

## Health and Care Professions Tribunal Service

# PRACTICE NOTE

## Conditions Bank

This Practice Note has been issued for the guidance of Panels and to assist those appearing before them.

### Introduction

1. Conditions of Practice Orders may be made:
  - a. On an interim basis<sup>1</sup>, before a finding of impairment has been made or to cover an appeal period following a finding of impairment; or
  - b. As a final order<sup>2</sup>, following a finding of impairment.
2. In drafting Conditions of Practice Orders, Panels need to consider the following issues:
  - **Are the conditions proportionate?**
3. Each individual condition, and the combined effect of them, must be proportionate. This means that they must be sufficient to protect the public and address the risk of harm (including harm to public confidence), but no more onerous than is necessary.
4. Where it is possible to formulate conditions that would adequately protect the public and address the risk of harm, proportionality requires that this should be done, regardless of whether the Registrant is currently able to meet the conditions (for example, because the conditions require the support of an employer, and the Registrant is not currently employed)<sup>3</sup>. However, proportionality also requires that a Panel does not impose conditions that can never be met and are the equivalent of a suspension<sup>4</sup>.
5. Conditions of practice may sometimes amount to a reasonable adjustment, that is, a measure put in place to ensure that someone with a disability is not

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<sup>1</sup> Health Professions Order 2001 Article 31

<sup>2</sup> Health Professions Order 2001 Articles 29 and 30

<sup>3</sup> *Perry v Nursing and Midwifery Council* [2012] EWHC 2275 (Admin)

<sup>4</sup> *Udom v General Medical Council* [2010] EWHC 3242 (Admin)

discriminated against or disadvantaged, by enabling them to continue to practise safely.

6. In order to be a reasonable adjustment, conditions must be proportionate, which includes being sufficient to protect the public and address the risk of harm. If the conditions/adjustment do not result in the public being adequately protected, they are not reasonable.

- **Are the conditions verifiable?**

7. It is important that it is clear to everyone how compliance with the conditions can be verified. To achieve this, the conditions should set out precisely:

- a. What, if anything, must be done to demonstrate compliance?
- b. Who it must be done by?
- c. When it must be done by?

8. Where the draft conditions in the sample conditions bank below include timescales for compliance, Panels may amend these timescales to ensure that the conditions are proportionate in the particular circumstances of the case.

- **Are the conditions directed at the right person?**

9. Although compliance with conditions may depend on input from others, conditions should be expressed in a way that makes clear that the obligation is on the Registrant. For example, compliance with a condition may require that a supervisor signs a record, but the condition must be worded in such a way that makes clear that the obligation to obtain and provide that signed record to the HCPC rests with the Registrant.

- **Is the scope of the conditions clear?**

10. Panels may not impose conditions which expressly restrict the Registrant's ability to carry out non-professional work.

11. When imposing conditions, Panels must ensure that it is clear which conditions apply at all times, and which (if any) only apply when the Registrant is engaged to carry out professional work.

12. "Professional work" is defined in the glossary of terms.

13. It must also be clear whether all conditions apply at the same time, or whether one or more only come into effect once a particular circumstance has arisen or another condition has been met.

- **Are all necessary consequential conditions included?**

14. For instance, whenever conditions have been imposed which require the Registrant to provide information to the HCPC, or to obtain its approval, condition [J2] should always be included.

## Sample Conditions bank

### A. Introductory paragraph

**ORDER:** The Registrar is directed to annotate the HCPC Register to show that, *[for a period of [time]]* from the date that this Order takes effect (“the Operative Date”), you, *[name of Registrant]*, must comply with the following conditions of practice:

1. *[set out conditions as numbered paragraphs]*

### B. Education and training requirements

1. Within *[time period]* of the Operative Date you must:

- A. satisfactorily complete *[name of course, etc.]*; and
- B. forward a copy of your results to the HCPC within seven days of receiving them.

2. Within *[time period]* of the Operative Date you must:

- A. take and pass *[name of examination, etc.]*; and
- B. forward a copy of your results to the HCPC within seven days of receiving them.

3. Within *[time period]* of the Operative Date you must complete further training in the following areas:

- A. *[list areas of practice]*
- B. You must forward a copy of your results to the HCPC within seven days of receiving them.

4. Within *[time period]* of the Operative Date you must arrange with your *[line manager/mentor/supervisor/training supervisor etc.]* for an assessment of the following *[area(s) of practice/skills/techniques etc.]*

Following this assessment, you must arrange for your *[line manager/mentor/supervisor/training supervisor etc.]* to send a report to the HCPC on the assessment within *[time period]*.

5. Before undertaking *[type of practice, work or procedure]* you must:

- A. satisfactorily complete *[a period of supervised practice/refresher training/examination, etc.]*; and
- B. forward a copy of your results to the HCPC within seven days of receiving them.

### C. Practice restrictions

1. You must confine your professional practice to [set out restriction, which may include a restriction to a particular employer or setting, or a restricted type of employer/setting e.g. not an agency].
2. You must not carry out [type of work or procedure][unless directly supervised by a [type of person]].
3. You must maintain a record of every case where you have undertaken [type of work or procedure] and you must:
  - A. provide a copy of these records to the HCPC on a [monthly etc.] basis, the first report to be provided within [time] of the Operative Date, or confirm that there have been no such cases during that period; and
  - B. make those records available for inspection at all reasonable times by any person authorised to act on behalf of the HCPC.
  - C. ensure that the records comply with the following requirements:
    - (i) the records provide the dates [and times] on which you have undertaken [type of work or procedure];
    - (ii) the records set out the nature of the [type of work or procedure];
    - (iii) the records provide feedback from [your supervisor] on the [quality/nature/appropriateness/standard etc.] of your performance; and
    - (iv) the records are signed by [your supervisor] [for each individual entry/each day/before submission to the HCPC].
4. Except in life threatening emergencies you must not undertake [work/consultations] with [type(s) of service user]. You must maintain a record of every case where you have undertaken [work/consultations] and provide this record to the HCPC every [x months].
5. You must not undertake [work/consultations] with individual service users on a one-to-one basis.
6. Except in life threatening emergencies you must not undertake intimate examinations of [type(s) of service]. You must maintain a record of every case where you have undertaken intimate examinations to [type(s) of service] and provide this record to the HCPC every [x months].
7. You must not undertake any out-of-hours work or on-call duties [other than at [location]].
8. You must not carry out [locum/agency work].
9. You must not carry out professional work in a private practice setting.

10. You must not be involved in the ownership or management of your own private practice [a joint private practice with others].
11. You must not be involved with the provision of professional work within the prison or criminal justice system.
12. You must not be involved with the provision of professional work within care homes or specialist hospitals.
13. You must not work more than x hours [*in a single shift/per week*].
14. You must not [*prescribe*][*administer*][*supply*][*possess*][*any [type of] prescription medicines*].
15. You must not prescribe [*any or type of prescription medicines*] for [*yourself/a member of your family/etc.*].
16. You must not act as a supplementary prescriber.
17. You must not provide specialist advice to other healthcare professionals.
18. You must not act as an expert witness/provide expert advice for the purposes of any legal proceedings in your capacity as a registered professional.
19. You must not carry out visits to a service user's private residence.
20. You must not be involved in the training of [*students/colleagues/other healthcare professionals/members of the public*].

## **D Chaperones**

1. Except in life threatening emergencies, you must not be involved in the direct provision of services to [*female service users/male services users/service users under the age of X etc.*] without a chaperone being present. [*Where necessary, insert any particular requirements for a chaperone e.g. any necessary qualifications/registration/experience requirements for the chaperone, whether any particular person e.g. the Registrant's spouse or business partner should not be a chaperone, etc*]
2. You must maintain a record of:
  - A. every case where you have been involved in the direct provision of services to [*female service users etc.*], in each case signed by the chaperone and containing their name [*and information which confirms compliance with any particular requirement imposed by the panel*]; and
  - B. every case where you have been involved in the direct provision of services to such service users in a life-threatening emergency and without a chaperone being present.

3. You must provide a copy of these records to the HCPC on a [*monthly etc.*] basis, the first report to be provided within [*time*] of the Operative Date or, alternatively, confirm that there have been no such cases during that period and must make those records available for inspection at all reasonable times by any person authorised to act on behalf of the HCPC.

## **E. Supervision requirements**

1. You must place yourself and remain under the [*direct/indirect*] supervision of [*workplace supervisor, medical supervisor etc.*] registered by the HCPC or other appropriate statutory regulator and supply details of your supervisor to the HCPC within [*time period*] of the Operative Date. You must attend upon that supervisor as required and follow their advice and recommendations. [*Such supervision may/may not be carried out online*]. [*Where necessary, insert any further particular requirements for the supervisor e.g. qualifications or experience requirements*].
2. You must arrange for an audit of the following areas of your practice by your supervisor every [x] months:
  - A. [*list areas of practice*]
  - B. You must send the HCPC a copy of the results of each audit within seven days of receipt.

## **F. Treatment requirements**

1. You must register with and remain under the care of a [*general practitioner/occupational health specialist etc.*] and inform them that you are subject to these conditions.
2. You must provide the HCPC with the contact details of [*your general practitioner/occupational health specialist etc*] within seven days of the Operative Date.
3. You must inform your [*general practitioner/occupational health specialist etc.*] about these conditions of practice and authorise that person to provide the HCPC with information about your health and any treatment you are receiving.
4. You must arrange for the provision of reports from your [*general practitioner/occupational health specialist etc.*] to the HCPC every [x] months beginning on the Operative Date covering:

[*list matters for report to cover e.g. compliance with treatment, current medication, prognosis etc*].
5. You must keep your professional commitments under review and limit your professional practice in accordance with the advice of your [*general practitioner/occupational health specialist/therapist*].

6. You must cease practising immediately if you are advised to do so by your [*general practitioner/occupational health specialist/therapist*]. You must inform the HCPC within seven days of receiving this advice.

## **G Substance dependency**

1. You must make arrangements for the testing of your [*breath, blood, urine, saliva, hair*] for the [*recent and/or long-term*] ingestion of [*alcohol and other drugs/specific drugs to be listed*]. The first test(s) must be within [X] months of Operative Date. After that, the test(s) must be every [X] months. You must provide the HCPC details of the testing arrangements and forward copies of the test results to the HCPC within [*insert frequency*] of them being received by you.
2. You must attend regular meetings of [*Alcoholics Anonymous/Narcotics Anonymous*] or any other recognised support group and provide confirmation to the HCPC of your attendance at such meetings. Where possible this should include independent evidence of your attendance from the support group leader or other similar evidence.
3. You must [*limit your*][*abstain absolutely from the*] consumption of alcohol [*as advised by your general practitioner/other specified healthcare professional*] .
4. You must refrain from self-medication [, [*including*][*apart from*] *over the counter medicines [containing [active ingredient] and] which do not require a prescription,*] and only take medicines as prescribed for you by a healthcare practitioner who is responsible for your care.

## **H. Informing the HCPC and others**

1. You must inform the HCPC within seven days if you cease to be employed by your current employer.
2. You must inform the HCPC within seven days if you take up any other or further professional work.
3. You must inform the HCPC within seven days if you take up work requiring registration with a professional body outside the United Kingdom [and]
4. You must inform the HCPC within seven days of returning to practice in the United Kingdom.
5. You must inform the HCPC within seven days of becoming aware of:
  - A. any patient safety incident you are involved in;
  - B. any investigation started against you; and
  - C. any disciplinary proceedings taken against you.

6. You must inform the following parties that your registration is subject to these conditions:

- A. any organisation or person employing or contracting with you to undertake professional work;
- B. any agency you are registered with or apply to be registered with to undertake professional work (at the time of application);
- C. any prospective employer for professional work (at the time of your application);
- D. any organisation through which you are undertaking professional training;
- E. any healthcare professional involved with your current treatment for [*specify medical condition/conditions*];
- F. the occupational health provider for your current [*employer/contracting body*]
- [G. *Only where appropriate: any chaperone/supervisor required by these conditions*].
- [H. *Only where proportionate in the particular circumstances of the case: Patients/service users / any particular class of patients/service users*]

7. You must allow the HCPC to share, as necessary, details about your performance, compliance with, and/or progress under these conditions with:

- A. any organisation or person employing or contracting with you to undertake professional work;
- B. any agency you are registered with or apply to be registered with to undertake professional work (at the time of application);
- C. any prospective employer for professional work (at the time of your application);
- D. any organisation through which you are undertaking professional training;
- E. any medical professional involved with your current treatment for [*specify medical condition/conditions*];
- F. the occupational health provider for your current [*employer/contracting body*].

## **I. Personal development**

1. You must work with [*supervisor etc.*] to formulate a Personal Development Plan designed to address the deficiencies in the following areas of your practice:

*[List areas found to be unacceptable or a cause for concern, or which the Panel have determined to be of concern]*

2. Within three months of the Operative Date you must forward a copy of your Personal Development Plan to the HCPC.



3. You must meet with [*supervisor etc.*] on a [*monthly etc.*] basis to consider your progress towards achieving the aims set out in your Personal Development Plan.
4. You must allow [*supervisor etc.*] to provide information to the HCPC about your progress towards achieving the aims set out in your Personal Development Plan.
5. You must maintain a reflective practice profile detailing every occasion when you [*specify activity etc.*] and must provide a copy of that profile to the HCPC on a [*monthly etc.*] basis or confirm that there have been no such occasions in that period, the first profile or confirmation to be provided within [*time*] of the Operative Date.
6. Your reflective practice profile must be signed off by a designated [*supervisor etc.*], who should provide feedback on each occasion when you [*specify activity etc.*]

**J. Costs, approvals etc.**

1. You will be responsible for meeting any and all costs associated with complying with these conditions.
2. Any condition requiring you to [*provide any information to*] [*obtain the approval of*] the HCPC is to be met by you [*sending the information to the offices of the HCPC, marked for the attention of*] [*obtaining written approval from*] the relevant Case Manager.

## Glossary of terms

<b>Intimate examination</b>	For the purposes of these conditions an intimate examination is an examination of breasts, genitalia or the rectum, or an examination that requires exposure of these areas.
<b>Life threatening emergencies</b>	Situations where the Registrant genuinely believes, or is instructed, that a person's life is at risk and the specified activity is required in order to treat them.
<b>Operative Date</b>	<p>This is the date when the conditions of practice come into effect.</p> <p>In the case of an interim order this will be immediate.</p> <p>In the case of an order imposed following a final hearing, this will follow a 28-day appeal period, though interim conditions may be imposed with immediate effect from the date of the decision.</p> <p>In the case of an order imposed following a hearing to review a final suspension or conditions of practice order, this will be when the new order replaces any previous order in place.</p>
<b>Personal Development Plan (PDP)</b>	<p>A prioritised list of a Registrant's educational needs, intended learning aims, and plans for continuing professional development over a defined period.</p> <p>The PDP must specifically set out an action plan for addressing the deficiencies listed in the relevant condition.</p> <p>Against each action, the PDP should set out measures that will help assess whether the action has been achieved and a target date for completing the action.</p> <p>The Registrant's supervisor or mentor may give guidance on preparation of the plan, but it is the Registrant's responsibility to:</p> <ul style="list-style-type: none"><li>• prepare the PDP;</li></ul>



<u>Work in an NHS post or setting</u>	This covers any professional work carried out while employed by an NHS Trust/organisation.
<u>Work in a private practice setting</u>	<p>This covers any paid or unpaid position where a Registrant is employed or contracted to carry out professional work within a private organisation or private setting.</p> <p>This includes providing services to NHS patients in a private setting.</p>