Indicative Sanctions Guidance and Referral Criteria – transition arrangements

Purpose
To advise Council of the impact of forthcoming rules changes on existing guidance and to agree an interim measure in advance of a full review of related guidance.

Recommendation
The Council is asked to agree that the current indicative sanctions guidance and Investigating Committee referral criteria be adopted on an interim basis.

1.0 Introduction

1.1 As a result of the coming into force of the Amendment of Miscellaneous Provisions Rules responsibility for agreeing the content of the Indicative Sanctions Guidance and the Investigating Committee’s Referral Criteria will revert to the GPhC Council. The rules are due to come into effect on 5th February.

1.2 The Amendments Rules will amend the Statutory Committees, and their Advisers Rules, such that the Council will acquire the functions of issuing guidance on:

- Referral of cases from the Investigating Committee to the Fitness to Practise Committee (currently agreed by the Investigating Committee, cf. rule 4(1)(b), Statutory Committees & their Advisers Rules); and
- Sanctions that particular classes of cases before the Fitness to Practise Committee should attract (currently agreed by the Fitness to Practise Committee, cf. rule 5(1)(d), Statutory Committees & their Advisers Rules).
1.3 The Indicative Sanctions Guidance is used by the Fitness to Practise Committee as a ground rule document when establishing what sanction to apply to a specific case. Its purpose is to ensure decisions are proportionate and to ensure transparency, consistency across committees and decision making. The guidance is currently agreed by the Fitness to Practise Committee members and was last reviewed in May 2011. The Investigating Committee’s Referral Criteria is a set of criteria the Investigating Committee refers to once it considering disposing of an allegation. It was last reviewed in August 2012.

1.4 There are no transitional provisions in the Amendments Rules, therefore, Council is asked to adopt the existing Indicative Sanctions Guidance and the guidance on criteria for referral of cases from the Investigating Committee to the Fitness to Practise Committee, pending the Council’s consideration of any proposals for revised guidance.

1.5 It is our intention to bring a further paper back to Council in April, depending on Council business, setting out how we intend to update and develop the indicative sanctions guidance and referral criteria, including specific proposals for consultation.

2.0 Communications implications

2.1 We will need to communicate Council’s decision to adopt, as an interim measure, the current indicative sanctions guidance. In addition, we are committed to beginning a process of engagement with panel members, external stakeholders, other professional regulators as well as patients and the public to consider how best to develop the revised draft indicative sanctions guidance. Once we have developed our proposals with input from others, it is our intention to hold a public consultation before presenting draft guidance to Council for approval later in of 2013.

3.0 Equality and diversity implications

3.1 We will need to develop a draft equalities impact assessment, in advance of our consultation and consistent with our responsibilities as set out in the Equalities Act 2010.

4.0 Resource implications

4.1 There will be resource requirements for holding an additional consultation in this area which will be managed from within existing budgets. There will also be requirement for further training for associates following the consultation and approval by Council of the revised indicative sanctions guidance.
5.0 Risk implications

5.1 It is important to avoid and potential confusion about the status of the indicative sanctions guidance and referral criteria in current use following the introduction of the recent Amendment Rules. By agreeing to this interim arrangement, and confirming its intention to consult on updated draft indicative sanctions guidance and referral criteria.

Recommendation

The Council is asked to agree that the current indicative sanctions guidance and Investigating Committee referral criteria be adopted on an interim basis.

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