

Fitness to Practise Committee, 23 May 2013

Review of Patients Association 12 standards for good complaint handling

Executive summary and recommendations

Introduction

Robert Francis' QC report into Mid Staffordshire NHS Foundation Trust, published in February 2013, made a number of recommendations in relation to effective complaints handling. Of particular note, Francis recommended that the 12 standards of effective complaint handling as suggested by the Patient's Association's peer review of complaints at the Mid Staffordshire NHS Foundation Trust should be reviewed and implemented in the NHS.

Although the Francis recommendation does not specifically mention the HCPC, we have taken the opportunity to review our processes against the Patient Association's 12 standards for complaint handling to identify possible areas for improvement or aspects of good practice which can be adopted.

Decision

This paper is for information only. No decision is required.

Background information

The appendix to this paper describes how the HCPC's processes meet the Patient Association's 12 standards, and makes a number of recommendations as to how processes may be improved.

Resource implications

None.

Financial implications

None.

Appendices

Review of the Patient Association's 12 standards for good complaint handling

Date of paper

26 April 2013

Review of Patients Association 12 Standards for good complaint handling

1. Introduction

A review has been undertaken of the HCPC fitness to process against each of the Patient Association's 12 standards of good complaint handling in order to identify possible areas for improvement or aspects of good practice which can be adopted.

2. Standard 1: The investigation of the complaint is impartial and fair

The HCPC follows standard processes and procedures at all stages of the investigation. Our work is governed by the Health and Social Work Professions Order 2001 with associated Procedure Rules setting out requirements for each of the HCPC Practice Committees and supported by Practise Notes setting out how the HCPC and panels deal with individual parts of the process. All legislation and supporting documents are publicly available on the HCPC website.

The HCPC has published a number of explanatory brochures and guidance notes which help to explain the processes and procedures we operate and these are all publicly available.

Each referral indicating a fitness to practise concern received by the HCPC is treated in the same manner to ensure fairness and consistency of treatment.

When a concern is received it is logged on the Case Management System (CMS), reviewed, and risk assessed by a Case Team Manager (CTM) and assigned to a Case Manager (CM) who has day to day responsibility for the investigation. CMs are neutral and do not take the side of either the registrant or the person who makes us aware of the concerns.

The CM's role is to gather information relating to the concern, whether or not that supports the position of the Complainant or Registrant. Where fitness to practise concerns are identified, formal allegations will be drafted and put to the Registrant who has 28 days to make any response. That time period may be extended by a further 28 days on request to the CM, or further extended on application to the Investigating Committee.

The matter is then referred to an Investigating Committee [see the *HCPC (Investigating Committee) Procedure Rules 2003*] review all of the available information, including a Registrant's responses and make a decision as to whether

or not there is a “case to answer”. The Panel’s task is to consider whether there is a “realistic prospect” of establishing that the Registrant’s fitness to practise is impaired.

The outcome of the Investigating Committee’s decision is documented and sent to the Registrant and Complaint. The Panel are required to give clear and detailed reasons for its findings on each element of the allegation.

Where a case to answer is found, the matter will be referred to the Conduct and Competence Committee or the Health Committee [see the *HCPC (Conduct and Competence Committee) (Procedure) Rules* and the *HCPC (Health Committee) (Procedure) Rules*]. The HCPC instructs external solicitors to conduct a full investigation of the concern before the case is finalised and presented to the relevant committee. This part of the process is held in public. There is a right of appeal from this part of the process.

Parties may also seek judicial review if there is concern over the fairness or impartiality of the manner in which the investigation has been conducted.

3. Standard 2: Individuals assigned to play a part in a complaint investigation have the necessary competencies

Job descriptions exist for each role within the Fitness to Practise department. These set out the qualifications, knowledge, skills and competencies required.

The HCPC runs a transparent recruitment process to ensure that individuals appointed to roles within the department have the necessary skills and competencies to meet the requirements as set out in the job description.

All new employees are required to undertake a 6 month probationary period with a formal review conducted towards the end of that period to ensure the employee is performing satisfactorily and have met the key competencies. Objectives and competencies for the role are set and reviewed annually.

During the probation period all new employees are required to complete a comprehensive induction programme. Completion of the induction programme is closely monitored by line managers. Line Managers are responsible for ‘signing off’ when a key competency has been achieved as well as documenting the supporting evidence.

The FTP department has a rolling training programme for staff. This includes refresher training on key elements of the case management process such as allegations drafting, as well as training to support the introduction of new policies and procedures.

There is also a process of on-going performance of employees. This process is supported by Management Information which is obtained from the Case

Management System. Where an employee is not performing to the expected standard, in terms of meeting the key competencies, there is an informal and formal capability process which can be implemented. This involves the setting of defined performance objectives which are closely monitored by the line manager.

4. Standard 3: The roles and responsibilities of the complaints handling team are clearly defined

Job descriptions exist for each role within the department and are reviewed regularly to ensure that they continue to accurately reflect the work of each individual. Roles and responsibilities within specific processes are further defined within the suite of FTP Operational Guidance (FOGs) materials. FOGs are reviewed, and updated where necessary, on a regular basis.

As these documents are primarily intended for an internal audience there is scope to further consider how clearly roles and processes are explained in the letters/documents we provide to the public, where the reader may be less familiar with the fitness to practise process and associated terminology.

The role of the CM is also described in the brochures which are provided to complainants and registrants which explain the FTP process. As part of the on-going review of these documents consideration should be given to describing other roles within the process and ensuring that they accurately reflect the current process.

5. Standard 4: The governance arrangements regarding complaint handling are robust

The HCPC is a statutory body governed by the Health and Social Work Professions Order 2001. The legislation is supported by a combination of Procedure Rules, Policies and Practice Notes which define how various parts of the process will be carried out. These are published on the HCPC website and available from the department in hard or soft copy.

Practice Notes are subject to scrutiny by, and must be approved by, the Council prior to implementation. Policies are reviewed regularly and any amendments must again be considered and approved by the Council. Minutes from Council meetings and their decisions are available to the public on the HCPC website. Operating procedures are reviewed on a regular basis and do not require Council or FTP Committee approval.

The HCPC also has a process for handling complaints about the management and investigation of fitness to practise concerns which have been referred to the HCPC.

6. Standard 5: The Complainant has a single point of contact in the Organisation and is placed at the centre of the process

Once a concern is logged on the FTP Case Management System, it is assigned to a CM who has day to day conduct of the case and will be the key point of contact for all parties in the case, including Complainants and their representatives, Registrants, and third parties such as employers and police authorities.

The HCPC must acknowledge a concern within two days of its receipt. A substantive response will be sent by the CM within 10 days of its receipt and will clearly set out their responsibilities and contact details. Each CM is part of a larger case team and letters will also identify who to contact in the event the CM is unavailable.

Where the HCPC advises the Registrant that a concern has been received, they will be told who their CM is and how they can be reached.

Although the HCPC has a responsibility to the Complainant, to ensure that their concerns are fully investigated and that they have had an opportunity to clearly outline the issues and provide any supporting documentation, the HCPC also has a responsibility to ensure that the Registrant's rights are considered and that the process is fair and transparent for both parties.

Protection of the public remains at the centre of the process and this does not always mean that the Complainant receives the resolution they seek.

CMs are required to provide regular updates to complainants, registrants and other third parties as to the progress of the investigation.

There is a risk that the continuity of contact between the HCPC and the complainant and registrant may be disrupted when, for operational reasons, the CM changes. It is appropriate to review existing procedures to ensure all parties to a case are informed when there is a change in CM and new contact details are provided.

7. Standard 6: Investigations are carried out in accordance with local procedures, national guidance and within legal frameworks

Part V of the Health and Social Work Professions Order 2001 sets out the powers available to the HCPC in investigating Fitness to Practise complaints. The Procedure Rules, Policies and Practice Notes define how various parts of the process will be carried out. Internally, the department has drafted a series of Operational Guidance documents setting out how employees should manage various parts of the process.

All investigations follow the same procedures and are subject to scrutiny by the Professional Standard Authority and, after the Investigating Committee Stage of the process, to the public. Reports from other organisations, including other health and care regulators, are regularly reviewed to identify any learning or examples of best practice which can be adopted by the HCPC to improve its processes and procedures.

8. Standard 7: the investigator reviews, organises and evaluates the investigative findings

All cases are assigned a file in the Case Management System and allocated to a Case Manager who is responsible for the conduct of the investigation. This includes the gathering of relevant information which must be scanned and saved into the case file in CMS. After an initial assessment is conducted and enquiries are made, cases must be reviewed and action taken, at a minimum, on a monthly basis for the first two months then fortnightly thereafter. The CMS is designed to flag up reminders at these stages of the process.

Outstanding actions are reviewed weekly by the CTMs to ensure cases are all reviewed regularly.

On receipt of new information, CMs will review and risk assess the information and consider the next steps required. This may mean seeking additional information, recommending that the case is closed or that the matter be progressed to the next stage of the process i.e. referral to an Investigating Committee Panel. Decisions to close the case or whether and what formal allegations are made against a Registrant are made by a Case Team Manager in discussion with the Case Manager.

The FTP department also has Quality Compliance Officers who undertake a rolling programme of case file audits to provide assurance that cases are being managed in accordance with policies and procedures.

9. Standard 8: The judgment reached by the decision maker is transparent and reasonable, based on the evidence available

Decisions may be made at several stages of the fitness to practise process.

Pre-ICP

Investigations are not made known to the public at this stage of the investigation. Only those who are a party to it (Complainant, Registrant, third party with relevant information), will be involved in this stage of the process.

The only exception is where matters are so serious that it is considered necessary to seek an Interim Order to restrict the Registrant's practice. This may be where there is an immediate risk to public safety or other public interest reason for seeking a restriction. No details of the concern or allegations will be available but any Order made will be published on the HCPC website.

A decision to close the case without referral to a Panel may only be made after a thorough investigation and is subject to agreement by the CTM. The fact the matter is closed will be made know to the Complainant and Registrant only outlining the reasons for the decision.

A decision to progress the case to ICP will be made known to the Complainant and Registrant. No party may appeal a decision at this stage.

Post-ICP

Both Complainant and Registrant will be advised if there is a “no case to answer” decision and provided with a copy of the Panel’s decision enclosing reasons. This decision is not made available to the public.

Where a “case to answer” decision is made, the Complainant, Registrant, and Registrant’s employer, where known, will be advised of this decision and provided with a copy of the reasoning.

The allegations resulting from the initial complaint are now publicly available but will not be published on the website until 28 days before any hearing is due to take place. The decision arising from a final hearing will be published on the website, with reasoning, on conclusion of the case.

An exception exists in the Rules which allows some or all of a hearing to be conducted in private (with certain parts of the decision remaining private) in specific circumstances.

A right of appeal is available at this stage of the process and may be referred to the High Court in England and Wales or the Court of Session in Scotland.

10. Standard 9: The complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint

Formal recording of all case investigations is stored within the Case Management System. We operate a paperless system and all documents relevant to the case are stored on CMS. The amount of information required will be dictated by the particular nature and complexity of the case. However all necessary information will be gathered before a case is progressed to the next stage.

Currently, communication with the HCPC solicitors may be received within the CMS or sent to a CM’s own e-mail address requiring this to be added to CMS. All communications should be managed through CMS to ensure an accurate record of discussions and that documentation is complete.

11. Standard 10: The organisation responds adequately to the complainant and those complained about

The internal standards require that the Complainant receives an acknowledgement of their concern within two days and a substantive response outlining the remit and process and seeking additional supporting information within 10 days of receipt of the referral. Where a complainant provides the majority of information during the investigation, they will be contacted, at a minimum, once a month for the first two

months then fortnightly thereafter. Where information is being sought from elsewhere, the Complainant should be updated regarding the investigation on a monthly basis.

If a matter is only at the enquiry stage (i.e. it is not yet clear whether there are fitness to practise concerns to be investigated and has therefore not met the Standard of Acceptance), then the Registrant will not usually be informed that a referral has been made. Where the HCPC has to obtain information from a Registrant's current employer, then the Registrant should be informed that the HCPC is conducting an investigation.

In cases where a matter has met the Standard of Acceptance, the Registrant will be advised that a referral has been received. Thereafter, the Registrant should be kept updated as to progress in the case on a monthly basis.

12. Standard 11: Learning lessons from complaints occurs throughout the organisation

The investigation of complaints about a Registrant's fitness to practise is relevant only to the Fitness to Practise Department. Within the department, there are opportunities to share information and best practice across the different teams.

Teams are required to hold Team Meetings in a monthly basis. The agenda for Case management meetings consists of standing items and specific issues of note for that month must be added to each team's agenda. This ensures that matters of note are communicated to everyone.

Regular training takes place across the department and is generally delivered to all employees to ensure that a consistent message is received.

The Assurance and Development team is responsible for coordinating the response to complaints received about the conduct of the fitness to practise process, for example the decision to close a case before referring it to the Investigating Committee. As part of this role the Assurance and Development team monitors any trends that may emerge from the complaints received, which is fed back to the case management teams. As this process has only been in place since mid-April 2012 its effectiveness, in terms of the timely identification and feedback of issues, will be kept under review as an on-going strand of work. Furthermore, the process by which managers can be assured that learning points have been adequately captured and addressed as part of on-going training programmes warrants further consideration.

Although there are established formal mechanisms for ensuring effective communication within teams, communication across teams within the department eg between Case Management, Hearings and Assurance and Development on day to day operational matters tends to be adhoc. This sometimes can lead to a lack of clarity as to roles and responsibilities in the department. This could lead to: matters not being dealt with where responsibility for a task is not clear; inconsistent

messages being delivered to stakeholders (Registrants, Complainants, Panel members); and tension across teams as a result of a lack of understanding of each other's roles and responsibilities. Communication arrangements will continue to be reviewed and developed to ensure they remain fit for purpose as the department grows.

13. Standard 12: The Organisation records, analyses and reports complaints information throughout the organisation and to external audiences

Information relating to all complaints is stored on the Case Management System. This system has a reporting tool from which a series of reports can be run allowing analysis of all aspects of a cases or cases. The reporting tool is used on a day to day basis by CMs, CTMs, and senior management to ensure that cases are being managed in accordance with processes and that service standards are being met. In addition, regular Management Information reports are produced to monitor performance such as weekly and monthly statistics, management commentary and , committee reports.

When hearings are due to take place, notification is placed on the HCPC website 28 days in advance. Decisions resulting in a finding of impaired fitness to practise arising from all final hearings are published on the website, except where the privacy exception applies. Where an Interim Order is made, the Order (but not the Panel's reasoning) will also be published on the website.

The Fitness to Practise Department publishes an Annual Report detailing the facts and figures associated with the fitness to practise process. This is available on the HCPC website or in hard copy on request.

HCPC Recommendations

Following the review of the Patient Association 12 standards for good complaint handling, the following areas of work have been identified for the HCPC to undertake in the coming months, some of which are already on-going.

- Review standard letters/paragraphs and brochures which are provided to the public to ensure roles and responsibilities are clearly defined and explained. (Standard 3)
- Review operational guidance to ensure complainants and registrants are notified when there is a change in the CM managing the case to maintain a single point of contact. (Standard 5)
- Review operational guidance to CMs and external solicitors regarding the sending and management of communications through the Case Management

System to ensure case documentation is accurate and complete. (Standard 9)

- Review operational processes to ensure that learning points are adequately captured and addresses as part of on-going or new training programmes. (Standard 11)
- On-going review communication arrangements between teams within the FTP department to ensure clarity of roles and responsibilities in the department and provide an opportunity to share good practice. (Standards 3 & 11)