

## HCPC consultation on health and character declarations for registration

We've completed our responses to the consultation using the [survey](#).

*We are the Health and Care Professions Council (HCPC). We are a regulator of 15 different health and care professions.*

*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 on Health and Character](#) provides applicants and registrants with information about making a health and character declaration as well as the types of information the HCPC considers relevant. It also sets out when they should or must disclose this information to us.*

*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 to ensure the guidance reflects our up to date processes and recently published online information on self-referrals.*

### About you

1. What is your name?

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2. What is your email address?

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3. Are you responding to this consultation on behalf of an organisation?

Yes, General Medical Council

### Consultation questions

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?

Yes, we think it's appropriate because standard 9.5 provides the rationale and reasoning as to why the HCPC is requesting disclosure of information from applicants and registrants.

We have adopted this approach at the GMC, where our criteria for disclosure of a health condition or fitness to practise issue, is aligned with the requirements of our core guidance *Good medical practice*.

Under cautions and convictions and other proceedings *Good medical practice* says:

*'You must tell us without delay if, anywhere in the world:*

- a. you have accepted a caution from the police or been criticised by an official inquiry*
- b. you have been charged with or found guilty of a criminal offence*
- c. another professional body has made a finding against your registration as a result of fitness to practise procedures'. ([Domain 4: Maintaining Trust, Paragraphs 75 a-c](#)).*

We build on the relevant paragraphs of our core guidance above, by embedding these into our declaration guidance for first time registration and registrants changing their registration status e.g. taking voluntary erasure.

We've recently carried out a review of our declarations for these groups and amended our [questions and guidance](#).

The revised guidance now mirrors our [guidance](#) for disclosure of cautions, convictions and other proceedings (for example, criticism of a doctor's practice during an inquest) for registrants. It also covers health conditions and investigations of concerns by employers and medical schools.

Our guidance is clear that registrants are expected to inform us of cautions, convictions or other proceedings when they occur. In these circumstances any declaration is reviewed by our fitness to practise department, who consider if there is a concern about the doctor's fitness to practise and whether we need to take any action.

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?

The GMC doesn't require doctors to complete a renewal for their registration. However, doctors are required to engage in revalidation in order to maintain their licence to practise. Our revalidation requirements include, the need for a doctor to make a probity and health statement as part of their appraisal locally, ([Guidance on](#)

[supporting information for appraisal and revalidation, paragraphs 43-45 a-g & 46-47 a-c\).](#)

Our health and fitness to practise declaration questions and guidance for registration applicants and doctors applying to restore their registration are designed around the heads of impairment set out in the Medical Act (1983) (as amended):

- misconduct
- deficient professional performance
- a conviction or caution
- adverse physical or mental health
- a determination by health or social care body in the UK or overseas.

Our declaration asks applicants [three health questions and seven fitness to practise questions](#).

As noted in our answer to Q1, our declaration [guidance](#) for first time registration now aligns our disclosure criteria for cautions, convictions or other proceedings with that of our [disclosure guidance for registrants](#).

For registrants applying to change their registration status, we ask one question.

*'Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the General Medical Council for investigation or consideration of your fitness to practise?'*

We feel the difference is appropriate as it streamlines the process for registrants who have previously provided us with information. We ask applicants for registration more detailed questions, to be able to fully assess their fitness to practise.

[Q3. Do you think that the Guidance clearly explains how and when an applicant should make a health declaration?](#)

We agree that it is good to link the need for a declaration with the standard for registrants.

However as currently drafted the guidance appears to indicate that applicants should declare health conditions in all circumstances, including where the person has needed to adapt their practice. This might include applicants who have agreed reasonable adjustments to be able to continue to practice with a health condition or disability. The current wording could lead to over declaration of long-term health conditions that are being managed effectively or disabilities that don't impact on a person's practice.

The GMC declaration for first registration asks applicants to declare a health condition where concerns have been raised that led to a formal process. We explain what a formal process involves, including an outcome where the applicant was required to adjust how they were managing a health condition to practice safely.

In cases involving reasonable adjustments, our assessment focusses on the outcome of concerns being raised about a health condition. For example, if a concern was raised and this led to an outcome of reasonable adjustments being agreed, we wouldn't expect this to be declared. However, we would expect a declaration if the outcome of a formal process was that the doctor or medical student was required to take steps to manage their health condition, including engaging in treatment if appropriate.

In our recent review we included examples of situations where we don't expect to see a declaration in our guidance. The aim of this was to reduce the number of over declarations of health conditions where there is no impact on a doctor's or medical student's practice/studies or there are no concerns about the management of a health condition.

Question [three](#) on our declaration is more explicit about specific health conditions we expect to be declared in all circumstances. We ask applicants to declare if they have a serious communicable disease. This is linked to our core guidance *Good medical practice* that states:

*'If you know or suspect that you have a serious condition that you could pass on to patients, or if your judgement or performance could be affected by a condition or its treatment, you must consult a suitably qualified colleague. You must follow their advice about any changes to your practice they consider necessary. You must not rely on your own assessment of the risk to patients.'* ([Domain 2: Safety and Quality, Paragraph 28](#)).

The reason for this question, is to allow us to assess whether the applicant or registrant is managing their health condition appropriately and have assessed any risk to patients.

[Q4. Do you think that the Guidance clearly explains how and when an existing registrant should make a health declaration?](#)

We believe our comments at Q2 are also applicable to this question, specifically in relation to the HCPC renewal requirement for registrants.

In the draft guidance the case studies including the one titled 'degenerative illness' is helpful to explain that if a registrant's circumstances has changed, specifically if their ability to practice safely has been affected by their health condition they should make a declaration. It might be helpful to draw out some messaging from the study into the guidance, specifically providing an explanation that if the registrant has previously declared an issue and nothing has changed, they don't need to declare it again. This may reduce over declaration of issues that have already been considered.

[Q5. Do you think that the Guidance clearly explains how and when an applicant should make a character declaration?](#)

Yes, we think it's clear when an applicant should make a character declaration and the explanation provided, that this only relates to instances of a caution or conviction is helpful.

At the GMC we take a different approach and ask for declarations in a wider range of circumstances. Our rationale for this is because it provides us with information to establish if the applicant's fitness practise is impaired.

Our criteria for the disclosure of cautions and convictions for registration applicants is based on English and Welsh Law 'protected outcomes'. The reason for this is because professional regulation is a reserved matter for Westminster. We took this decision following legal advice that concluded that applying English and Welsh law would provide consistency for applicants regardless of which part of the UK they have studied medicine. ([GMC Council, Criminal Disclosure at the point of registration, 17 May 2016.](#))

We updated our guidance on the disclosure of cautions and convictions to reflect a recent legal [case](#). These changes were:

- We included that a caution issued to anyone under the age of 18 is now protected.
- Removed reference to a situation where a person has multiple convictions for non-listed offences. This is because the original non-listed offence conviction would now be protected. The multiple conviction rule has been removed from the criteria for non-protected outcomes.

It may be helpful for the HCPC to explain to applicants what is and isn't a 'protected' caution or conviction.

At the GMC we don't use the term 'character' following stakeholder feedback that some sections of our guidance that refer to fitness to practise issues aren't related to a doctor's character. For example, if the doctor has been the subject of a clinical negligence claim.

The revised guidance refers to situations where the outcome of a declaration is likely to be no further action. The list includes, a caution or conviction received by a person whilst studying if the caution or conviction has been considered by an education provider. As drafted, it isn't clear whether applicants should declare a caution or conviction to the HCPC if an education provider has already considered it. If the list is retained, it might be helpful to make it clear in which circumstances a declaration is expected.

At the GMC, our [guidance](#) explains that we only expect a declaration to be made where concerns about a medical student have been formally investigated by a medical school and the outcome was something other than no further action.

In the revised guidance there appear to be only two scenarios where an applicant needs to make a declaration. Whereas in the guidance for education providers there are additional situations listed where applicants should make a declaration.

Q6. Do you think that the Guidance clearly explains how and when an existing registrant should make a character declaration?

Yes, it is clear the types of issues existing registrants are expected to declare.

As explained in response to Q1 we take a similar approach in that registrants applying to change their status on the register are asked one question on the 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?

Yes, we understand the rationale for the merger, specifically that it creates greater transparency for registrants and applicants.

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?

Yes, we agree that is appropriate to have separate guidance for education providers as this sets out their responsibilities which isn't relevant to applicants.

At the GMC we have separate [guidance](#) on the recruitment of candidates for medical school and processes for handling concerns about health conditions or fitness to practise issues.

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?

Yes, it might be helpful to explain the process, including what happens next.

At the GMC our [guidance](#) includes a section which explains what happens next, including what enquiries we might make. We also have a '[what to tell us when you apply tool](#)' which helps applicants to understand what they do and don't need to declare.

Q10. Do the case studies in the Guidance provide sufficient detail to help you understand complicated health and character issues?

Yes, we think the case studies will help applicants and registrants to understand what to declare.

We think it's positive that the case studies cover situations relating to both mental and physical health. If others are being considered, you might want to include reference to an applicant or registrant with little or no insight into their health condition. And potentially where they are not following independent medical advice or are managing their condition themselves when treatment is more appropriate.

We think the inclusion of the conviction case study is useful. It might also be helpful for registrants to see an additional case study that covers other types of character related issues the HCPC expect to be declared, as referenced in the standard.

Q11. Do you have any other comments about the revised Guidance?

No.

### **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?

Yes, we think the wording setting out the responsibilities of education providers including being aware of their legal duties under equality and non-discrimination legislation, is clear.

We think the inclusion of the factors listed on page 5 and the inclusion of the option to refer to an advisory panel is useful, to assist in making decisions about applicants with health conditions. It might also be useful to include that these factors relate to health conditions rather than applicants with disabilities, who may need reasonable adjustments to study.

At the GMC, we set out very high level principles in our [guidance](#) for medical schools, including a requirement that their recruitment processes should be 'open, fair and transparent.'

We have separate guidance titled '[welcome and valued](#)'. This is aimed at medical students and doctors. It includes expectations medical students should have of their medical school including 'not treating learners less favourably, preventing non-discrimination and disadvantage and making reasonable adjustments where necessary.'

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?

The guidance as drafted refers to what the HCPC consider when an applicant applies for admission to the register. However, it might be helpful to set out distinctly, the paragraphs that relate to applications to join a healthcare course and an application to the register. The section covering 'convictions' sets out this clear distinction.

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?

Yes, we think the guidance provides a clear explanation of how education providers should take into account a conviction when considering whether to accept an applicant onto a healthcare course.

At the GMC, we set out very high level principles in [guidance](#) for medical schools, that their recruitment processes should 'open, fair and transparent.'

Q15. Do you think the Guidance clearly explains how an education provider can manage student misconduct during their programme?

Yes, the guidance helps to explain the options for education providers when dealing with any actions of misconduct by students. It might help to include a link to the HCPCs 'conduct and ethics for students' guidance.

The guidance explains that if an education provider removes a student from a programme for misconduct, the provider should inform the HCPC, so they are aware if the person ever applies for registration in the future. We would suggest it would also be relevant for the HCPC to be notified if a student has been subject to an investigation that resulted in formal action by a provider. The HCPC could then consider if the concerns investigated reach the threshold for a declaration to be made by the student at the point of registration.

The GMC has [guidance](#) for medical schools for handling fitness to practise concerns. This includes a duty on medical schools that 'they must investigate and take action where concerns are raised about a student's fitness to practise.'

At the GMC, for registration applicants with a UK primary medical qualification, we have an early application scheme. This involves medical schools sharing information with us about Fitness to Practise concerns raised whilst students are at medical school. We assess the information and invite those with more serious/complex concerns to apply for registration earlier than the rest of the cohort of graduates. This allows us to identify and work closely with students who require additional support. It also allows us to issue them with decisions on their applications in a timely manner.

## 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 legislation? If yes, please explain what could be done to change this.

Yes, as drafted the guidance referring to when the HCPC expects a health declaration to be made, may result in applicants with long term health conditions or disabilities making a declaration where one isn't needed. For example, where there has been a process to agree adjustments to a person's practice. The HCPC might want to consider explaining in more detail what is meant by 'your health condition affects your ability to practise safely and effectively'. Clarity around this will help explain the types of situations the HCPC expects to be declared or not.

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.

We have included our suggestions in our answer to Q16.