

Council for Healthcare Regulatory Excellence
Kierran Cross
11 Strand
London WC2N 5HR

1 September 2008

Dear Michael,

Please see attached the response of the Pharmaceutical Society of Northern Ireland to the recent CHRE Draft Paper regarding a common definition of good character across regulators.

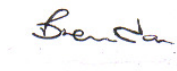
The Society considers the recommended common definition as:

- Capturing the important factors in approaching good character;
- A reasonable basis for our organisation to assess character at the point of registration; and,
- Constituting a reasonable and proportionate set of requirements for assessing good character.

However, the Society recommends that CHRE conduct a distinct investigation into two matters related to regulators' good character requirements:

1. Whether it is appropriate, feasible and reasonable for regulators to conduct criminal record checks, and in future, ISA registration checks, on its registrants as a method of assessing good character
2. The feasibility and appropriateness of instituting a common and consistent approach across regulators to the assessment of a non UK national's good character.

Yours sincerely,



Brendan Kerr
Registrar and Head of Professional Services

CHRE Discussion Paper on Good Character:

August 2008

1. Do you think the suggested recommendation in Section 5.1 adequately captures the important factors in approaching good character?

Yes, the suggested criteria in Section 5.1 adequately captures the important factors in approaching good character and largely accords with the present assessment framework used by the Society.

2. Would the recommendation provide a reasonable basis for your organisation to assess the character at the point of registration?

Yes.

The Society recognise the benefits of instituting a common approach to assessing good character between regulators, particularly in terms of sharing best practice.

The Society is currently conducting a review of its regulations regarding character for the purposes of registration in liaison with the Department of Health in Northern Ireland. The completion of CHRE's project in recommending a single standard definition of good character will be timely and of value in this sense.

3. Do you think requirements of this approach to assessing good character would be reasonable and appropriate?

Yes.

The consultation document demonstrated that the CHRE's proposed approach is based largely on an amalgamation of existing approaches to assessing good character, which can be identified as reasonable and appropriate.

4. Do you think that sufficient guidance on their assessment of good character is currently provided by regulators?

Whilst some guidance as to how good character is assessed is provided in the Society registration forms, the Society recognises there may be scope for further guidance development. This is a workstream the Society would wish to pursue subsequent to the CHRE's final recommendation on a single standard definition of good character and the Society's anticipated adoption of the recommendation. The Society desires to institute the CHRE recommendation in time for the June 2009 registration intake.

5. Is the information currently required at the point of registration proportionate to risk and provide all the evidence needed to make robust assessments of character?

The Society considers the information it currently requires at the point of registration as proportionate to risk and providing the evidence needed to make a robust assessment of character.

The Society requires the following information from registrants:

- 1) Have you ever received a caution or been convicted of an offence within the UK or elsewhere other than a motoring offence not resulting in disqualification?
- 2) Are you subject to ongoing or pending criminal proceedings in the UK or elsewhere other than a motoring offence not resulting in disqualification

- 3) Are you subject to any findings or determinations by a licensing or regulatory body in the UK or elsewhere?
- 4) Are you subject to sex offender notification requirements?
- 5) Are you listed on the disqualification from working with children or vulnerable adults list in Northern Ireland, relevant Scottish lists or other lists held by the Department of Children, Schools and Families and Department of Health in England and Wales?

However the Society are interested in the GOsC's policy of conducting CRB checks for registrants and whether this is a course of action other regulators should give consideration to.

This question is given an additional timeliness in light of the future introduction of the Independent Safeguarding Authority (ISA) regulations.

In its response to a consultation on the ISA regulations earlier in 2008, the Society understood that many health professionals, such as pharmacists, may be defined by the Independent Safeguarding Authority as working in regulated environments (dependent on their regular place of work) and would therefore be required to be ISA registered. Accordingly, the Society proposed to register an interest in all pharmacists on the ISA register.

However some pharmacists, such as those in academia, would not be judged to work in a regulated environment and so, in theory, would not need to be ISA registered.

As to whether ISA registration information should be required at the point of registration as a means of assessing character is a question the Society recommends CHRE explore further with the regulators and relevant Government departments. For example, there are some key issues of practicality that would need to be considered.

6. Do you think that where applicants are likely to be self-employed it would be reasonable for the regulator to simulate the role of employer to require enhanced CRB disclosures from applicants to the register?

The Society recognise there is a growing need to clarify the role of all the professional regulators in conducting enhanced CRB disclosures from applicants to the register, especially in light of the forthcoming impact on the health professions as a result of the Independent Safeguarding Authority Regulations.

The Society therefore recommends CHRE conduct a separate investigation of this matter in conjunction with:

- the shadow Independent Safeguarding Authority;
- the Criminal Records Bureau;
- the Department for Children, Schools and Families and other relevant officials in the devolved administrations;
- the Department for Health and other relevant officials in the devolved administrations;
- the professional regulators; and,
- professional representative bodies.

The arguments both for and against regulators conducting Criminal Record and/or Independent Safeguarding Authority checks on applicants to the register should be considered carefully and distinctly from the CHRE's investigation into a common definition of good character.

An existing difficulty in introducing a policy of conducting Criminal Record and/or ISA checks on application to the register is the current lack of accessible and reciprocal arrangements with counterpart European agencies. This could lead to different standards of scrutiny being applied to the assessment of good character of non-UK nationals as to UK nationals.

This emphasises the need for regulators, the CHRE and the UK Government to reach an agreed position on:

- whether regulators should conduct criminal record and/or ISA registration checks as part of the registration process; and
- how to create a system in which UK resident and non-UK resident practitioners are subject to equal levels of assessment in terms of good character.

Subsequent to agreeing these positions, the Society envisages the need for advocacy efforts at a European level to ensure common registration protocols across member states. The Society suggests the CHRE may be the appropriate body to lead such activity.

7. What value do you think character references have for the purpose of establishing good character and what information do you think should be contained in them?

The Society views the value of character references for the purpose of establishing good character being to a large extent dependent on their origin and the evidence base upon which the character reference is based.

It is preferable if a character reference can be read alongside a factual basis for character assessment such as the absence, or not, of a criminal record.

The Society is therefore interested in the suggestion within this consultation that regulators should conduct Criminal Record checks for the purposes of defining good character.

We hope this will be a distinct project of investigation that CHRE will lead in conjunction with the regulators, and that the investigation will include within its scope the matter of non UK-resident applications to the register.