

Clear sexual boundaries between healthcare professionals and patients: **responsibilities of healthcare professionals**

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The Council for Healthcare Regulatory Excellence (CHRE) is the organisation that oversees the nine regulators of healthcare professionals in the UK. Our primary purpose is to promote the health, safety and wellbeing of patients and other members of the public. More information about our work can be found at www.chre.org.uk

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Other documents produced by the Clear Sexual Boundaries Project:

- *Learning about sexual boundaries between healthcare professionals and patients: a report on education and training*
- *Clear sexual boundaries between healthcare professionals and patients: guidance for fitness to practise panels*

These documents are available from the Council for Healthcare Regulatory Excellence, www.chre.org.uk

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1 About this guidance

This guidance is for regulators of healthcare professionals in the United Kingdom, to provide a basis for guidance for their registrants. It is also recommended that the principles set out in this document are followed by others working in the delivery of healthcare services.

It was produced by the Council for Healthcare Regulatory Excellence, informed by wide national and cross-professional consultation, including with the regulatory bodies of healthcare professionals (see Appendix A).

It aims to set out the responsibilities of healthcare professionals in relation to the maintenance of clear sexual boundaries with patients and their carers.

It contains information about

- the importance of clear sexual boundaries between healthcare professionals and their patients
- the establishment and maintenance of clear sexual boundaries with patients
- the action healthcare professionals must take if they are informed of, or have concerns about, a breach of sexual boundaries.

Summary of advice

Healthcare professionals must not display sexualised behaviour towards patients or their carers, because doing so can cause significant and enduring harm. The healthcare

professional/patient relationship depends on confidence and trust. A healthcare professional who displays sexualised behaviour towards a patient breaches that trust, acts unprofessionally, and may, additionally, be committing a criminal act. Breaches of sexual boundaries by health professionals can damage confidence in healthcare professionals generally and leads to a diminution in trust between patients, their families and healthcare professionals.

Definition of terms used in this document

Patient: a person who receives care or treatment from a healthcare professional. This guidance also applies to **carers** and others who are close to patients and who are part of their clinical experience, for example a parent who accompanies their child to hospital. Healthcare professionals need to think carefully about how they behave towards such people, and the effect their behaviour might have on their relationship with the patient.

Sexualised behaviour: acts, words or behaviour designed or intended to arouse or gratify sexual impulses or desires. Examples of sexualised behaviour are listed at Appendix B.

Employers: organisations that directly employ healthcare professionals and other staff who come into contact with patients, and, in some circumstances, organisations that commission health services.

2 Why is guidance on sexual boundaries necessary?

The vast majority of healthcare professionals work with dedication and integrity and are committed to the best possible patient care. However, in a small minority of cases healthcare professionals have seriously breached sexual boundaries with patients or their carers, resulting in several major national inquiries and a number of investigations in recent years. These inquiries have demonstrated the serious and enduring harm caused when sexual boundaries are transgressed.

What constitutes a breach of sexual boundaries?

A breach of sexual boundaries occurs when a healthcare professional displays sexualised behaviour towards a patient or carer. Sexualised behaviour is defined as acts, words or behaviour designed or intended to arouse or gratify sexual impulses or desires. An illustrative list of unacceptable sexualised behaviours is included in this guidance at Appendix B. Breaches of sexual boundaries do not just include criminal acts such as rape or sexual assault, but cover a spectrum of behaviours, of varying seriousness, all of which can cause harm. The following list groups the main types of sexual boundary breaches in descending order of seriousness:

- criminal sexual acts
- sexual relationships
- other sexually motivated actions towards patients such as sexual humour or inappropriate comments.

The consequences for patients when sexual boundaries are breached

Breaches of sexual boundaries by healthcare professionals are unacceptable because:

- they can cause significant and enduring harm to patients
- they damage trust – the patient's trust in the healthcare professional and the public trust in healthcare professionals in general
- they impair professional judgement. Sexual or inappropriate involvement with a patient may influence a healthcare professional's decisions about care and treatment to the detriment of the patient.

Trust and safety

Healthcare professionals have a duty to ensure the safety and wellbeing of their patients. A patient must be able to trust that their healthcare professional will provide the best possible care and act in their best interests. They must feel confident and safe so that they can be treated effectively and participate effectively in their care. A breach of sexual boundaries can seriously damage this trust.

Acknowledging the power imbalance

An imbalance of power is often a feature in the healthcare professional/patient relationship, although this may not be explicit. Patients are often vulnerable when they require healthcare, and healthcare professionals are in a position of power because they have access to resources and knowledge that the patient needs. A power imbalance may also arise because:

- in order to be diagnosed or treated a patient may have to share personal information
- a healthcare professional influences the level of intimacy and/or physical contact during the diagnostic and therapeutic process
- a healthcare professional knows what constitutes appropriate professional practice whereas a patient is in an unfamiliar situation and may not know what is appropriate.

It is the responsibility of healthcare professionals to be aware of the potential for an imbalance of power and to maintain professional boundaries to protect themselves and their patients.

Acknowledging difference

Cultural differences can affect people's perceptions of what is intimate or appropriate. For example, some patients may be modest about showing parts of the body that their healthcare professional would not usually consider to be intimate. Healthcare professionals must be sensitive to cultural difference and treat patients in a way that respects their views and wishes, and preserves their dignity.

3 Avoiding breaches of sexual boundaries

On occasion healthcare professionals find themselves sexually attracted to patients or their carers. It is the healthcare professional's responsibility never to act on these feelings and to recognise the harm that any such actions would cause.

Acknowledging signs of sexual attraction

All healthcare professionals must be self-aware and recognise behaviours which, while not necessarily constituting a breach of sexual boundaries, may be precursors to displaying sexualised behaviour towards patients or carers.

These behaviours include:

- revealing intimate details to a patient during a professional consultation
- giving or accepting social invitations
- visiting a patient's home unannounced and without a prior appointment
- seeing patients outside of normal practice, for example when other staff are not there, appointments at unusual hours, not following normal patient appointment booking procedures or preferring a certain patient to have the last appointment of the day other than for clinical reasons
- clinically unnecessary communications.

Failure to recognise the signs of sexual attraction at an early stage and act appropriately could result in serious harm to patients and to the healthcare professional's career.

When sexual feelings towards a patient become a cause for concern

If a healthcare professional is sexually attracted to a patient and is concerned that it may affect their professional relationship with them, they should ask for help and advice from a colleague or appropriate professional body in order to decide on the most professional course of action to take.

If, having sought advice, the healthcare professional does not believe they can remain objective and professional, they must:

- find alternative care for the patient

- ensure a proper handover to another healthcare professional takes place
- hand over care in a way that does not make the patient feel that they have done anything wrong.

When a patient or carer is sexually attracted to a healthcare professional

Sometimes patients or their carers are attracted to their healthcare professional. If a patient displays sexualised behaviour towards a healthcare professional, an appropriate course of action might be to discuss the patient's feelings and attraction in a constructive manner and try to reestablish a professional relationship. If this is not possible, the healthcare professional should transfer the care of the patient to a colleague.

It is strongly recommended that the healthcare professional seeks advice from a colleague or an appropriate professional body.

Sexual activity with former patients or their carers

Sexual relationships with any former patient, or the carer of a former patient, will often be inappropriate however long ago the professional relationship ended. This is because the sexual relationship may be influenced by the previous professional relationship, which will often have involved an imbalance of power as described above.

The possibility of a sexual relationship with a former patient may arise, for example through social contact. If a healthcare professional thinks that a relationship with a former patient might develop, he or she must seriously consider the possible future harm that could be caused and the potential impact on their own professional status. They must use their professional judgment and give careful consideration to the following:

- when the professional relationship ended and how long it lasted
- the nature of the previous professional relationship and whether it involved a significant imbalance of power

- whether the former patient was particularly vulnerable at the time of the professional relationship, and whether they might still be considered vulnerable
- whether they would be exploiting any power imbalance, knowledge or influence obtained while they were the patient's healthcare professional to develop or progress the relationship
- whether they are, or in future are likely to be, treating other members of the former patient's family.

If a healthcare professional is not sure whether they are – or could be seen to be – abusing their professional position, they should seek advice from an appropriate professional body.

However consensual a relationship appears to be, if a complaint is made the onus will always be on the healthcare professional to show that they have acted professionally by giving serious consideration to the points above in relation to the circumstances in question, and by seeking appropriate advice.

Reporting problems

Problems with other healthcare professionals

If a healthcare professional becomes aware that another healthcare professional has breached sexual boundaries with a patient or carer, he or she has an ethical and professional duty to take action.

Concerns about their own position or job security should not deter them from speaking out. The patient's welfare should be their first concern. Failure to take steps to prevent harm to a patient or carer may amount to misconduct and lead to action being taken on their registration.

In particular, health professionals must:

- alert the police, the implicated professional's regulatory body and employer where they have reason to believe that a sexual or assault, rape or other potentially criminal act has occurred
- report to the healthcare professional's employer and/or regulatory body in other cases of sexualised behaviour towards a patient.

Healthcare professionals may be made aware of concerns about a colleague by a patient – either a patient directly affected by a sexual boundary transgression or another patient. In either case the healthcare professional should:

- be aware of how difficult it may have been for the patient to come forward with this information
- answer the patient's questions and, if relevant, provide information to help them establish whether a breach of boundaries has taken place
- alert the patient to other sources of advice
- inform the patient how they can make a complaint if they wish to do so.

If a healthcare professional becomes aware that a colleague has transgressed sexual boundaries with a patient, they must satisfy themselves that appropriate action has been taken. Such action may be pursued by the patient, in which case the healthcare professional must make a judgement about the patient's capacity to do so; if they are in doubt, they must pursue the matter themselves.

If the patient wishes to remain anonymous but still wants action to be taken, the healthcare professional must take appropriate action even if the information is limited. If the patient says he or

she does not want the matter to be pursued, but the healthcare professional believes that there is a serious and imminent threat to the patient's, or other patients' safety, or that of a child or vulnerable adult, the healthcare professional must act without delay so that their concerns are investigated and patients are protected.

In either case, healthcare professionals should respect patient confidentiality wherever possible when reporting concerns. However the safety of patients must come first and takes precedence over maintaining confidentiality. If the health professional is satisfied that it is necessary to identify the patient, wherever practical they should seek the patient's consent to disclose any information. If consent is refused, the healthcare professional should inform the patient of their intention to disclose the information.

If the healthcare professional is in doubt they should seek advice from a colleague or appropriate professional body.

Disclosure of unprofessional behaviour by a colleague

If a healthcare professional is asked for advice by a colleague who feels attracted to a patient or carer but has not acted inappropriately, they do not have a professional duty to inform anyone.

However, if they feel that the colleague or the patient may be at risk of harm, or if they feel they need help in advising their peer, it is strongly recommended that they seek advice from an appropriate professional body.

If a healthcare professional is approached by a colleague who has displayed sexualised behaviour towards a patient, their first priority must be the patient's safety. They must take appropriate steps without delay. These may include:

- informing the colleague's employer or service commissioner – it is sensible to do this in writing as well as orally
- informing the colleague's regulatory body
- informing the police if they have reason to believe that a criminal offence has been committed.

If the healthcare professional is in doubt they should ask a colleague or appropriate professional body for advice.

Good practice in maintaining healthcare professional/patient relationships

Regulatory bodies provide specific guidance on the standards of professional conduct that apply to relationships between healthcare professionals and patients/carers. This may include guidance on communication, consent, confidentiality, procedures for intimate examinations and use of chaperones. Good practice in these areas is an important part of the maintenance of clear sexual boundaries. This document does not seek to reproduce or replace regulators' own guidelines. However it is recommended that regulators ensure their existing guidelines and training materials, and those produced in the future, cover the points outlined in this section as relevant to their professional group.

Clear and effective communication

Clear communication with patients helps to avoid misunderstandings. During diagnosis or treatment healthcare professionals should explain what they are going to do and why. They must communicate this in a way that the patient can understand and that takes into account the patient's particular communication requirements. In particular, a healthcare professional should:

- explain why certain questions need to be asked
- explain why any examination or procedure is necessary
- explain what will happen during any examination or procedure and ensure the patient has understood
- find out what the patient wants to know about their condition and its treatment
- give the patient an opportunity to ask questions
- if necessary, use an appropriate interpreter
- obtain the patient's permission before the assessment or treatment and record that permission has been obtained
- make sure patients know that they can communicate any discomfort or concern and that they can stop an examination or procedure at any time.

Obtaining consent

Healthcare professionals must always ensure they have a patient's valid consent before carrying out any examination or investigation, and before providing treatment or care. They must also ensure they have ongoing consent from the patient where treatment changes or develops.

For consent to be valid, patients must be given sufficient information, in a way that they can understand, to enable them to exercise their right to make informed decisions about their care. Guidance to healthcare professionals must reflect the special consideration that must be given when seeking consent from patients up to the age of 15, from 16 and 17 year olds, and from other patients who may not have the capacity to consent¹. The impact of the relevant legislation varies across the UK and healthcare professionals must be aware of the legal, statutory and regulatory requirements relevant to their practice.

Maintaining confidentiality

Patients have a right to expect that information about them will be held in confidence. Confidentiality is central to trust in the therapeutic relationship and without assurances about confidentiality, patients may be reluctant to give healthcare professionals the information they need to provide good care.

Intimate examinations

The maintenance of clear sexual boundaries is particularly important when healthcare professionals carry out intimate examinations. The definition of an intimate examination will depend on the patient's perspective and may be affected by cultural issues. Healthcare professionals must be aware of this and ensure that patients' privacy and dignity are maintained. The following should be ensured:

- there should be a place to undress, such as a curtained space or changing room, that is out of view of anyone else, including the healthcare professional, other employees, patients and the public, unless observation is necessary as part of a clinical assessment and the patient understands and consents to this

¹ Detailed advice on the legal position concerning consent and refusal of treatment by those under the age of 18 can be found in the Department of Health's *Reference Guide to Consent for Examination or Treatment*, available from www.dh.gov.uk/consent

- intimate examinations should take place in a closed room or well-screened area that cannot be entered while the examination is in progress
- someone should be available to help the patient if the patient requests and requires assistance
- the patient should be offered appropriate cover, such as a robe, if they have to walk from one area to another
- waiting time whilst patients are undressed should be kept to a minimum
- patients should not be asked to remain undressed for longer than is necessary to complete the examination or procedure and should be advised to get dressed as soon as the examination or procedure is finished
- partial undressing should be advised wherever possible. If the examination or procedure includes several parts of the body, as much of the patient's body as possible should remain covered during the different stages of examination
- healthcare professionals should ensure that patients' valuables are kept with patients or that secure storage is provided
- examinations or procedures should not be interrupted, for example by phone calls.

During intimate examinations

Healthcare professionals must continue to ensure their patients' comfort and wellbeing throughout the course of intimate examinations. They can do so by:

- offering reassurance
- being courteous
- keeping discussion relevant
- encouraging questions and discussion
- remaining alert to verbal and non-verbal indications of distress from the patient
- discontinuing the examination immediately at the patient's request.

Chaperones

Wherever possible patients should be offered the choice of having an impartial observer, or

chaperone, present during an examination that the patient considers to be intimate. If a chaperone is present, the healthcare professional should record the fact and make a note of their identity and status.

Choosing a chaperone

A chaperone does not need to be a healthcare professional but ideally they should understand the procedures involved in the examination. They should be sensitive to the patient's dignity and privacy, be prepared to support the patient if they show signs of discomfort or distress and be confident to raise concerns about a healthcare professional should suspected misconduct arise.

In some circumstances, a member of staff or a relative or friend of the patient may be an acceptable chaperone.

If no chaperone is available

Sometimes a chaperone is not available, or the healthcare professional or patient may not be comfortable with the choice of chaperone. Under these circumstances the healthcare professional should offer to postpone the examination until a date when an appropriate chaperone is available, if this is compatible with the patient's best health interests. The healthcare professional must ensure that a patient does not feel compromised or pressurised into proceeding with an examination if a chaperone, or an acceptable chaperone, is not available.

When a patient declines a chaperone

Patients may decline the offer of a chaperone for a number of reasons. They may think it unnecessary because they trust the healthcare professional, for example, or they may worry that they will be even more embarrassed with another person in the room.

The healthcare professional should record any discussion about chaperones and its outcome. If the patient does not want a chaperone, the fact that the offer was made and declined should be recorded.

A Appendix

Regulatory bodies for healthcare professionals

Regulator	Website	Telephone
General Medical Council (GMC) Regulates: doctors	www.gmc-uk.org	0845 357 0022 (FtP) 0845 357 8001 (General enquiries)
Nursing and Midwifery Council (NMC) Regulates: nurses and midwives	www.nmc-uk.org	020 7637 7181
Health Professions Council (HPC) Regulates: art therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, speech and language therapists	www.hpc-uk.org	020 7582 0866
General Dental Council (GDC) Regulates: dentists, dental hygienists, dental therapists, dental nurses, dental technicians, clinical dental technicians and orthodontic therapists	www.gdc-uk.org	0845 222 4141
General Optical Council Regulates: opticians (dispensing opticians, optometrists or ophthalmic opticians)	www.optical.org	020 7580 3898
General Osteopathic Council (GosC) Regulates: osteopaths	www.osteopathy.org.uk	020 7357 6655
General Chiropractic Council (GCC) Regulates: chiropractors	www.gcc-uk.org	020 7713 5155
Royal Pharmaceutical Society of Great Britain (RPSGB) Regulates: pharmacists and pharmacy technicians	www.rpsgb.org.uk	020 7735 9141
Pharmaceutical Society of Northern Ireland Regulates: pharmacists (Northern Ireland only)	www.psni.org.uk	028 9032 6927

B Appendix

Examples of sexualised behaviour by healthcare professionals towards patients or their carers

- asking for or accepting a date
- sexual humour during consultations or examinations
- inappropriate sexual or demeaning comments, or asking clinically irrelevant questions, for example about their body or underwear, sexual performance or sexual orientation
- requesting details of sexual orientation, history or preferences that are not necessary or relevant
- internal examination without gloves
- asking for, or accepting an offer of, sex
- watching a patient undress (unless a justified part of an examination)
- unnecessary exposure of the patient's body
- accessing a patient's or family member's records to find out personal information not clinically required for their treatment
- unplanned home visits with sexual intent
- taking or keeping photographs of the patient or their family that are not clinically necessary
- telling patients about their own sexual problems, preferences or fantasies, or disclosing other intimate personal details.
- clinically unjustified physical examinations
- intimate examinations carried out without the patient's explicit consent
- continuing with examination or treatment when consent has been refused or withdrawn
- any sexual act induced by the healthcare professional for their own sexual gratification
- the exchange of drugs or services for sexual favours
- exposure of parts of the healthcare professional's body to the patient
- sexual assault.

Notes

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