health of health professionals Report

Executive summary and recommendations

Introduction

The attached paper discusses the Department of Health report 'Invisible patients – Report of the working group on the health of health professionals' which was published in March 2010.

This paper was one of the pieces of work which formed part of the Policy and Standards workplan for 2010/2011.

Decision

This paper is to note; no decision is required.

Background information

Please see paper.

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

10 May 2010

Department of Health, Invisible patients – Report of the Working group on the health of health professionals

1. Introduction

1.1 In March 2010 the Department of Health published 'Invisible patients – Report of the Working Group on the health of health professionals'.[1] The HPC was represented on the Working Group by Anna van der Gaag, Chair of Council.

1.2 This work was one of the workstreams arising from the February 2007 White Paper 'Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century', which set out proposals for work to explore effective arrangements for supporting health professionals who are in ill health. In particular, the White Paper suggested the piloting of specialist referral services for health professionals.[2]

1.3 This paper briefly summarises and discusses the Department of Health report, with particular reference to those recommendations which are relevant to the HPC and its role as a statutory regulator. Section two provides a summary and overview of the report as a whole and section three outlines the recommendations made about the role of the regulators, highlighting any relevant previous, ongoing or planned work. Section four discusses any conclusions for the HPC that can be drawn. References to paragraphs and page numbers are references to the Department of Health report.

2. Overview

2.1 The working group's remit was to 'draw on current evidence and good practice to ensure an effective fair and proportionate response to identifying and managing health issues in regulated health professionals, with the aim of safeguarding patients and the public; promoting good employment practice; and strengthening professional and public confidence in the regulatory process'. (1.12, page 10)

2.2 The report concludes that although the health problems of health professionals are not unique to this group, there is evidence that health

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[1] Department of Health, Invisible Patients – Report of the Working Group on the health of health professionals, March 2010
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_113551.pdf

[2] HM Government, 'Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century, February 2007 (in particular, see paragraphs 4.26 to 4.31)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_065946

professionals are more reluctant to seek help for their problems than other groups of workers, often because of concerns about confidentiality and stigma. The report further concludes that there is evidence of the impact of ill health on practitioners and the public, including an adverse impact on productivity and service delivery within the National Health Service (NHS). The report acknowledges that the evidence that exists is mainly drawn from the medical profession and that there is a paucity of available evidence for other professions, including those regulated by the HPC.

2.3 A framework is suggested for managing the health of regulated health professionals with four levels of responsibility:

- Individual responsibility including registering with a GP and seeking advice and support.
- Team responsibility including the responsibility of line managers to consider whether health problems are contributing to poor performance.
- Organisational responsibility including risk management and appropriate policies and procedures.
- Responsibilities of national bodies including the role of education and training in changing culture; and the role of the regulators in producing guidance and in making consistent decisions.

2.4 A number of recommendations are made to support these responsibilities including strengthening occupational health services and establishing two to four specialist services in England to meet the needs of ill health professionals. The report also acknowledges that the evidence base in this area needs to be improved through further research.

2.5 The report also examines practice in the UK and internationally to manage the health of health professionals, including examining the need for specialist health services. A pilot was commissioned following the 2007 White Paper of a prototype specialist service. The Practitioner Health Programme (PHP) is a two year pilot to provide health care services to doctors and dentists living and working in the London area with any type of health problem which may adversely affect their performance (5.49, page 62).

2.6 In its first year, the PHP saw 184 doctors and dentists, 57% of which reported with mental health problems and 34% with addiction problems. Evaluation of the first year of the PHP has indicated that such an approach might save the NHS money by avoiding costly and unnecessary exclusions from work. The service is funded until March 2011 and no indication is given as whether the service will continue, nor whether such a

service might be extended to other health professionals.[3]

3. Professional regulation

3.1 The report sets out how managing the health of health professionals involves a number of different groups including professional regulators, employers and contracting bodies and the individual themselves. With reference to the role of the professional regulators, the report rearticulates the role of the regulator in cases of ill health, and emphasises the importance of guidance from regulators and consistency in fitness to practise processes.

3.2 The report states that regulatory bodies need to know about a health problem in a health professional when:

- the condition may affect a health professional's ability to practise safely; and
- the health professional is not complying with assessment or treatment or heeding advice to take time off work; or
- there is significant misconduct, including ongoing criminal activity such as use of illicit drugs, drink driving offences and forged prescriptions. (6.15, pages 73 and 74).

3.3 The report concludes that there is sometimes confusion about whether regulators need to be notified about health problems and that this may in part be due to misunderstanding of the term 'fitness to practise'. The report outlines the important distinction between fitness to work and fitness to practise. For example, a registrant suffering from a viral infection may not be fit to work and therefore go on sick leave but this will not affect her fitness to practise.

3.4 The report recommends that regulators should provide clear guidance on when a health professional with a health problem does (or does not) need to be referred and that such guidance would help to overcome the reluctance of some heath professionals to seek help. The recent research conducted for HPC by Ipsos Mori on 'Expectations of complainants' identified the need for reviewing the information about the fitness to practise process currently provided on the HPC website, in brochures and in correspondence with complainants and the other parties involved.[4]

3.5 The report quotes extensively from HPC's guidance 'Information about the health reference' which provides information to applicants and doctors about HPC's approach to health when considering health references at

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[3] NHS PHP, NHS Practitioner Health Programme – Report on the first year of operation, January 2010
www.php.nhs.uk/php-news/london-practitioner-health-programme-the-first-12-months

[4] Expectations of complainants, Fitness to Practise Committee, 25 February 2010
http://www.hpc-uk.org/assets/documents/10002C8520100225FTP-06-expectationsofcomplainants.pdf

the point of entry to the Register. Other guidance documents which address issues of health include 'Managing your fitness to practise' and 'A disabled person's guide to becoming a health professional'. The recently published 'Guidance on health and character' also provides clear information to applicants, registrants and education providers about declarations related to physical or mental health.[5]

3.6 The report makes no recommendation about health reference requirements for entry to the Register but does note that most regulators have these requirements and refers to the Council for Healthcare Regulatory Excellence's recommendation that 'free standing' health requirements should be removed.[6] The HPC recently consulted on proposals to remove the health reference requirement and replace it with a self-declaration. If this proposal is approved by the Education and Training Committee and the Council, the Executive plans to consult on changes to the Guidance on health and character. Following the implementation of any change, the Executive would also wish to review the other HPC guidance documents that address issues of health. [7]

3.7 Finally, the report emphasises the importance of consistency in the decision making of fitness to practise panels, concluding that consistency would include 'a single requirement of fitness to practise and a single route for all fitness to practise issues to be heard by panels' (3.42, page 27). The General Medical Council currently has this model.

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[5] HPC publications:

Information about the health reference
http://www.hpc-uk.org/publications/brochures/index.asp?id=109

A disabled person's guide to becoming a health professional
http://www.hpc-uk.org/assets/documents/1000137FAdisabledperson'sguidetobecomingahealthprofessional.pdf

Guidance on health and character
http://www.hpc-uk.org/publications/brochures/index.asp?id=220

Managing your fitness to practise: A guide for employers and registrants
http://www.hpc-uk.org/publications/brochures/index.asp?id=105

[6] Council for Healthcare Regulatory Excellence, Regulatory bodies' health requirements, June 2009
http://www.chre.org.uk/satellite/115/

[7] Consultation on removing the health reference as a requirement for entry to the Register
http://www.hpc-uk.org/aboutus/consultations/closed/index.asp?id=98

3.8 Currently, once a case to answer decision has been made, HPC panels have to decide whether a case should be referred to the Conduct and Competence Committee or the Health Committee. If health is the main issue in a particular case, panels are advised to refer to the Health Committee which only considers cases of physical or mental impairment. The option to strike off is not immediately available to the Health Committee.

3.9 The Executive supports the idea of merging the health and conduct and competence committees to create a single fitness to practise committee which considers adjudication of fitness to practise cases. The investigation of cases would still remain separate, with panels of the Investigating Committee deciding whether a case should be referred through to public hearing.

3.10 There are instances where the committees cross refer cases between each other when health emerges as the primary issue at a hearing, or where a panel of the Health Committee concludes that health is not an issue and refers a case back to the Conduct and Competence Committee to consider the case. This has the potential to delay the determination of the case which could cause stress for the person concerned.

3.11 Merging the Committees would allow panels to consider these cases in a much more joined-up way, and this would help to avoid discrimination or any perceived inconsistency. In all hearings of the Health Committee, and in cases of the Conduct and Competence Committee where health may be a significant issue, we ask a registered medical practitioner to sit on the panel. Hearings can also be held in private.

4. Conclusions

4.1 There are no additional steps that the HPC needs to take at this stage as a result of the report. Overall the report suggests that the regulators 'may like to use the evidence in this report as they consider consistency of approach to regulating registrants whose health may be adversely affecting their fitness to practise' (1.30, page 12).

4.2 The HPC is already exploring whether health reference requirements should be removed and, dependent upon the decisions of the Education and Training Committee and the Council, may also make changes to the recently published Guidance on health and character as a result. The HPC already publishes guidance on the health reference, and on how it considers information declared about health matters.

4.3 The recommendation that the regulators should have a single fitness to practise committee would need to be taken forward in the future by the Department of Health and would require legislative amendment.

4.4 Finally, although good guidance already exists, the emphasis placed on guidance in the report has indicated that it might be helpful, if the health reference requirement is removed, to consider whether the broader guidance currently contained within ‘Information about the health reference’ might be retained, perhaps as part of revising the ‘Managing Fitness to Practise’ brochure which was published in 2006.