

REFERRAL TO REGULATORY BODIES (NON-MEDICAL) PROCEDURE

REFERENCE NUMBER:	CLP83
VERSION NUMBER:	1
KEY CHANGES FROM PREVIOUS VERSION	N/A
AUTHOR:	Associate Director of Professional Development
CONSULTATION GROUPS:	Professional Leads Human Resources
IMPLEMENTATION DATE:	August 2021
AMENDMENT DATE(S):	N/A
LAST REVIEW DATE:	-
NEXT REVIEW DATE:	August 2024
APPROVAL BY CLINICAL GOVERNANCE & QUALITY SUB-COMMITTEE:	June 2021
RATIFICATION BY QUALITY COMMITTEE:	August 2021
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SUMMARY
<p>This procedure offers assurance that processes are in place to protect the public and support employees in the management of issues relating to professional conduct and fitness to practice that necessitate referral to external regulatory bodies</p> <p>The procedure also outlines the process as to how referrals of staff to their respective regulator made from outside the Trust is to be managed.</p>
<p>The Trust monitors the implementation of and compliance with this procedure in the following ways:</p> <p>Quarterly meetings of professional leads with AD of Professional Development. Reporting to Executive Nurse and ECOO</p>

Services	Applicable	Comments
Trustwide	✓	
Essex MH&LD		
CHS		

The Director responsible for monitoring and reviewing this Procedure is the Executive Nurse

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

**MANAGEMENT OF REFERRAL TO REGULATORY BODIES
(NON-MEDICAL)**

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ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

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1.0 INTRODUCTION

The Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC), General Pharmaceutical Council (GPhC), General Osteopathic Council (GOsC) and Social Work England, are the regulatory bodies for Registered Nurses, Midwives, Nursing Associates, Allied Health and Care Professions, Psychologists, Pharmacists and Pharmacy Technicians, Osteopaths and Social Workers.

They safeguard the health and wellbeing of the public through regulation of practitioners by setting and upholding standards of conduct and performance for daily practice and assuring the public through robust statutory requirements around education, training and continuing professional development.

On behalf of the Trust, managers and supervisors of Nurses, Midwives, Allied Health Professionals, Psychologists, Pharmacists and Pharmacy Technicians, Osteopaths and Social Workers must deal with situations concerning the misconduct, lack of competence or poor health of registrants.

While most incidents can be managed at a local level and do not give rise to wider concerns about public protection there are occasions where practitioners will need to be referred to their regulatory body.

This procedure details and provides clarity as to the processes of instigating a referral.

Members of the public, Registered Nurses, Midwives and other healthcare workers, the police or other health and social care providers can choose to refer a registrant to their regulator. Registrants may also refer themselves. This procedure outlines how referrals generated from outside the Trust should also be managed.

2.0 SCOPE/PURPOSE

This procedure applies to the practice and conduct of all Essex Partnership University NHS Foundation Trust (EPUT) staff registered with the; NMC, HCPC, GPhC, GOsC or Social Work England, and provides clarity around the processes in place for when a registered practitioner should be referred to their regulatory body by the Trust for further investigation or any regulatory sanction

The Trust will ensure that employees are fully supported to achieve the required performance standards prior to referral to regulatory bodies. When concerns are raised about an individual's fitness to practice, they will be treated fairly and equitably.

Referral to Regulatory Bodies (Non-Medical) Procedure

The GPhC, GOsC, HCPC, Social Work England and NMC are the only organisations (non-medical) with the powers to prevent registered professionals from practicing if they present a risk to patient safety. In very serious cases, it would therefore be appropriate to refer an individual at an early stage, before the Trust conducts/concludes an internal investigation or the conclusion of the capability process.

A referral enables the regulator (where appropriate) to issue an interim suspension order or restriction of practice until the case has been thoroughly investigated.

Reporting a case of Fitness to Practice to the regulator is appropriate and necessary when the conduct, competent practice, character and behaviour or health of a registrant is impaired to the extent that public protection may be compromised.

All allegations of impairment of fitness to practise must:

- Clearly set out the complaint against the registrant
- Where it is appropriate, be supported by appropriate evidence to demonstrate how the Trust has supported the registrant to improve, the measures taken to monitor this support and clearly describe the lack of attainment to the required standard

This procedure should be read in conjunction with relevant regulatory body standards (links below) and the relevant Trust policies.

- [HCPC](#)
- [GOsC](#)
- [Social Work England](#)
- [NMC](#)
- [GPhC](#)

3.0 ROLES AND RESPONSIBILITIES

Executive Nurse & Executive Chief Operations Officer

The Executive Nurse & Executive Chief Operations Officer have strategic responsibility for ensuring there is compliance with the NMC, HCPC and GPhC Fitness to Practice guidelines and that they are applied in a fair and consistent manner

Director of Nursing

The Director of Nursing is responsible for ensuring that registered nurses act in accordance with the NMC Code and the oversight of Trust Registered Nurse/Midwife/ Nursing Associate referrals to the NMC

Professional Leads

Professional Leads are responsible for making a referral to professional regulatory bodies for which they lead and for maintaining a database of referrals. Professional Leads are also responsible for the internal management of referrals of staff to their professional regulator, made from outside the Trust. (see Appendix 1 for list)

Managers

Managers are responsible for supporting employees to achieve the required performance standards. When concerns are raised about non-medical registered professionals' fitness to practice, ensuring that they are treated fairly and equitably and guidance is sought from the relevant Professional Leads at the earliest opportunity.

Managers will work closely with the relevant Professional Lead(s) and HR in managing referrals to regulatory bodies.

Registered Professionals

Registered professionals are accountable to ensure that they adhere to respective regulatory body standards and have a responsibility to inform the Trust of any circumstances that may affect their fitness to practice. Registered professionals are also responsible for informing their line manager if they are made aware of a referral to their regulatory body.

Head of Safeguarding

The Head of Safeguarding must be notified if there are any safeguarding concerns relating to or impacting on a registered professionals practice. The Head of Safeguarding will be responsible for liaising with the relevant statutory agencies to identify whether additional interventions with regard to the registrant are necessary.

Human Resources

Human Resources will ensure that concerns relating to conduct or Fitness to practice for any non-medical registered professional (including registered bank workers) are flagged with the respective Professional Lead at earliest opportunity. Advice should be sought from the Professional Lead as to any potential implications for the registered professional's registration and ability to practice.

Advice provided by the relevant Professional Lead should be included/used in the Just Culture Decision Making Tool in accordance with the Disciplinary (Conduct) Procedure HRP27A.

Staff Support – Occupational Health and Employee Assistance Programme (EAP)

The Occupational Health Department provides a confidential support service for employees. Managers may make a referral for specific health related advice or opinion where health concerns may require a registrant to be referred to their regulator. Managers and the member of staff themselves can independently seek support for stress related issues that may arise as a result of referral and any associated processes

Trade Union Organisations

Trade union organisations work with staff that are active members alongside the Trust and are available to support their members. It is the responsibility of the registrant to contact and organise their individual trade union representation.

4.0 PROFESSIONAL STANDARDS

Referral to the regulator is a serious matter for an individual registrant and the Trust's decision to refer a registrant will not be taken lightly. It will be made based upon careful consideration of the evidence presented in relation to a fitness to practice allegation based on ill health and/ or evidence of poor practice. In practice, most matters will be dealt with through the Trust's internal processes and will not warrant referral to the regulatory body.

It is critically important that any investigation and supporting evidence relating to fitness to practice is rigorous and accurate. In situations where a registrant has been provided with supporting practice programmes and/or has completed a capability programme, these programmes must have been constructed using evidence based outcomes, clear performance requirements and significant evidence of how the registrant has not achieved the required standard. Clear and unambiguous timelines should be maintained throughout.

The below professional standards are the foundation of good practice and are a key to safeguarding the health and wellbeing of the public. If registered professionals fall below these standards, the Trust and/or the regulatory body may need to consider their fitness to practice:

GPhC: Standards for Pharmacy Professionals (2017)

These standards are applied to ALL persons regulated by the GPhC:

- a) Pharmacists
- b) Pharmacy Technicians

HCPC: Standards of Conduct Performance and Ethics (2016)

These standards are applied to ALL persons regulated by the HCPC; however, some professionals listed below will also have related proficiency standards and/or professional body codes:

- a) Arts Therapists: Standards of Proficiency: Arts Therapists (2013)
- b) Dietitians: Standards of Proficiency: Dietitians (2013)
- c) Occupational Therapists: Standards of Proficiency: Occupational Therapists (2013) & Code of Ethics and Professional Conduct (2015)
- d) Physiotherapists: Standards of Proficiency: Physiotherapists (2013)
- e) Psychologists: Standards of Proficiency: Practitioner Psychologists (2015)
- f) Social workers in England
- g) Speech & Language Therapists: Standards of Proficiency: Speech and Language Therapists (2013)
- h) Podiatrists - Standards of Proficiency for Podiatrists (2013)

NMC The Code: Professional Standards of Practice and Behaviour for Nurses and Midwives (2018)

These standards are applied to ALL persons regulated by the NMC

- a) Nurses

GOsC Osteopathic Practice Standards (2019)

These standards are applied to ALL persons regulated by the GOsC:

- a) Osteopaths

Social Work England: Professional standards

These standards are applied to ALL persons regulated by Social Work England:

- a) Social Workers

5.0 CATEGORIES FOR REFERRAL TO REGULATORY BODIES

There are four broad areas that may warrant referral to regulatory bodies:

- a) Conduct
- b) Lack of Competence
- c) Serious Ill Health
- d) Criminal conviction or caution

Conduct

Misconduct is behaviour which falls short of that which can be reasonably expected of a registered professional. All incidents will be looked at on an individual basis and advice sought from Professional Lead, this advice should be included on Just Culture Tool.

Lack of competence

Lack of competence is a lack of knowledge, skill or judgment of such a nature that the practitioner is unfit to practice safely. They should demonstrate a commitment to keeping skills up to date, and should deliver a service that is capable, safe, knowledgeable, understanding and completely focused on the needs of the people in their care. A referral relating to lack of competency must be supported by appropriate evidence to demonstrate how the Trust has supported the individual to improve, the measures taken to monitor this support and clearly describe the lack of attainment to the required standard.

Management of Serious Ill Health Referrals

A health/medical condition should not be a reason for referral to the regulatory professional body, unless the health/medical condition is causing fitness to practice issues. This would need to be clearly demonstrated through Occupational Health reviews and is supported by clinical evidence.

Registered professionals must be capable of safe and effective practice without supervision. It does not mean the absence of any disability or health condition. Many disabled people and those with long-term health conditions are able to practice with or without adjustments to support their practice. Regulators are particularly

concerned about long-term, untreated or unacknowledged physical or mental health conditions that impair someone's ability to practice without supervision.

Concerns about a registrant's fitness to practice due to ill health, should be raised and discussed with the relevant Professional Lead at an early stage to ensure opportunities/strategies for support are explored and put into place. Advice should be sought from Occupational health and Human Resources.

In the event that strategies to support the registered professional prove unsuccessful, a referral to the regulator with supporting evidence will be made by the relevant Professional Lead.

Criminal Conviction

Cases concerning criminal conviction or caution will be dealt with through the Trust's internal processes. However, in some circumstances it will be appropriate for the matter to be both dealt with by the Trust and referred to the regulatory body.

6.0 PROSPECTIVE NEW EMPLOYEES WITH PENDING OR ACTIVE FITNESS TO PRACTICE INVESTIGATIONS

When it is brought to the Trust's attention that an individual has been referred to their regulator or declares that they have had a previous suspension order or sanction placed on their practice in another organisation, it is the responsibility of the appointing manager to raise this with respective Professional Lead before any offer of employment is made.

7.0 BANK AND AGENCY WORKERS

Potential and actual referrals of Bank non-medical registered professional workers will be managed in line with the procedure set out for substantive employees.

Where a fitness to practice concern is related to a non-medical registered professional working via an agency, the appropriate Professional Lead must be informed. The Professional Lead will liaise with the agency to notify them of the concern and the potential need for investigation/referral. In some instances, it may be necessary for the Professional Lead to make the referral to the regulatory body.

When it is brought to the Trust's attention, that a non-medical registered professional working via an agency has been referred to their regulator, declares that they have a previous suspension order or current sanction placed on their practice, it is the responsibility of the Temporary Staffing Office to inform the relevant Professional Lead to determine suitability prior to offering allocation/placement.

8.0 MANAGEMENT OF EXTERNAL REFERRALS

Members of the public, Registered Nurses, Midwives and other healthcare workers, the police or other health and social care providers can choose to refer a registrant to their regulator. Registrants may also refer themselves. In such circumstances where notification of external referral is received into the Trust, this is to be referred to and managed by the respective Professional Lead as outlined in Appendix 1

In addition to liaising with the relevant regulatory body, the Professional Lead will, in collaboration with the Manager, risk assess the situation to ensure patient safety is maintained and that the non-medical registered professional has sufficient support in place to practice safely.

9.0 REFERRAL PROCESSES TO REGULATORY BODY

Determining if a referral is warranted

Human Resources will inform the relevant Professional Lead of all non-medical employees who are registered with regulatory bodies at the commencement of any disciplinary or capability procedures or who are subject to suspension.

The Professional Lead will review the case to determine if an immediate referral is necessary (protect the public) or if the case should be subject to further to review following the outcome of disciplinary or capability procedures.

Making the referral

A referral will be made by the Professional Lead or their delegate. Where this is delegated, the Professional Lead will be responsible for ensuring accuracy and accountable for any referral made.

A registrant must be advised in writing by the Professional Lead of the referral to their regulator and the reasons for the referral.

Any subsequent information requested from the regulator must be managed by and checked for accuracy by the Professional Lead prior to submission.

Documentation

The relevant Professional Lead is responsible for maintaining accurate records and database of referrals. This includes but is not exhaustive:

- Advice given regarding conduct/capability concerns raised by HR, Manager etc.
- Any referrals made/received
- Rationale for proceeding/not proceeding e.g. concerns raised resolved within EPUT
- All evidence provided in relation to these referrals
- Progress of referral

10.0 PROFESSIONAL REGULATION QUARTERLY MEETING

A meeting, Chaired by the Director of Nursing, will take place quarterly with the Professional Leads and representation from Human Resources, to review referrals made, progress of referrals, to identify any themes/trends and points of learning. The Chair of this meeting will be responsible for submitting a report to the Executive Nurse and Executive Chief Operating Officer.

END

SAMPLE ONLY