Health Professions Council
Standards of Proficiency for Applied Psychologists
Professional Liaison Group (PLG)
4th September 2007

Background and context

Executive Summary and Recommendations

Introduction

This paper is divided into seven sections and highlights the background and context to the standards of proficiency, drawing on the experience of the recent review of the standards.

In summary, when drafting the standards for applied psychologists the group needs to ensure that the standards are:

- absolutely necessary for safe and effective practice;
- set at a minimum or threshold level;
- conform to our obligations as a qualifications body; and are
- couched in language appropriate to their primary role in legislation.

Bearing the following questions in mind may assist the group in drafting the standards:

- Is the standard a necessary threshold competence standard? (i.e. is the standard set at an appropriate level; is the standard aspirational or aimed at good or best practice; is the standard a conduct standard rather than a threshold standard?)
- If challenged, could HPC clearly explain why the standard was necessary?
- Is the proposed standard already adequately covered in the generic standards or could it be more effectively written to apply to all applied psychology disciplines?
- Does the proposed standard reflect the standard content of pre-registration education and training programmes?
- Does the standard clarify, in a profession-specific context, the intention of the generic standards?

Decision

This paper is for information / discussion. No decision is required.

Background information

None

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

21st August 2007

Section one: Legal background

(From Jonathan Bracken, Bircham Dyson Bell, Public Law Advisor to the Council)

The Standards of Proficiency are the foundation of the regulation of healthcare professionals by the Health Professions Council as those standards represent:

- the threshold standards for entry to the Register;
- the minimum standards which HPC registrants must continue to meet throughout their professional life; and
- the minimum standards which registrants will be judged against if allegations are made against them questioning their competence.

Article 5(2) of the Health Professions Order 2001 provides (emphasis added):

> "The Council shall from time to time ... establish the standards of proficiency **necessary** to be admitted to the different parts of the Register being the standards it considers **necessary** for safe and effective practice under that part of the Register"

In setting those standards the critical factor is that they must be *necessary* standards which, giving that adjective its ordinary meaning (as the courts would do), means "absolutely essential" or "indispensable".

In drafting or revising any of those standards the Council needs to apply a simple test; if a person was refused registration on the basis of not meeting a particular standard, if challenged, would the Council be able to persuade a court that the standard was necessary? To take a simple example, the explanation that "the applicant has no knowledge of anatomy" is rather different to "he or she is not very good at using Excel spreadsheets".

The consequence of this "necessary" test is that the standards of proficiency should not be expected to encompass or reflect:

- the full content of an approved professional educational programme; or
- the full range of knowledge and skills of a typical health professional.

It is important for the Council to recognise that there is nothing intrinsically wrong with that position, as the standards of proficiency are *threshold* standards – the bare minimum necessary for admission to the Register – and it would be of concern if educational provision and professional performance only just met those standards rather than comfortably exceeding them. Indeed, the dynamic tension this creates helps contribute to the continuing improvement in professional skills and knowledge skills and the raising of those threshold standards over time.

In short, the standards of proficiency are the minimum and not the optimum standards expected of a health professional.

Section two: Language

Introduction
During the last review of the standards, the nature of the language used in the standards was raised. In particular, the use of constructions such as 'be able to' and 'understand' were cited by some as potential areas of difficulty. It was argued that it was insufficient for us to simply require the ability rather than the 'doing'. For example – 'be able to maintain confidentiality and obtain informed consent' rather than simply 'maintain confidentiality and obtain informed consent'.

Language and legal context
The Council's legal advice is that the language used in the standards of proficiency should be consistent with the standards' primary function as outlined in Article 5 (2) a of the Health Professions Order 2001, which reads that the Council must:

> 'establish the standards of proficiency ***necessary*** to be admitted to the different parts of the Register being the standards it considers ***necessary*** for safe and effective practice under that part of the Register'

Thus the standards of proficiency are principally the threshold standards for **entry** to the Register, but are also the standards which apply throughout a person's professional life and against which that person will be judged if their competence is challenged.

As such, they must be written in a manner which makes them applicable in all of those situations, but in line with Article 5, primarily for those who have yet to come on to the Register.

Consequently, in terms of their language the standards of proficiency need to be expressed in expectational terms so that a person who is not yet on the Register can comply with them. For example, a person undergoing training can comply with a requirement to "understand that fitness to practise must be maintained" but may not yet be in a position to put that into practice as, having just commenced training, they may not yet have a fitness to maintain.

Nonetheless, the standards will still be effective in relation to a practitioner facing a fitness to practise allegation of lack of competence. For example, a panel could conclude that a registrant demonstrated lack competence in respect of their record keeping by considering whether their conduct had shown an ability to 'be able to maintain records appropriately'.

In relation to fitness to practise allegations, as the standards of proficiency are threshold standards, their breach is of itself evidence that fitness to practise is impaired. As such they **must** be limited to what is necessary for safe and effective practice and, to that extent, cannot be aspirational in nature.

Section three: Structure

The standards are divided into generic standards (which apply to all the professions) and standards specific to each of the professions regulated. The generic standards were agreed in May 2007 following a public consultation and are not the subject of the PLG's work.

However, amongst the existing standards, there are differing approaches to the profession-specific standards, dependent on the profession. In the standards for clinical scientists, a profession with a number of distinct modalities, the profession-specific standards apply to all members of the profession, regardless of their modality.

In the standards for arts therapists, a number of the profession-specific standards apply equally to the whole of the part of the Register. However, a small number of standards apply only to art therapists, to musictherapists, or to dramatherapists.

In drafting the standards of proficiency for the applied psychologists, the PLG will wish to consider the most appropriate approach in order to ensure the standards are relevant and applicable across the applied psychology disciplines. In particular, the PLG will wish to consider whether any standards which are particular to specific applied psychology disciplines are necessary.

Section four: Competence standards and the Disability Discrimination Act

The Disability Discrimination Act establishes legal rights for disabled people and legislates against discrimination on the basis of disability. Regulatory Bodies such as the HPC are classed as qualifications bodies under the Act.

The HPC has certain obligations under Part 2 of the Act to make sure that its processes are fair and do not discriminate against those who are disabled.

The Act establishes competence standards as 'an academic, medical or other standard applied by or on behalf of a qualifications body for the purpose of determining whether or not a person has particular level of competence or ability'. To avoid unlawful discrimination, the qualifications body must ensure that the standard can be objectively justified. In particular, the code of practice suggests that qualifications bodies should review their competence standards and that this might include:

- identifying the specific purpose of each competence standard which is applied and examining the manner in which the standard achieves that purpose; and
- considering the impact which each competence standard may have on disabled people and, in the case of a standard which may have an adverse impact, asking whether the application of the standard is absolutely necessary.[1]

The Standards of Proficiency

The Standards of Proficiency are the minimum **necessary** threshold standards for entry to the Register. Part of the consideration of whether a standard is absolutely necessary should also consider whether that standard would be likely to have an adverse impact upon a disabled person.

Employers and higher education institutions have additional responsibilities under the Act to explore reasonable adjustments which might allow a disabled applicant or registrant to meet our standards. Registrants should also make reasonable adjustments to their practice (including negotiating adjustments with their employer) to ensure that they practise safely and effectively within their scope of practice.

[1] Disability Rights Commission, Code of practice: Trade Associations and Qualifications Bodies. http://www.drc-gb.org/PDF/COPtrade_quals.pdf

Section five: The relationship of the standards of proficiency to other standards

This section briefly outlines how the standards published by the Council relate to each other.

The standards produced by the Council are:

Standards of Proficiency:

- Provided for by Article 5 (2) (a) of the Health Professions Order 2001 ("the Order").
- Threshold standards of proficiency for safe and effective practice necessary to be admitted to the Register.
- Applicants following a programme approved by the Council should meet these standards when they complete their course.
- Applications from international and grandparenting (route b) applicants are assessed against the standards of proficiency.

Standards of Education and Training:

- Provided for by Article 15 (1) (a) of the Order.
- The standards which educational programmes must meet in order to achieve the standards of proficiency.
- Standards included cover such issues as practice placements, assessments and resources.
- A programme meeting the standards of education and training will allow a graduate to meet the standards of proficiency. The course is approved as one leading to eligibility to apply for registration.

Standards of Conduct, Performance and Ethics:

- Provided for by Article 21 (1) (a) of the Order.
- Standards of conduct, performance and ethics expected of registrants and prospective registrants.
- Frequently used by fitness to practise panels in considering allegations that a registrant's fitness to practise is impaired by reason of a conviction, misconduct or lack of competence.

Standards of Continuing Professional Development (CPD):

- Provided for by Article 19 (1).
- First audit due against the CPD standards in July 2008 (chiropodists and podiatrists).

The role of the standards

There is some degree of overlap between the content of the standards of proficiency and standards of conduct, performance and ethics. For example, the standards ask registrants to 'be able to maintain confidentiality and obtain informed consent' whilst the standards of conduct, performance and ethics say that registrants 'must respect the confidentiality of your patients, clients and users at all times'.

The standards of proficiency and standards of conduct, performance and ethics perform inter-related but very different roles

The standards of proficiency are primarily the threshold standards for **entry** to the Register. They are written in such a way to apply to people who are applying to come on to the Register and have not yet started practising.

The standards of conduct, performance and ethics are primarily the standards expected for the **continuing** attitudes and behaviour of someone **who is on the Register**. They cover such standards such as the need to act in the best interests of patients, protect confidentiality and behave with integrity and honesty.

They can also play a role in determining entry to the Register. In making a decision as to whether an applicant is of good character to be admitted to the Register, the Council may take into account these standards.

Other standards and frameworks

The standards complement other standards and frameworks such as policies and protocols developed by employers and guidance or codes of conduct produced by professional bodies.

The standards are written in way so that they can be relevant to a wide range of registrants, and can take into account changes in the law, technology or working practices which might take place over time. For example, the existing generic standards of proficiency say that registrants should:

'be able to conduct appropriate diagnostic or monitoring procedures, treatment therapy or other actions safely and skilfully' (Generic, 2b.4)

The standard is written in such way that it can flexibly accommodate changes in technology and changes in best practice.

There is normally more than one way in which the standards can be met. Registrants can make their own informed decisions about the best way in which they can meet our standards. This might be by following the guidance provided by their professional body which is often aimed at promoting good practice.

Employers also often take into account local circumstances, such as a specific area of practice or the availability of resources to develop ways of working which are practical, effective, and meet the needs of service users and our standards.

Section six: Standards of proficiency and the threshold academic level of entry to the Register

This section covers the relationship of the standards of proficiency to the academic level of qualifications leading to registration.

Introduction

Standard 1 of the Standards of Education and Training (known as “SET 1”) articulates the normal threshold level of qualification for entry to the Register for each of the professions we regulate. This is articulated as a threshold academic level. Every time we open a new part of the Register, we need to determine the threshold entry level for the new profession, following consultation, and add this to the standards.

The standard currently reads:

> 1.1 The Council normally expects that the **threshold** entry routes to the Register will be the following:
> 1.1.1 Bachelor degree with honours for the following professions:
> - chiropody or podiatry;
> - dietetics;
> - occupational therapy;
> - orthoptics;
> - physiotherapy;
> - prosthetics and orthotics;
> - radiography;
> - speech and language therapy;
> - biomedical science (with the Certificate of Competence awarded by the Institute of Biomedical Science (IBMS), or equivalent if appropriate); and
>
> 1.1.2 Masters degree for the arts therapies.
> 1.1.3 Masters degree for the clinical sciences (with the award of the Association of Clinical Scientists’ Certificate of Attainment, or equivalent).
> 1.1.4 Equivalent to Certificate of Higher Education for paramedics.
> 1.1.5 Diploma of Higher Education in Operating Department Practice for Operating Department Practitioners.

In setting the threshold level of entry, the Council is setting the minimum academic level of qualification which it would normally accept for the purposes of an approved programme which leads to registration.

In setting the threshold level of entry, the Council has regard to the academic level of the breadth of the existing qualifications which lead to entry to the profession.

Standards of proficiency and approval of pre-registration programmes

Our Education: approvals and annual monitoring department is responsible for approving pre-registration education and training programmes for the purposes of registration. Programmes are assessed against the standards of education and training. Part of this approval process is ensuring that the learning outcomes of the programme meet the standards of proficiency.

The standards of proficiency are set at a threshold or ‘minimum’ level. Many education providers will deliver programmes which exceed this ‘minimum’ level.

Academic levels
As the threshold is the ‘minimum’ level, qualifications may be an approved which are at an academic level above the threshold.

Amongst the existing regulated professions, the threshold entry for paramedics is equivalent to a certificate of higher education. However, there has been a move to transfer some education and training into higher education, and we approve a small number of courses at foundation or honours degree level, above the threshold.

The threshold level might change over time to reflect changes in the delivery of education and training. This has happened in a number of the existing professions we regulate over time – as professions have developed the minimum academic level has increased. Any change in the minimum academic level is one which is led by the profession and which occurs over time. SET 1 would then be changed at an appropriate time to reflect how the majority of education and training is delivered.

Our only consideration in approving a programme, whether at or substantially above the threshold, is that the programme will allow students to meet the standards of proficiency by its completion.

Next steps: setting the threshold
Our Education and Training Committee will consider an appropriate threshold level for the applied psychologists’ part of the Register at its meeting in September, and will be invited to make recommendation to our Council, who will meet in early October.

We will then consult on an appropriate threshold level alongside the standards of proficiency between November 2007 and January 2008, before a final decision is made.

PLG members will be kept separately updated and invited for their input into the setting of the threshold level. In particular, we would encourage responses to the public consultation.

Summary
The standards of proficiency articulate the threshold standards for safe and effective practice, rather than standards which are met by any particular academic level.

This is a separate issue which is being given separate consideration.

Section seven: Scope of practice

Once someone becomes registered, they must continue to meet the standards which apply to their scope of practice. The following are excerpts from the new introduction to the standards of proficiency agreed by the Council, which explain how the standards relate to scope of practice.

From the revised introduction

[…]

You must meet these standards when you first become registered. After that, every time you renew your registration you will be asked to sign a declaration that you continue to meet the standards of proficiency that apply to your scope of practice.

[…]

Your scope of practice

Your scope of practice is the area or areas of your profession in which you have the knowledge, skills and experience to practise lawfully, safely and effectively, in a way that meets our standards and does not pose any danger to the public or to yourself.

We recognise that a registrant's scope of practice will change over time and that the practice of experienced registrants often becomes more focused and specialised than that of newly registered colleagues. This might be because of specialisation in a certain clinical area or with a particular group, or a movement into roles in management, education or research.

Your particular scope of practice may mean that you are unable to continue to demonstrate that you meet all of the standards that apply for the whole of your profession. As long as you make sure that you are practising safely and effectively within your given scope of practice and do not practise in the areas where you are not proficient to do so, this will not be a problem. If you want to move outside of your scope of practice you should be certain that you are capable of working lawfully, safely and effectively. This means that you need to exercise personal judgement by undertaking any necessary training and experience.