

## TRUST-WIDE CLINICAL GUIDELINES DOCUMENT

# GUIDELINES FOR REFERRAL TO REGULATORY BODIES (NON MEDICAL)

Policy Number:	HR-G3
Scope of this Document:	The Guidelines for Referral to Relevant Regulatory Bodies (Non Medical) applies to all employees that are regulated by the GPhc, HCPC or NMC
Recommending Committee:	HR Policy Group
Approving Committee:	Executive Committee
Date Ratified:	March 2020
Next Review Date (by):	February 2023
Version Number:	2020 – Version 3
Lead Executive Director:	Executive Director of Nursing & Operations
Lead Author(s):	Deputy Director of Nursing

## TRUST-WIDE CLINICAL GUIDELINES DOCUMENT

2019 – Version 3

*Striving for perfect care  
and a just culture*

# GUIDELINES FOR REFERRAL TO REGULATORY BODIES (NON MEDICAL)

## Further information about this document:

Document name	<b>GUIDELINES FOR REFERRAL TO REGULATORY BODIES (NON MEDICAL) (HR-G3)</b>
Document summary	These guidelines detail circumstances in which referral of non- medical professionals to regulatory bodies may be considered whilst offering assurance that there are processes in place to protect the public and support employees in the management of issues relating to professional conduct.
Author(s) Contact(s) for further information about this document	Jenny Hurst Deputy Director of Nursing Telephone: 0151 478 6908 Email: <a href="mailto:Jenny.Hurst@merseycare.nhs.uk">Jenny.Hurst@merseycare.nhs.uk</a>
Published by Copies of this document are available from the Author(s) and via the trust's website	Mersey Care NHS Foundation Trust V7 Building Kings Business Park Prescot Merseyside L34 1PJ  Trust's Website <a href="http://www.merseycare.nhs.uk">www.merseycare.nhs.uk</a>
To be read in conjunction with	HR01 Disciplinary Procedures & Impact Assessment HR06 Freedom to Speak Up – Whistleblowing HR08 Verification of Statuary Registration of Temporary and Permanent Staff HR11 Capability HR16 Disclosure and Barring Service Checks (CRB) HR25 Mangement of Alcohol and Substance Misuse by Staff HR27 Supporting Staff with Mental or Physical Disabilities & Word Version of the Supportive Disability and Wellbeing Plan HR29 Occupational Health HR34 Personal Relationships at Work
<b>This document can be made available in a range of alternative formats including various languages, large print and braille etc</b>	
Copyright © Mersey Care NHS Trust, 2015. All Rights Reserved	

## Version Control:

		Version History:
Version 1	Approved	March 2015
Version 2	In draft to be ratified by the Policy Group and HR Policy Group	June 2017
Version 3	HR Policy group Corporate Policy Group Executive Committee	November 2019 February 2020 March 2020

## SUPPORTING STATEMENTS

this document should be read in conjunction with the following statements:

### SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child /adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, sex, race, religion and belief (or lack thereof), sexual orientation, gender reassignment, pregnancy and maternity and marital and civil partnership status. The Equality Act also requires regard to socio-economic factors.

The trust is committed to promoting and advancing equality and removing and reducing discrimination and harassment and fostering good relations between people that hold a protected characteristic and those that do not both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line the with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

## Contents

Section	Page No
1. Purpose and Rationale	5
2. Outcome Focused Aims and Objectives	5
3. Scope	6
4. Definitions	6
5. Duties	6
6. Process	7
7. Consultation	9
8. Training and Support	9
9. Monitoring	9
10. Equality and Human Rights Analysis	10
11. Appendix A – Flowchart for Referral to Regulatory Bodies	14
12. Appendix B – Links to Professional Regulations and Standards	15

## **1. PURPOSE AND RATIONALE**

- 1.1 The guidelines will provide a framework for the process of referral to non-medical regulatory bodies in accordance with fitness to practice.
- 1.2 These guidelines should be read in conjunction with relevant regulatory body standards (see Section 6 and Appendix B).
- 1.3 Professional regulatory bodies in health and social care share a common purpose, that of public protection. This is facilitated by the governance of standards of education, training, conduct and performance.
- 1.4 The GPhC, (General Pharmaceutical Council), HCPC (Health & Care Professions Council) and NMC (Nursing and Midwifery Council) are the UK regulators for the below registered professionals and exist to safeguard the health and wellbeing of the public:
- Art Psychotherapists (HCPC);
  - Dieticians (HCPC);
  - Nurses (NMC);
  - Occupational Therapists (HCPC);
  - Physiotherapists (HCPC);
  - Pharmacists (GPhC);
  - Pharmacy Technicians (GPhC);
  - Psychologists (HCPC);
  - Social Workers in England (HCPC);
  - Speech & Language Therapists (HCPC).
- 1.5 These guidelines offer assurance that processes are in place to protect the public and support employees in the management of issues relating to professional conduct. This includes internal management processes and where necessary referral to external regulatory bodies.
- 1.6 Our internal processes will reflect the principles outlined in our Just and Learning Culture priority area.
- 1.7 Note: For the purpose of these guidelines, the term 'employees' also includes those employed by other organisations and working on behalf of the Trust.

## **2. OUTCOME FOCUSED AIMS AND OBJECTIVES**

- 2.1 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.
- 2.2 Everyday, regulatory bodies investigate professionals whose fitness to practice is impaired. They are the only bodies who have the power to stop individuals from practicing if they present a risk to the public.
- 2.3 In practice most matters will be 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.

2.4 A referral to the regulator should not delay the length of time it may take to conclude any internal Trust processes; however, there may be circumstances where this is unavoidable.

### 3. SCOPE

3.1 The Guidelines for Referral to Relevant Regulatory Bodies (Non Medical) applies to all employees that are regulated by the GPhC, HCPC or NMC.

### 4. DEFINITIONS

GPhC	General Pharmaceutical Council
HCPC	Health & Care Profession Council
NMC	Nursing & Midwifery Council

### 5. DUTIES

#### 5.1 Chief Executive

The Chief Executive has delegated responsibility to the Executive Director of Nursing & Operations.

#### 5.2 Executive Director of Nursing & Operations

The Executive Director of Nursing & Operations needs to be assured that there is a process in place to determine when a professional should be referred to a regulatory body for investigation. In addition the Deputy Director of Nursing/Strategic Lead for Safeguarding carries the responsibility on behalf of the Executive Director as the Trust lead for PiPoT (Person in a Position of Trust) safeguarding concerns.

#### 5.3 Deputy Director of Nursing

The Deputy Director of Nursing will chair the monthly forum and provide quarterly reports to the Executive Director of Nursing & Operations and bi annual reports to the Operational Management Board.

#### 5.4 Human Resources

Ensure that employment policies and procedures are legally compliant and providing necessary professional guidance and advice to enable the process.

#### 5.5 Senior Professional Leads

The Senior Nurse Leadership Team, Professional Leads and HR Team will be responsible for the development, review, consultation, implementation, monitoring and approval of the guidelines.

#### 5.6 Employee Representation

Employees (or those employed by other organisations and working with the Trust) may be accompanied by a workplace colleague or staff side representative to any meetings.

#### 5.7 Professional Leads

Professional leads are responsible for making a referral to professional regulatory bodies for which they lead. They are also responsible for updating and attending the Professional regulation meetings on a regular basis for processing all Trust referrals to the relevant regulatory body and for providing feedback relevant to the HR team.

- 5.8 **Managers**  
Managers are responsible for supporting employees to achieve the required performance standards. When concerns are raised about registered non medical employees fitness to practice they are treated fairly and equitably. Managers will work closely with the divisional and professional leads in managing referrals to regulatory bodies.
- 5.9 **Employees**  
Employees have a responsibility to inform the Trust of any circumstances which may affect their fitness to practice.
- 5.10 **Professional Regulation Meeting**  
The meeting will take place on a monthly basis with divisional and professional leads to consider all potential and actual referrals to regulatory bodies. They will also provide quarterly reports to the Executive Director of Nursing & Operations and Chief Operating Officers (COO).
- 5.11 **Registered Professionals**  
Names professional (see 1.4) are accountable for adhering to regulatory body standards (Appendix B) and Trust policies as they relate to these guidelines.

## **6. PROCESS**

- 6.1 The Deputy Director of Nursing's office will be informed of all matters relating to the fitness to practice of employees listed in section 1.4 of these guidelines.
- 6.2 In practice most matters will be dealt with through the Trust's internal processes and will not warrant referral to the regulatory body.
- 6.3 All referrals to the regulators will be processed by the relevant professional leads in communication with the Deputy Director of Nursing's office and Professional Regulation meeting. The process for managing referrals is highlighted via the algorithm on Page 13 (Appendix A).
- 6.4 The GPhC, HCPC 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 will therefore be appropriate to refer an individual at an early stage, even before the Trust conducts an internal investigation.
- 6.5 A referral enables the regulator (where appropriate) to issue an interim suspension or restriction of practice until the case has been thoroughly investigated.
- 6.6 The below professional standards are the foundation of good practice and are a key to safeguarding the health and wellbeing of the public. If practitioners fall below these standards the Trust and or the regulatory body may need to consider their fitness to practice.
- 6.7 **GPhC: Standards of conduct, ethics and performance (2017)**  
These standards are applied to ALL persons regulated by the GPhC:  
a) Pharmacists;  
b) Pharmacy Technicians.

## 6.8 **HCPC: 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) Art Psychotherapists: Standards of Proficiency: Arts Therapists (2013);
- b) Dieticians: Standards of Proficiency: Dieticians (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) Social workers: Standards of Proficiency: Social Work in England (2017).

## 6.9 **NMC The Codes: Professional Standards of Practice and Behaviour for Nurses and Midwives (2018)**

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

- a) Nurses;
- b) Associate Nurses.

## 6.10 **Categories for Referral to Regulatory Bodies**

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

- a) Misconduct;
- b) Deficient Professional Performance (DPP)/Lack of Competence;
- c) Serious Ill Health;
- d) Criminal conviction or caution.

### 6.11 **Misconduct**

6.12 Misconduct is behaviour which falls short of that which can be reasonably expected of a registered practitioner. All incidents will be looked at on an individual basis in line with our approach to a Just and Learning Culture. Where the misconduct presents a safeguarding concern or risk, then this must also be brought to the attention of the Trust's PiPoT lead.

### 6.13 **Deficient Professional Performance (DPP) / Lack of competence**

6.14 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 those 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.

### 6.15 **Serious Ill Health**

6.16 An employee 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.

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



- 6.18 The Occupational Health Department will refer to the Executive Director of Nursing & Operations' office cases where they have concerns about the long-term, untreated or unacknowledged physical or mental health conditions that impair someone's ability to practice without supervision.
- 6.19 The Executive Director of Nursing & Operations' office will refer this to the relevant professional lead for further exploration and consideration of need to refer to the professional regulatory body.
- 6.20 **Criminal Conviction or Caution**
- 6.21 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.

## **7. CONSULTATION**

- 7.1 The following employee groups have been consulted in the development of the guidelines:
- Senior Nurse Leadership Team;
  - Chief Pharmacist;
  - Professional Lead: Allied Health;
  - Professional Lead: Psychological Practice;
  - Strategic Lead: Social Care;
  - HR Policy Group.
  - Staff side colleagues

## **8. TRAINING AND SUPPORT**

- 8.1 There are no specific training requirements related to these guidelines, standards outlined by the non-medical regulatory bodies will be followed. Multi-professional support in decision making is provided by the lead professionals in attendance at the Trust Professional Regulation meeting.

## **9. MONITORING**

- 9.1 The guidelines will be reviewed by the Deputy Director of Nursing & Operations in conjunction with the Professional Leads every two years.
- 9.2 Quarterly reports will be presented to the Executive Director of Nursing & Operations and bi annual reports will be presented to the Operational Management Boards and the processes referred to in these guidelines will be monitored via the Professional Regulation monthly meeting.

## 10. EQUALITY AND HUMAN RIGHTS ANALYSIS

<b>Title:</b> Guidelines for Referral to Regulatory Bodies (Non Medical)
<b>Area covered:</b> Trust-wide

<b>What are the intended outcomes of this work?</b> To ensure all non-medical registered practitioners and managers are aware of the process for referral to regulatory bodies.
<b>Who will be affected?</b> All non-medical registered practitioners employed by Mersey Care Trust.

<b>Evidence</b>
<b>What evidence have you considered?</b> NMC, GPhC & HCPC guidance.
<b>Disability (including learning disability)</b> N/A
<b>Sex</b> N/A
<b>Race</b> N/A
<b>Age</b> <i>Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.</i> N/A
<b>Gender reassignment (including transgender)</b> N/A
<b>Sexual orientation</b> N/A
<b>Religion or belief</b> N/A
<b>Pregnancy and maternity</b> N/A
<b>Carers</b> N/A

<b>Other identified groups</b> N/A
<b>Cross Cutting</b> N/A

<b>Human Rights</b>	<b>Is there an impact? How this right could be protected?</b>
<b>Right to life (Article 2)</b>	Not engaged
<b>Right of freedom from inhuman and degrading treatment (Article 3)</b>	Not engaged
<b>Right to liberty (Article 5)</b>	Not engaged
<b>Right to a fair trial (Article 6)</b>	Not engaged
<b>Right to private and family life (Article 8)</b>	Not engaged
<b>Right of freedom of religion or belief (Article 9)</b>	Not engaged
<b>Right to freedom of expression</b> <b>Note: this does not include insulting language such as racism (Article 10)</b>	Not engaged
<b>Right freedom from discrimination (Article 14)</b>	Not engaged

<b>Engagement and Involvement</b>
Senior Nurse Leadership Team
Chief pharmacist
Professional Lead: Allied health
Professional Lead: Psychological Practice
Strategic Lead: Social Care

HR Policy Group

## Summary of Analysis

Guidelines relevant to all non-medical registered practitioners employed by Mersey Care NHS Foundation Trust.

**Eliminate discrimination, harassment and victimisation**

**Advance equality of opportunity**

**Promote good relations between groups**

**What is the overall impact?**

**Addressing the impact on equalities**

**Action planning for improvement**

- 

## For the record

**Name of persons who carried out this assessment:**

Jenny Hurst

**Date assessment completed:**

4.11.19

**Name of responsible Director:**

Trish Bennett

**Date assessment was signed:**

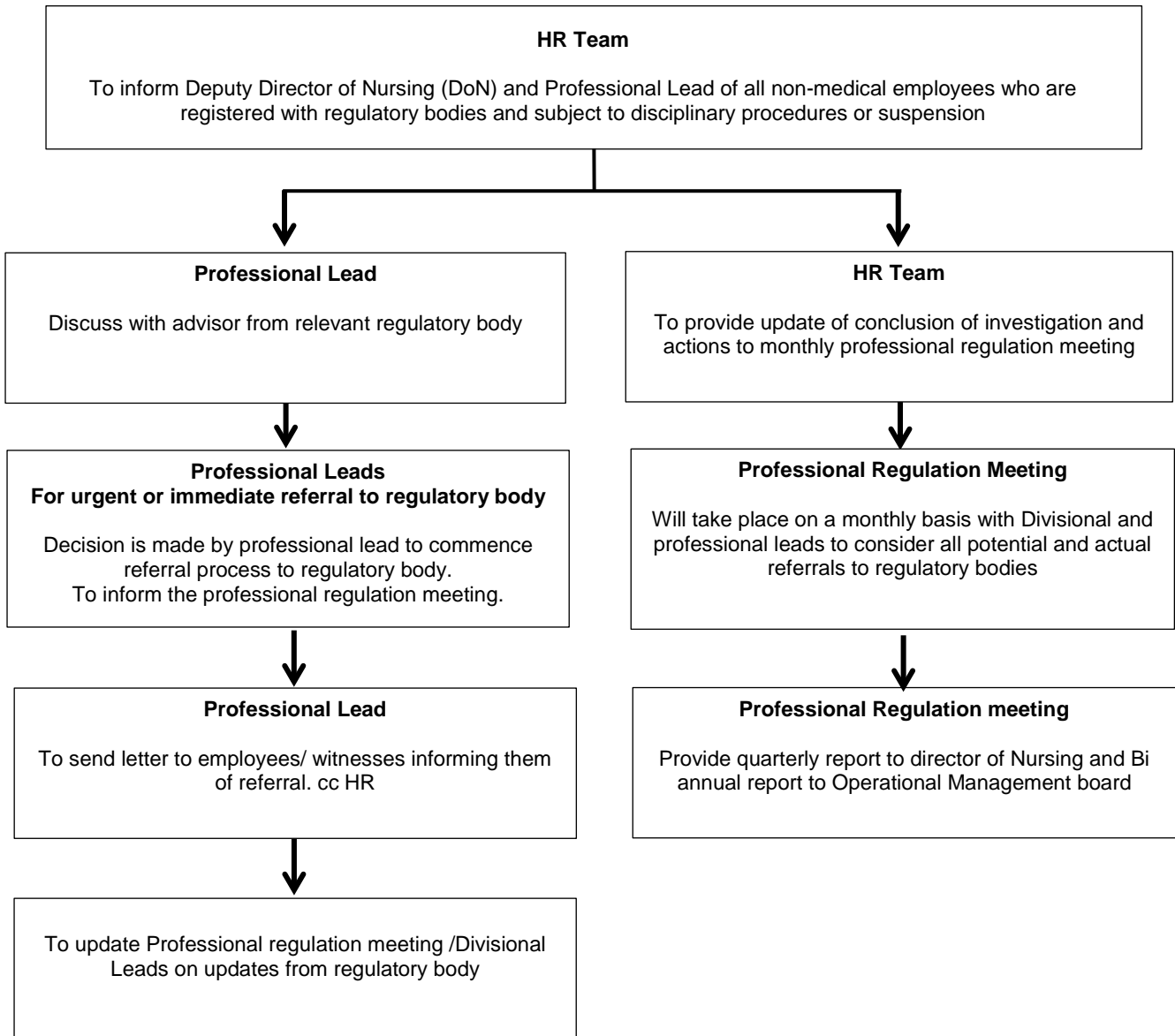
# Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their area of responsibility
<b>Monitoring</b>	Present guidelines to Senior Nurse Leadership Team/HR Policy Group.		Jenny Hurst, Deputy Director of Nursing
<b>Engagement</b>	<p>Monitored monthly by the regulatory body meeting.</p> <p>Quarterly report to the Director of Nursing &amp; Operations.</p> <p>Bi annual report to be presented to the Operational Management Board and Strategic Workforce Group.</p> <p>Review of guidelines every two years.</p>		Jenny Hurst, Deputy Director of Nursing
<b>Increasing accessibility</b>			

**Appendix A**

**FLOWCHART FOR REFERRAL TO REGULATORY BODIES**



**LINKS TO PROFESSIONAL REGULATIONS AND STANDARDS**

REGULATORY BODY	PROFESSION	LINK TITLE	URL
<b>NURSING &amp; MIDWIFERY COUNCIL (NMC)</b> <a href="https://www.nmc.org.uk/">https://www.nmc.org.uk/</a>  <b>HOW TO RAISE A CONCERN:</b> <a href="https://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-and-referrals/">https://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-and-referrals/</a>	Nurses	NMC The Code: Professional Standards of Practice and Behaviour for Nurses and Midwives (2018)	<a href="https://www.nmc.org.uk/news/press-releases/new-nmc-standards-shape-the-future-of-nursing-for-next-generation/">https://www.nmc.org.uk/news/press-releases/new-nmc-standards-shape-the-future-of-nursing-for-next-generation/</a>
<b>HEALTH &amp; CARE PROFESSIONS COUNCIL (HCPC)</b> <a href="http://www.hcpc-uk.org/aboutregistration/theregister/">http://www.hcpc-uk.org/aboutregistration/theregister/</a>  <b>HOW TO RAISE A CONCERN:</b> <a href="http://www.hcpc-uk.org/complaints/raiseaconcern/">http://www.hcpc-uk.org/complaints/raiseaconcern/</a>	<b>All Professionals on HCPC Register</b> HCPC Standards of Conduct Performance and Ethics (2016)		<a href="http://www.hcpc-uk.org/assets/documents/10004EDFStandardsOfconduct,performanceandethics.pdf">http://www.hcpc-uk.org/assets/documents/10004EDFStandardsOfconduct,performanceandethics.pdf</a>
	Social Workers	HCPC Standards of Proficiency: Social Work in England (2017)	<a href="http://www.hcpc-uk.org/assets/documents/10003B08StandardsOfproficiency-SocialworkersinEngland.pdf">http://www.hcpc-uk.org/assets/documents/10003B08StandardsOfproficiency-SocialworkersinEngland.pdf</a>
	Psychologists	HCPC Standards of Proficiency: Practitioner Psychologists (2015)	<a href="http://www.hcpc-uk.org/assets/documents/10002963SOP_Practitioner_psychologists.pdf">http://www.hcpc-uk.org/assets/documents/10002963SOP_Practitioner_psychologists.pdf</a>
	Dieticians	HCPC Standards of Proficiency: Dietitians (2013)	<a href="http://www.hcpc-uk.org/assets/documents/1000050CStandards_of_Proficiency_Dietitians.pdf">http://www.hcpc-uk.org/assets/documents/1000050CStandards_of_Proficiency_Dietitians.pdf</a>
		BDA Code of Professional Conduct (2016)	<a href="https://www.bda.uk.com/publications/professional/codeofprofessionalpractice2015">https://www.bda.uk.com/publications/professional/codeofprofessionalpractice2015</a>
	Occupational Therapists	HCPC Code of Ethics and Professional Conduct (2015)	<a href="https://www.cot.co.uk/sites/default/files/publications/public/CODE-OF-ETHICS-2015.pdf">https://www.cot.co.uk/sites/default/files/publications/public/CODE-OF-ETHICS-2015.pdf</a>
		HCPC Standards of Proficiency: Occupational Therapists (2013)	<a href="http://www.hcpc-uk.org/assets/documents/10000512Standards_of_Proficiency_Occupational_Therapists.pdf">http://www.hcpc-uk.org/assets/documents/10000512Standards_of_Proficiency_Occupational_Therapists.pdf</a>
	Physiotherapists	HCPC Standards of Proficiency: Physiotherapists (2013)	<a href="http://www.hcpc-uk.org/assets/documents/10000DBCStandards_of_Proficiency_Physiotherapists.pdf">http://www.hcpc-uk.org/assets/documents/10000DBCStandards_of_Proficiency_Physiotherapists.pdf</a>
	Arts Therapists	HCPC Standards of Proficiency: Arts Therapists (2013)	<a href="https://www.hcpc-uk.org/assets/documents/100004FBStandards_of_Proficiency_Arts_Therapists.pdf">https://www.hcpc-uk.org/assets/documents/100004FBStandards_of_Proficiency_Arts_Therapists.pdf</a>
		BAAT Code of Ethics and Principles of Professional Practice for Art Therapists (2014)	<a href="http://www.baat.org/Assets/Docs/General/BAAT%20CODE%20OF%20ETHICS%202014.pdf">http://www.baat.org/Assets/Docs/General/BAAT%20CODE%20OF%20ETHICS%202014.pdf</a>
Speech & Language Therapists	HCPC Standards of Proficiency: Speech and Language Therapists (2013)	<a href="http://www.hcpc-uk.org/assets/documents/10000529Standards_of_Proficiency_SLTs.pdf">http://www.hcpc-uk.org/assets/documents/10000529Standards_of_Proficiency_SLTs.pdf</a>	
<b>GENERAL PHARMACEUTICAL COUNCIL (GPhC)</b> <a href="http://www.pharmacyregulation.org/about-us">http://www.pharmacyregulation.org/about-us</a>  <b>HOW TO RAISE A CONCERN:</b> <a href="https://www.pharmacyregulation.org/raising-concerns">https://www.pharmacyregulation.org/raising-concerns</a>	Pharmacists & Pharmacy Technicians	GPhC Standards of conduct, ethics and performance (2017)	<a href="https://www.pharmacyregulation.org/news/new-standards-pharmacy-professionals-come-effect">https://www.pharmacyregulation.org/news/new-standards-pharmacy-professionals-come-effect</a>

