

Standards for members of NHS boards and governing bodies in England

Draft for consultation

January 2012

About CHRE

The Council for Healthcare Regulatory Excellence promotes the health and well-being of patients and the public in the regulation of health professionals. We scrutinise and oversee the work of the nine regulatory bodies¹ that set standards for training and conduct of health professionals.

We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals. We are an independent body accountable to the UK Parliament.

Our aims

CHRE aims to promote the health, safety and well-being of patients and other members of the public and to be a strong, independent voice for patients in the regulation of health professionals throughout the UK.

Our values and principles

Our values and principles act as a framework for our decision making. They are at the heart of who we are and how we would like to be seen by our stakeholders.

Our values are:

- Patient and public centred
- Independent
- Fair
- Transparent
- Proportionate
- Outcome focused

Our principles are:

- Proportionality
- Accountability
- Consistency
- Targeting
- Transparency
- Agility

Right-touch regulation

Right-touch regulation means always asking what risk we are trying to regulate, being proportionate and targeted in regulating that risk or finding ways other than regulation to promote good practice and high-quality healthcare. It is the minimum regulatory force required to achieve the desired result.

¹ General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health Professions Council (HPC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI)

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1. Background

- 1.1 The Government made a commitment in February 2011 in *Enabling Excellence* to commission work to 'agree consistent standards of competence and behaviour for senior NHS leaders'.²
- 1.2 On 8 July 2011, Sir David Nicholson, Chief Executive of the NHS in England, announced that CHRE had been asked to develop a set of high-level ethical standards for executive and non-executive NHS Board members in England.
- 1.3 This consultation paper seeks your views on our draft Standards. These have been developed through review of existing standards and other relevant guidelines and through extensive discussion with key stakeholders across the healthcare sector. They are intended to be consistent with the Nolan Principles on Public Life³ and with existing regulatory frameworks applying to professionals and senior managers working in the NHS.
- 1.4 The application and implementation of these standards is beyond the scope of CHRE's commission and will be decided by the Department of Health with employers, patients, professionals and the public, as set out the Government's statement in *Enabling Excellence*.⁴

2 Department of Health. 2011. *Enabling Excellence*. The Stationery Office: London

3 http://www.public-standards.gov.uk/About/The_7_Principles.html

4 Department of Health. 2011. *Enabling Excellence*. The Stationery Office: London

2. Developing the Standards

Review of existing Standards

2.1 We have reviewed existing policy and standards in this area, and used this review to inform the development of this draft. In particular, we considered:

- *The Code of Conduct for NHS Managers*⁵
- *The Code of Conduct and Code of Accountability in the NHS*⁶
- *Standards of business conduct for NHS staff*⁷
- *Managing Public Money*⁸
- *Good Medical Practice*⁹
- Institute of Healthcare Management Code of Conduct¹⁰
- NHS Leadership Framework.¹¹

Stakeholder engagement

2.2 Around 30 individuals have contributed directly through either face-to-face or telephone discussions. These contributors included:

- Chief executives, non-executive directors and executive directors of NHS trusts and SHAs
- Health professionals
- Experts on leadership and management in health, and on inclusion and equality.

2.3 The NHS Confederation, NHS Employers, the Institute of Healthcare Management, and the National Leadership Council have all contributed and we have held discussions with two LINKs groups, in Lincolnshire and Greater Manchester.

5 Available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005410. Accessed 03/11/11

6 Available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4116281. Accessed 03/11/11

7 Available at: http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/HealthServiceGuidelines/DH_4017845. Accessed 03/11/11

8 Available at: http://www.hm-treasury.gov.uk/d/mpm_whole.pdf. Accessed 03/11/11

9 Available at: http://www.gmc-uk.org/guidance/good_medical_practice.asp. Accessed 03/11/11

10 Available at: https://www.ihm.org.uk/About_Us/code_of_conduct/. Accessed 03/11/11

11 Available at: <http://www.nhsleadership.org/> Accessed 23/11/11

3. About the Standards

- 3.1 The draft Standards that we are consulting on cover three distinct areas:
- Personal behaviours
 - Technical competence
 - Business practices.
- 3.2 They are intended to apply to members of boards and governing bodies in NHS organisations. This would include:
- Chief executives
 - Executive directors who sit on the board, such as medical, nursing, finance, and HR
 - Chairs and other non-executive directors
 - Members of governing bodies of Clinical Commissioning Groups.
- 3.3 These senior leadership roles can frequently require individuals to address dilemmas and difficult decisions. Their decisions must balance the potentially conflicting but legitimate needs of individuals, communities, the healthcare system and taxpayers. Our draft Standards aim to provide a framework to guide people's judgement in these circumstances, through a consistent application of values and principles to explain how these difficult decisions are taken.
- 3.4 The application and implementation of these Standards is not within the scope of this project. However, in our drafting, we considered that the Standards could apply to the boards or governing bodies of the following organisations:
- All existing, remaining and/or outgoing NHS Trusts
 - Clinical Commissioning Groups
 - NHS Foundation Trusts
 - The NHS Commissioning Board.
- 3.5 Therefore these draft Standards should be read alongside the proposals in development by the Department of Health for the governance of clinical commissioning groups.¹²

¹² Department of Health, 2011. *Towards Establishment: Creating Responsive and Accountable Clinical Commissioning Groups*.

4. About the consultation

- 4.1 This consultation will run for twelve weeks from 19 January 2012 until 10 April 2012.
- 4.2 We would like to hear from anyone with an interest in this work, including:
- Members of the public, patients, their families and carers,
 - NHS board members, managers, and staff at all levels
 - Health professionals
 - Individuals or organisations with an interest or expertise in leadership and management in the NHS or other comparable environments.
- 4.3 We are inviting responses on:
- The form and content of the draft Standards in section 5
 - The impact the Standards could have on any individuals or groups based on age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation¹³.
- 4.4 Following the consultation we will collate and analyse the responses on these questions, and use them to inform the second draft of the Standards and our overall advice. This second draft will then be subject to a peer review exercise before it is submitted to the Secretary of State for Health in May 2012.
- 4.5 The report on the consultation responses will be published at the end of May 2012 forming part of CHRE's advice to the Secretary of State for Health, alongside the final draft of the Standards.

¹³ These are the "protected characteristics" as defined under the Equality Act 2010.

5. Standards for members of NHS boards and governing bodies in England

- 5.1 All members of NHS boards and governing bodies should understand and be committed to the practice of good governance and to the legal and regulatory frameworks in which they operate. As individuals they must understand both the extent and limitations of their personal responsibilities, such as the differences in role of executive and non-executive board members. To justify the trust that has been placed in them by patients and the public they must adhere to these standards of personal behaviour, technical competence and business practice.

Personal behaviours

- 5.2 As a Member I commit to:
- The values of the NHS Constitution in the treatment of staff, patients, their families and carers, and the community, and in the design and delivery of services for which I am responsible
 - Promoting equality and diversity in the treatment of staff, patients, their families and carers, and the community, and in the design and delivery of services for which I am responsible
 - Promoting human rights in the treatment of staff, patients, their families and carers, and the community, and in the design and delivery of services for which I am responsible.
- 5.3 I will apply the following values in my work and relationships with others:
- **Accountability:** I will take full responsibility for my work and for the work that I delegate, and for the performance of the staff and services for which I am responsible
 - **Honesty:** I will act with honesty and probity in all my actions, transactions, communications, behaviours and decision-making, including with respect to any personal, professional or financial interests that could influence my decisions as a board member
 - **Openness:** I will be as open as possible about the reasoning, reasons and processes underpinning my actions, transactions, communications, behaviours and decision-making and about any conflicts of interest
 - **Respect:** I will show respect to all patients, their families and carers, and to the wider community, staff and colleagues, in my actions, transactions, communications, behaviours and decision-making
 - **Professionalism:** I will take responsibility for ensuring that I have the relevant knowledge and skills to perform as a board member, and that I am in a position to identify and fill any gaps in my knowledge and skills and will participate constructively in appraisal of myself and others
 - **Integrity:** I will apply these values consistently in all my actions, transactions, communications, behaviours and decision-making, and will always raise concerns if I see harmful behaviour or misconduct by others.

Technical competence

5.4 As a Member, for myself and my organisation, I will seek:

- To make sound decisions individually and corporately
- Excellence in the safety and quality of care
- Long term financial sustainability and value for money.

5.5 I will do this through:

- Demonstrating the skills and competencies necessary to fulfil my role and by engaging in training and continuing professional development
- Working collaboratively and constructively with others
- Ensuring performance is measured and risk is evaluated and managed
- Making effective use of evidence
- Maintaining my focus on the safety of patients, the quality of care and patient experience
- Understanding the health needs of the population I serve
- Looking for the impact of decisions on services we provide and those provided by others and on the people who use them
- Seeking the expertise and views of service users, their families, carers, the community, and staff
- Communicating clearly, consistently and honestly with colleagues, staff, patients and the public.

Business practices

5.6 As a Member, for myself and my organisation I will seek:

- To demonstrate honesty, probity and integrity in our conduct, decisions and financial and commercial relationships
- To manage public money wisely and to seek best value in the interests of the people and community I serve
- To be transparent in decision-making and be ready to be held publicly to account.

5.7 I will do this through:

- Having a clear understanding of the business and financial aspects of my organisation's work and of the business, financial and legal contexts in which it operates
- Declaring any personal, professional or financial interests and ensuring that they do not interfere with my actions, transactions, communications, behaviours or decision-making, removing myself from decision-making when they might be perceived to do so
- Being open about the evidence, reasoning and reasons behind decisions about budget and resource allocation, and contract allocation in particular

- Careful stewardship of public money, always acting with probity, honesty and restraint
- Ensuring that the contracts and commercial relationships my organisation enters into are legal and well-founded, that they are properly monitored, that the terms of the contract are adhered to and that I fulfil my responsibilities within it
- Building and maintaining effective partnerships with relevant stakeholders, including healthcare partners, the independent sector and patient and public representative groups
- Ensuring that patients and their families have clear information about the choices available to them so that they can make decisions on their own behalf
- Taking appropriate action to raise concerns if I perceive that my organisation or my colleagues are engaging in any harmful behaviour or misconduct.

6. Consultation questions

We welcome your views and comments on these proposed standards. In your responses to the questions below, please use the paragraph numbers in the draft Standards when referring to specific parts of the document.

The Standards

1. Are the Standards easy to read and understand?
 Yes No

If no, how can we improve them?

If no , how can we improve them?

2. Are there any areas in addition to personal behaviours, technical competence and business practices that you think should be covered in these Standards?
 Yes No

If yes, which additional areas should be covered?

If yes , which additional areas should be covered?

3. Are there any aspects of the Standards that you feel could result in differential treatment of or impact on groups or individuals based on¹⁴:

	Yes
Age	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>
Ethnicity	<input type="checkbox"/>
Disability	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>
Race	<input type="checkbox"/>

¹⁴ These are the “protected characteristics” as defined under the Equality Act 2010.

Religion or belief	<input type="checkbox"/>
Sex	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>
Other (please specify below)	<input type="checkbox"/>

If yes to any of the above, please explain why and what could be done to change this.

4. Is any part of the Standards in conflict with any existing standards frameworks that apply to all or some Members of NHS boards and governing bodies?

Yes No

If yes, please explain.

5. Do you think these Standards will help guide Members' judgements when making difficult decisions about conflicting needs?

Yes No

Please explain.

6. With reference to question 5, would more detailed guidance be useful?

Yes No

Please explain.

7. Would these Standards be equally useful to Executive and Non-executive Board Members?

Yes No

If no, please explain.

8. Would separate standards for Non-executive Board Members be needed in certain areas?

Yes No

If yes, please explain.

9. Please add any other comments you have on the draft Standards or their development, or on the consultation process itself?

On personal behaviours

10. Does this section cover all the aspects of personal behaviours that should be expected of Members of NHS board and governing bodies?

Yes No

If no, what changes should we make?

11. Do you have any other comments on this section?

On technical competence

12. Does this section cover all the aspects of technical competence that should be expected of Members of NHS board and governing bodies?

Yes No

If no, what changes do you think we should make?

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13. Do you have any other comments on this section?

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On business practices

14. Does this section cover all the aspects of business practice that should be expected of Members of NHS board and governing bodies?

Yes No

If no , what changes do you think we should make?
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15. Do you have any other comments on this section?

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About you:

Name:	
Contact address including postcode:	

Organisation representing (if appropriate):	
Email:	

Are you responding as:

an NHS board member:	<input type="checkbox"/> Yes <input type="checkbox"/> No
a member of clinical commissioning group:	<input type="checkbox"/> Yes <input type="checkbox"/> No
a patient or member of the public:	<input type="checkbox"/> Yes <input type="checkbox"/> No
a registered health professional:	<input type="checkbox"/> Yes <input type="checkbox"/> No
a person with a professional interest in leadership and management in the NHS:	<input type="checkbox"/> Yes <input type="checkbox"/> No
other NHS employee (<i>please specify below</i>):	<input type="checkbox"/> Yes <input type="checkbox"/> No
other (<i>please specify below</i>):	<input type="checkbox"/> Yes <input type="checkbox"/> No

Would you like the information you provide to be treated as confidential?

Yes No

If yes, please give your reasons for this? (<i>this may help us keep your information confidential in the event of a Freedom of Information request</i>):

7. How to respond

7.1 You can respond to this consultation either by:

- Completing and returning the consultation questionnaire and returning it by email to policy@chre.org.uk, or by post to:

Policy Team
CHRE
157-197 Buckingham Palace Road
London
SW1W 9SP

- Completing our online questionnaire here:
<http://www.chre.org.uk/satellite/413/>

7.2 If you have any queries, or require an accessible version of this document, please contact CHRE on 020 7389 8030 or by email at policy@chre.org.uk.

Confidentiality of information

7.3 We will manage the information you provide in response to this consultation in accordance with our information security policies.

7.4 Any information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA) the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

7.5 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

7.6 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on CHRE.

7.7 CHRE will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

8. Our consultation process

8.1 This consultation follows the 'Government Code of Practice'. In particular, we aim to:

- Consult formally at a stage where there is scope to influence the policy outcome
- Consult for at least 12 weeks with consideration given to longer timescales where feasible and sensible
- Be clear about the consultation process in the consultation documents, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
- Ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach
- Keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process
- Analyse responses carefully and give clear feedback to participants following the consultation
- Ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

8.2 This consultation will last 12 weeks and the costs of the proposals are excluded from the scope as the method of implementation is outside of the scope of the commission.

8.3 If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact CHRE's Consultations Coordinator:

Rachael De Souza
External Relations Manager
Council for Healthcare Regulatory Excellence
157-197 Buckingham Palace Road
London SW1W 9SP

Tel: 020 7389 8030
Fax: 020 7389 8040

rachael.desouza@chre.org.uk

Please do not send consultation responses to this address but to the address above.

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