



## SMMGP Policy Update – May 2010

### Regulation and inspection changes which affect the drugs and alcohol field

The drugs and alcohol field is subject to a number of regulation and inspection changes which are currently being implemented. Employers will find themselves subject to regulatory changes which can lead to criminal procedures if they fail to comply. The following is an over view of three regulatory changes prepared by Carole Sharma of the Federation of drug and alcohol professionals (FDAP) and David Finney – substance misuse and registration expert, former policy lead for substance misuse services in the Commission for Social Care inspection. Further information from [david@davidfinney.org.uk](mailto:david@davidfinney.org.uk)

### The ISA

The independent safeguarding authority (ISA) is charged with implementing and maintaining the vetting and barring system for all of those who work with vulnerable adults and children. This system will replace the other barred lists such as POVA and list 99.

The ISA works in partnership with the Criminal Records Bureau (CRB) to ensure there is 'no known reason' why individuals who wish to work or volunteer with children or vulnerable adults shouldn't do so.

The ISA's role is to make independent barring decisions and place or remove individuals on either the ISA children barred list, the ISA vulnerable adult barred list, or both.

- It is a criminal offence for individuals barred by the ISA to work or apply for work with children or adults in a wide range of posts – including most NHS posts, the prison service, education and childcare. Employers will face criminal sanctions for knowingly employing a barred person across a wider range of work.
- The 3 former barred lists (POCA, POVA, and List 99) are being replaced by the 2 new ISA barred lists
- Employers, local authorities, professional regulators, and other bodies have a duty to refer to the ISA information about individuals working with children or vulnerable adults, where they consider them to have caused

harm or pose a risk of causing harm.

Criminal procedures against such a worker do not have to have taken place for the employer to refer to the ISA.

- Registration for those moving jobs or for new workers will start in **July 2010** and becomes mandatory for this group of workers by **November 2010**. All existing staff will be phased into the scheme from 2011. By 2015 all staff will be registered with the scheme.
- Guidance for certain sectors affected is being developed, the NTA is working with the ISA to clarify the effect on the drugs treatment sector and guidance from the NTA is available.
- Concern has been expressed about this system making it difficult for ex-service users joining the substance misuse field, whilst this is unlikely to be the case it does highlight an issue for the sector and reminds us that we should be exposing service users to a wide range of employment options and not just the substance misuse field.
- In January this year Drugscope and LDAN produced an informative set of FAQs on the ISA find these at <http://www.ldan.org.uk/documents/FINALISAFAQdoc.pdf> and [www.isa.gov.org.uk](http://www.isa.gov.org.uk)

### SMMGP comment

The information above helpfully summarises some significant changes which will affect employees in the drugs and alcohol field. Some people employed in drug and associated services have a history of drug use and sometimes of offending. Until now the decision on whether to employ has rested with local service providers.

The introduction of the ISA introduces a new layer of decision making on employability and SMMGP hopes that the ISA displays a level of understanding of the links between substance misuse and offending, whilst protecting vulnerable children and adults. On the plus side, once registered we will not have to keep doing those CRB checks! Refer also to the NTA guidance at: <http://www.nta.nhs.uk/cqc-faq.aspx>



## SMMGP Policy Update – May 2010

---

### The Health Professions Council (HPC)

#### The White Paper: Trust Assurance and Safety The Regulation of Health Professionals in the 21<sup>st</sup> Century

The white paper stated the following in respect of counsellors and psychotherapists;

- 7.2 “The Government is planning to introduce statutory regulation for applied psychologists, psychotherapists and counsellors and other psychological therapists”...
- 7.16 “Psychologists, psychotherapists and counsellors will be regulated by the Health Professions Council following that Council’s rigorous process of assessing their regulatory needs and ensuring that its system is capable of accommodating them. This will be the first priority for future regulation”.
- The White Paper states that we will be regulated in the Health Professions Council
- The HPC currently regulates 13 professions including: Arts Therapists, Dieticians, Orthoptists, Physiotherapists and Radiographers.

Criteria for entry of new professions to the HPC are

- Apply a defined body of knowledge.
- Practice based on evidence of efficacy.
- Have defined routes of entry to the profession.
- Have independently assessed entry qualifications.
- Entry to the register is by completion of an approved qualification; approved by the HPC. Historically these are all HE qualifications.

### What does this mean for me?

- Statutory Regulation means that a profession is regulated by an independent council.

- Regulation is by protected title, e.g. counsellor. This means that only people on the statutory register can legally use that title.
- The regulatory council has the power to put people on the register and remove them from it.
- The council sets the criteria for registration – usually a qualification it has approved.

### Will I lose my job if I can’t register?

- It is not illegal to call yourself by an unregulated name. Unregistered chiropodists call themselves ‘foot healthcare specialists’.
- The HPC want to avoid this happening with any other profession.
- If your job description uses a protected title then you will have to register to do that job.

To use the title when unregistered is a criminal offence.

### Will being accredited help?

- In the past, Regulatory Councils have allowed people on the registers of Professional Associations to transfer onto the Statutory Register on payment of the fee.
- If this happens then it is very likely that all BACP accredited members would be able to voluntarily transfer to the statutory register.

### How do I know if my course is or will be an approved qualification?

- At the moment we do not know which qualifications will be approved.
- We do know that they must have external quality assurance systems and award a formal qualification.
- The HPC approves qualifications in the University sector for the 13 professions it regulates.

### What if I do not hold an approved qualification?

- A ‘grandparenting’ route is usually open for 2 – 3 years after the register opens for people who do not have an approved qualification.



## SMMGP Policy Update – May 2010

- HPC criteria require someone to have worked wholly or mainly for 3 out of the last 5 years legally in the profession, or if 'part time', 6 out of the last 10 years.
- HPC defines 'part time' as 17 hours or less per week.
- The grandparenting process may include the assessment of case studies.
- BACP represents FDAP in the negotiations to establish the criteria for admission to the HPC.
- FDAP is developing a system for accrediting courses to meet the needs of this new legislation
- FDAP is reviewing its accreditation system for counsellors to ensure it is fit for purpose.

### When will it happen?

- The DH has stated that it plans to start the formal legislative processes of regulation in the Health Professions Council towards the end of 2008 or the beginning of 2009.
- The statutory register would open approximately 18 months later.
- Counselling and psychotherapy therefore are likely to be regulated in 2010-2011.
- The timeline for counselling and psychotherapy is currently extended and there is no fixed implementation date at the time of going to press

### What will it cost?

- The fee for new registrants who have completed an approved qualification is £50 scrutiny fee and a registration renewal fee of £36 for the first two years of registration.
- The annual registration fee is £72.
- The grandparenting fee is £400 non-returnable.

### What does this mean for the drugs and alcohol counsellors?

- If you are a counsellor in drugs and alcohol, paid or voluntary, then this legislation applies to you.
- Accreditation with FDAP is in line with registration by BACP (British Association of Counsellors and Psychotherapists) and will entitle you to transfer when the new system goes live.
- FDAP and BACP are working closely to ensure a seamless system of transfer.

### SMMGP comment

This system should provide added support and strengthen the position of the existing network of counsellors - attractive in the current economic and political climate, whilst ensuring that the service clients receive is regulated and SMMGP believe it is in your best interest to become accredited with an appropriate professional body such as FDAP or BACP.

For more information go to [www.bacp.co.uk](http://www.bacp.co.uk) and [www.hpc-uk.org](http://www.hpc-uk.org)

### Registration of Substance Misuse Services with the Care Quality Commission

The world of registration is about to change for many drug and alcohol treatment providers in the coming months. The Care Standards Act 2000 is being repealed and the Health and Social Care Act 2008 has set up the Care Quality Commission (CQC) which will register an increasing range of health and social care services. In their publicity CQC point out that "it is a serious offence to carry out a regulated activity without being registered", so as this carries the force of law it is essential that treatment providers are registered in order to continue operating legally.

The five big changes about to happen in the substance misuse sector are:

- All existing residential drug and alcohol services will have to re-register. This will involve completion of an application form, but no additional cost.
- Services that may be described as "quasi residential", or combine accommodation with



## SMMGP Policy Update – May 2010

treatment will have to register for the first time.

- Community services which provide treatment and have a health or social work professional in their team have to register for the first time.
- In patient services in NHS hospitals will be registered as part of the registration of NHS Trusts.
- Prison drug rehabilitation services are also included.

The overall aim of statutory registration is to provide protection for people who are vulnerable and to establish essential standards of quality and safety which will be found across the board in health and social care settings.

Additionally many commissioners of services now insist on purchasing only services which are registered and as the CQC reviews the performance of NHS trusts and Local Authorities it holds them accountable for the status and quality of the services they purchase.

So what does all this registration look like? And when is it all going to happen?

Under section 20 of the Health and Social Care Act 2008 there are:

- “Registration regulations” – which tell services how to register
- “Regulated activities regulations” – which defines what activities should be registered
- “Essential Standards of quality and safety” – which tell you what standards are expected to provide safe services
- The “Judgment Framework” which tells you how CQC will come to a decision about whether or not to accept an application for registration.

The timetable for implementation is that applications will need to be completed by 31 July 2010, with the 1<sup>st</sup> of October 2010 being the date on which registration will become effective.

It may be useful to specifically highlight issues that impact on the substance misuse sector:

1. For residential and quasi residential services there is a new regulated activity called **accommodation and treatment together for people recovering from substance misuse.**

Furthermore it clarifies that a service is registerable if “treatment is a condition of the provision of the accommodation” This means that if accommodation is on a separate site from the treatment but is contractually linked to the treatment provision then it should be registered. Services which are purely Tier 3 day services do not yet come into the scope of registration although it is something which the Department of Health are actively considering for the future.

There is also a new “service type” called **residential substance misuse treatment/rehabilitation service.**

Interestingly this can include treatment for withdrawal from drugs or detoxification from alcohol and can employ a broad range of health and social care professionals. This service type is distinct from care homes or care homes with nursing and importantly the same standards for room sizes and physical accommodation do not apply. This will allow more flexibility for services to configure themselves appropriately to meet the needs of their client group.

2. For community services the regulatory requirement takes a little more explaining:

**Treatment of disease, disorder or injury** must be under the supervision of a health care professional, or a multi disciplinary team which includes a health care professional, or a social worker where treatment is for a mental disorder.

“**Mental disorder**” means “any disorder or disability of the mind, including dependence on alcohol or drugs.”

“**Treatment**” One aspect is defined as “the ongoing assessment of a service user’s mental or physical state”.

Many community prescribing or drug and alcohol treatment services will come under this definition and be required to register for the first time.



## SMMGP Policy Update – May 2010

Space doesn't permit a full description of the "Essential Standards of Quality and Safety", however these can be downloaded from the CQC website or hard copies can be ordered from their publications department (03000 616161). In essence the standards aim to focus on the individual needs of the service user and come under such outcome headings as:

- Involvement and Information
- Personalised care, treatment and support
- Safeguarding and safety
- Suitability and staffing
- Quality and management
- Suitability of management

The stated aim of these new standards is to put the experience of the service user at the centre of the provision of services.

### SMMGP comment

CSC registration is here and many people are spending much time fulfilling the requirements to register. SMMGP hopes the registration *does* put the experience of the service user at the centre of the provision of services.

### A new era

May brought the elections and a change in Government. The new Government has announced its intention to restructure the NHS including the establishment of an independent NHS Board to allocate resources and provide commissioning guidance.

Secretary of State for Health is **Andrew Lansley** and the following portfolios have been allocated to the ministerial team:

**Paul Burstow (Care Services)** - Long Term Care Reform; Adult Social Care; Carers; Personal Health Budgets; Safeguarding Vulnerable Adults; End of Life Care; Long Term Conditions, including cancer & diabetes; Dementia; Mental Health; Physical Disabilities; Autism; Learning Disabilities.

**Simon Burns (Health)** - Legislation; NHS Performance; Health Services; Reconfiguration of Services; Patient Safety; Application of Quality Regulation; NHS Workforce; Mixed Sex Accommodation; Connecting for Health.

**Anne Milton (Public Health)** - Public Health, including sexual health, tobacco, drugs & alcohol; Vaccination & Immunisation; Blood & Transplants; Fertility & Embryology; Fluoridation; Food, diet & nutrition; Children's Health; Maternity Services; Nursing & Midwifery; Health Visiting; Professional Regulation; Medical Education & Training

**Earl Howe (Quality)** - NHS Constitution; NHS Commissioning Reform; Primary Care; Dentistry; Medicines, Pharmacy & Industry; NICE; Research & Development; Innovation; Finance; Review of Arm's Length Bodies.

### SMMGP comment

There is no policy detail available publicly as yet.

It is likely that changes to the structure of Department of Health and NHS will be made before policy detail is sketched out. No further details will be available about, for example, where the NTA will fit into the new NHS structure until a government White Paper is published in July.

So, for most of us it is - for the moment - business as usual.

[www.smmgp.org.uk](http://www.smmgp.org.uk)

[www.fdap.org.uk](http://www.fdap.org.uk)