



Response to the Report and Recommendations of the Review of the Conduct Function of the General Social Care Council

Response to the Report and Recommendations of the CHRE's Review of the GSCC's Conduct Function

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Description	This document sets out the Government's response to the report and recommendations of the Council for Healthcare Regulatory Excellence's (CHRE) review of the General Social Care Council's (GSCC) conduct function, which is published today. The review was commissioned following the discovery of a backlog of conduct cases at the GSCC.
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1. Response to the Report of the CHRE's Review of the Conduct Function of the GSCC

- 1.1 On 20 July 2009 the Secretary of State for Health made a Ministerial Statement in Parliament reporting that the GSCC had identified a backlog in the management of 203 complaints against social workers. Ministers' immediate concern on discovery of the backlog was that any public safety risks should be addressed quickly. At Minister's request the GSCC took immediate action to ensure that all cases had been risk-assessed and that a remedial action plan was put in place.
- 1.2 The Secretary of State also announced that the Department of Health would be asking the Council for Healthcare Regulatory Excellence to undertake a review of the GSCC's conduct functions. The Department welcomes the publication of CHRE's report today and is grateful for the time and effort of CHRE's staff over the summer to ensure their work was carried out quickly and thoroughly.
- 1.3 The report sets out a series of failings within the GSCC. It appears that the GSCC's Council was at times provided with poor quality and inaccurate information about the performance of its conduct function, which served to provide false assurances about the true state of the function. The result was that insufficient attention was paid to a growing backlog of conduct cases. Despite additional funding being provided by the Department of Health for three years to enable GSCC to address a growing number of complaints, the GSCC appears to have suspended its investigation processes in late 2007, increasing its backlog of cases.
- 1.4 The Minister for Care Services met with Rosie Varley the Chair of the GSCC on 27th October to discuss the CHRE report. It is clear that the problems that the GSCC have experienced predate the appointment of Rosie Varley. She has been closely involved in taking forward remedial action since July and we now look to her to lead the GSCC through this difficult time taking whatever steps are necessary to improve its conduct function, ensure that in future the GSCC delivers all of its statutory functions to a high standard and to restore public confidence in the organisation. The Department of Health will continue to work closely with the GSCC to assure and assist in the delivery of its recovery plans.
- 1.5 There have been changes to the membership of the Council since July and we welcome the decision to diversify the range of skills and experiences on the Council.
- 1.6 It has become clear that the extent of the problems at GSCC were greater than was first reported to us. However significant progress has already been made in handling cases on receipt of complaints and addressing any ongoing risks to the public resulting from the poor management of conduct since July. We have been assured by GSCC that all cases are now routinely risk-assessed and allocated to a responsible manager who ensures that risk is continually reviewed as new information arises and interim suspension orders are now being applied for where appropriate. The GSCC reports

that it is making efforts to ensure that the employers of social workers are aware of the nature of concerns raised with the GSCC and managing the risks, where the social workers who are the subject of allegations continue in employment.

- 1.7 GSCC has also begun the process of reforming its operational processes and strengthening its infrastructure to support performance management of its conduct function. A remedial plan to address the backlog of cases is now in place and, as a first step in implementing the plan, a new intermediate case management system has been introduced enabling the GSCC to produce detailed management information to enable the Council to scrutinise the conduct function. The Department of Health is grateful to Paul Philip, Acting Chief Executive of the General Medical Council, for the excellent leadership he has given to this process.
- 1.8 Ministers have made it clear to the GSCC that they expect to see significant operational improvements as a result of the implementation of the Council's action plan by the end of March 2010, including the resolution of the oldest cases. The Chair of the GSCC has been asked to personally oversee reform of the GSCC's procedures, to ensure effective governance and to report on progress to Ministers in March 2010.
- 1.9 The Department of Health broadly accepts the recommendations in the report. In particular, we will seek to modernise the legislative framework for the GSCC to ensure that it has the appropriate powers of a modern professional regulator in respect of its conduct function.
- 1.10 The Department supported the GSCC in changing its conduct rules as recently as 2008 and we were committed to reviewing the GSCC's rules further as part of the work to introduce registration of home care workers. However, we will now expedite that work and undertake a comprehensive review of the GSCC's rules and powers.
- 1.11 CHRE has also made a number of more far reaching recommendations about reform of the GSCC and we will review these, particularly in light of any relevant recommendations from the Social Work Task Force.
- 1.12 The Department will also seek to take forward legislation at the earliest opportunity to bring GSCC within remit of the Council for Healthcare Regulatory Excellence (CHRE) to enable GSCC to benefit from dissemination of good practice in regulation by CHRE. More importantly bringing GSCC within the remit of CHRE would mean that it would be subject to a performance review every year and CHRE would have the power to refer cases to court where its fitness to practise decisions were considered too lenient.

2. Table of Responses to the Individual Recommendations of the CHRE’s Review of the Conduct Function of the GSCC

Recommendations	Accept?	Responsibility for Progression	Response
<p>Recommendation 1: that an effective case management system to support the conduct function should be implemented as a matter of urgency. This must then be supported by oversight by managers who must be responsible for the allocation of cases and ongoing management of the caseload to ensure that appropriate and timely action, including risk assessment, is taken at each stage.</p>	Yes	GSCC	The GSCC is already making progress against this recommendation as part of its recovery and transformation plan taken forward under the leadership of its interim Chief Executive, overseen by the Council
<p>Recommendation 2: that KPIs should be developed to measure clear regulatory outcomes. In the short term, the KPIs should reflect the improvements required to the conduct function and will, therefore, enable the GSCC to report on progress against a valid and effective improvement plan. In the longer term, the KPIs should focus on the progress of cases and the demonstration of public protection.</p>	Yes	GSCC	Any effective regulatory body must be supported by appropriate and challenging KPIs. The GSCC has developed a recovery plan which includes strengthened KPIs and the Department will support and monitor its progress against the plan.

Response to the Report and Recommendations of the CHRE's Review of the GSCC's Conduct Function

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<p>Recommendation 3: that all decisions affecting the progress of cases should be taken on a public protection basis.</p>	Yes	GSCC	<p>The Government supports this recommendation and will work with the GSCC to make the necessary changes to its rules to provide a clear focus on improving quality to ensure public protection. However, in order to effectively implement this recommendation, the GSCC will need to look carefully at its procedures and culture. This forms part of its recovery plan and the Government will use this plan to monitor the GSCC's progress against this recommendation.</p>
<p>Recommendation 4: that the two geographically distinct teams and the external investigators should be managed and operated as a single team. Managers need to take a coherent approach with consistent oversight of the function. All processes, deadlines, performance management and allocations and record keeping should be consistent. There should be more regular, formal and structured engagement within the conduct team at the different locations.</p>	Yes	GSCC	<p>It is important that all conduct cases are treated consistently and the Government would expect this to be the case. However, it is for the GSCC to consider how best this is achieved at an operational level.</p>
<p>Recommendation 5: that a conduct team skills audit and development plan should be produced. This should review all staff members' current competencies and identify the competencies required for each role. Where there are discrepancies, training needs should be identified and appropriate training should be provided.</p>	Yes	GSCC	<p>It is vital that any regulatory body has the right people with the right skills progressing conduct cases.</p> <p>Work on skills and training already forms part of recovery and transformation plan.</p>

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<p>Recommendation 6: that the GSCC and DH should review the current primary and secondary legislation relating to the conduct process and replace it with a fitness to practise process which allows it to assess conduct and competence.</p>	<p>Agree in principle</p>	<p>GSCC and Government</p>	<p>The Department will work with the GSCC to review its current rules, drawing on best practice in modern regulation. However, we need to give further consideration to the implications of moving to a system which considers “fitness to practise” rather than conduct, in view of the different context in which social workers work.</p>
<p>Recommendation 7: the conduct committee should be given the power to use all of the sanctions now available to the fitness to practise committees/panels of the majority of the health professional regulators. The DH should consider this in the context of CHRE's work on harmonising sanctions across health professional regulators.</p>	<p>Yes</p>	<p>GSCC and Government</p>	<p>The Government agrees that GSCC should have greater flexibility in terms of the sanctions that its panels have at their disposal. The Department will work to ensure that reforms are implemented and will seek a suitable legislative opportunity.</p>
<p>Recommendation 8: the relevant legislation should be amended so that appeals against decisions made by the conduct committee are heard by the High Court rather than the Care Standards Tribunal.</p>	<p>Agree in principle</p>	<p>Government</p>	<p>The Government would wish to see further evidence, in addition to the report, to better understand the rationale for moving appeals from the Health, Education and Social Chamber of the First-tier Tribunal (the new tribunal into which the Care Standards Tribunal was subsumed) to the High Court. The Department will discuss the implications of this recommendation further with CHRE and other stakeholders.</p>

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<p>Recommendation 9: that the GSCC should adopt a lower threshold of referral of cases to the conduct committee. Cases should be referred if there is a realistic prospect of a sanction being imposed. This must be incorporated into the relevant guidance for staff. The availability of conditions as a sanction would greatly aid a proportionate approach to fitness to practise.</p>	Yes	GSCC	<p>The Government would expect any regulatory body to investigate all complaints and take forward those cases where there is a realistic likelihood of a sanction being imposed. Clearly the threshold at which referral to the Professional Conduct Committee occurs has significant operational implications for GSCC and the Department will discuss the implications of the recommendation with them in detail.</p>
<p>Recommendation 10: that with immediate effect all new cases are risk assessed, including being signed off promptly by a person with sufficient competence and authority. Ongoing risk assessments should be completed within similar timescales. The risk assessment should include consideration of whether there is a need for an Interim Suspension Order.</p>	Yes	GSCC	<p>The Government agrees with this recommendation and understand that the GSCC has already taken steps to ensure that all new cases are risk assessed. The Department will be seeking ongoing assurances that this remains the case as part of our accountability processes.</p>
<p>Recommendation 11: that comprehensive guidance on good file management should be given to all staff, and that managers should ensure that it is complied with routinely and that all files are capable of being audited.</p>	Yes	GSCC	<p>The Government understands that improvements to file management form part of the GSCC's recovery plan and, as such, the Government will be monitoring its progress as part of our accountability processes.</p>

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<p>Recommendation 12: that the GSCC should attempt to strengthen its relationships with employers in relation to conduct issues, with the aim of increasing the level of co-operation and information sharing. The Government should provide the GSCC with additional powers to require employers and others to provide information or concerns about a social worker's fitness to practise to the GSCC.</p>	Yes	GSCC and Government	<p>Relations with employers are key to the effective functioning of any regulatory body and the Government understands that improving these relations forms part of the GSCC's recovery plan. The Government will be looking to strengthen the GSCC's legal powers in relation to employers and will seek a suitable legislative opportunity to do so.</p>
<p>Recommendation 13: that the GSCC should give clear reasons when they close a case explaining why the social worker should not be referred to the conduct committee on the basis that they do not present a risk to the public. The GSCC should also clarify, and strictly apply, its policies on how to handle social workers who have not renewed their registrations and those who apply for voluntary removal whilst under the conduct process.</p>	Yes	GSCC	<p>The Government supports this recommendation. It is important that the GSCC is accountable to the public and, as such, it must as a matter of course be transparent and consistent in its decision-making.</p>
<p>Recommendation 14: that Council and Committee members should provide effective scrutiny by challenging information provided and requiring senior management to demonstrate what they have done to address identified issues.</p>	Yes	GSCC	<p>Improving governance is absolutely fundamental to re-establishing confidence in the GSCC, and the Government supports this recommendation. The Council must demonstrably be prepared to interrogate and challenge the executive. The report indicates that this has not always happened in the past and the Government will be seeking evidence that this recommendation is being implemented as part of its accountability processes.</p>

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<p>Recommendation 15: that the GSCC review their approach to risk management to ensure that it is effective in identifying, recording and managing risks within the organisation. Where required, training should be provided. This should include Council members, senior management and all operational staff.</p>	Yes	GSCC	The Government supports this recommendation and understand that it is being taken forward as part of the GSCC's recovery plan.
<p>Recommendation 16: that the Council should assure itself of the quality of decisions taken under the conduct function by commissioning regular internal and external audits and by ensuring that the terms of the audits provide a sufficient level of scrutiny linked to an evaluation of risk. The internal auditors also need to have the skills and experience necessary to make informed judgements on cases if that is required within the scope of their audit.</p>	Yes	GSCC	The Government supports this recommendation which will enable the Council to effectively hold the GSCC's executive to account and ensure that its conduct function operates at a consistently high level.

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<p>Recommendation 17: that the executive should be open, transparent and comprehensive when reporting to Council and its committees and should be able to do so with confidence of support through constructive challenge.</p>	Yes	GSCC	<p>The Government is concerned by the evidence presented in the report that suggests that the executive were not always sufficiently transparent with the Council. It is absolutely vital that this recommendation is implemented and that the Council challenges the executive effectively to ensure that the information provided to it is complete and accurate.</p>
<p>Recommendation 18: that the Government reforms the role and legal responsibilities of the GSCC to ensure clarity of purpose in protecting the public and maintaining the standing of the profession to enable it to operate as an effective and independent regulator committed to public protection and to building public confidence in the profession.</p>	Yes	Government and GSCC	<p>The Government agrees with this recommendation and will review the current role and responsibilities of the GSCC in light of this report and the recommendations of the Social Work Taskforce.</p>
<p>Recommendation 19: that in the longer term the GSCC becomes more financially independent of the Department of Health and that this change is phased in over a number of years. The GSCC should have more straightforward lines of accountability and oversight.</p>	Agree in principle	Government and GSCC	<p>The Government agrees with this recommendation in principle. The model of financial independence works well in the health care sector. There may well be a case for the functions of the GSCC to be carried out by a body that is more independent of Government with increased financial flexibilities and incentives to focus on the efficiency of processes.</p> <p>However, the Government will need to consider in greater detail the impacts that financial independence would have on the fees paid by the GSCC's registrants.</p>

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Recommendations	Accept?	Responsibility for Progression	Response
<p>Recommendation 20: that the Government reviews the risks in relation to the work and supervision of domiciliary care workers and their managers and reconsiders if inclusion in the GSCC's statutory register is proportionate and targeted. Other approaches such as a statutory licensing scheme or an employer-led approach based on codes of conduct and practice and induction standards may be more appropriate.</p>	<p>Yes</p>	<p>Government</p>	<p>The Government accepts this recommendation. The Government is committed to the registration of home care workers and will be assessing options for a model of registration that will be proportionate and streamlined.</p>