Accredited Registers

Accreditation Panel's Decision

Application from:	The Society of Homeopaths ('the Society')
Panel meeting:	15 September 2015 (accreditation renewed)
Accreditation valid from:	9 September 2015 – 9 September 2016

The Professional Standards Authority accredits registers of people working in a variety of unregulated health and social care occupations. To be accredited, organisations holding such registers must prove that they meet our demanding Standards for Accredited Registers (the Standards). Accreditation is reviewed every twelve months.

The Accreditation Panel reviewed the accreditation of the register held by the Society. Panel members reviewed the annual review application form, an updated risk matrix and a summary report from the Accreditation team. The Panel had to review the Society's compliance with the Standards and decide whether or not to **renew accreditation, renew accreditation with conditions, suspend accreditation** or **remove accreditation**. The Panel could also make recommendations in the form of:

- **Learning points** – actions that would benefit the operation of the register, the implementation of which would be verified during the annual review of accreditation
- **Instructions** – actions that would improve practice but do not affect compliance with the Standards and that the Panel requires to be implemented and be satisfied of appropriate implementation within a given timeframe.
- **Conditions** – changes that must be made in order to gain accreditation.

Outcome

The Panel decided to **renew accreditation**. The renewed accreditation is valid from 9 September 2015 to 9 September 2016.

Learning Points, Instructions and Conditions

The Panel provided the following **Learning Points** to be verified at the next annual review of accreditation:

1. The Society should consider if there is a lack of parity between its professional and lay Directors and whether this could impact on the performance and continuity of the Board.
2. The Society should consider how to ensure that a registrant's status is clear to the public on both its register and Adjudication Panel decisions page.
3. The Society should consider making its policy on the publication of sanctions clear on its website.

The Panel provided the following **Instruction** to be implemented by the timeframe provided:

1. The Society must replace the section of its Code of Ethics and Practice relating to Advertising and Media which states 'Examples of Codes the Society may also take account of are the relevant clauses of The UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code), and the current guidelines of the Society' with 'will take into account'. This action to be completed within three months.

The Panel confirmed that no **conditions** would be made as a requirement of renewing accreditation.

Summary of the Accreditation Panel's Discussion

The Panel noted the assessment carried out by the Accreditation team for the annual review included:

- Documentary review (annual review form, query sheet response and risk matrix)
- Due Diligence Checks and Patient/Service User journey
- Review of call for information responses.

There were no declarations of interest from members of the Panel.

Learning Points and Instructions from last assessment

The Panel considered the actions taken by the Society in response to the learning points and instructions issued at initial accreditation. The Panel was satisfied that all learning points had been considered and instructions implemented.

Learning Point 1 recommended the Society consider providing guidance about sourcing remedies, to ensure that protections afforded through licensing requirements are not circumvented. The Panel noted that the Society produced guidance for registrants regarding different categories of homeopathic remedies and the sourcing of remedies from abroad. The Society stated it was also producing guidance for the public, to be published in due course. The Panel noted the Society's statement that the risk of registrants or service users purchasing remedies from unsafe suppliers was low as the majority of remedies sold are produced by 'long established, reputable' suppliers in the UK and in Europe.

For Learning Point 2 the Panel noted that the Society's Professional Standards Committee keeps a dedicated risk register tool to formally record, assess and manage risks associated with their registrants' practice.

Learning Point 3 recommended the Society highlight in its Code of Ethics and Practice the consequences of breaching the Cancer Act 1939 and also highlight relevant sections of the Code in its developing guidance on the Cancer Act. The Panel noted that the Code had been updated accordingly. The Panel noted the Society's guidance

on the Cancer Act for registrants references the Codes and appropriate standards for advertising. The Panel noted that if the Society became aware of an apparent breach of the Cancer Act by a registrant it would first ask the registrant to amend or remove the relevant text. If the registrant refused to do so the Society confirmed it would apply its Professional Conduct Procedures and consider reporting the registrant to the relevant legal authorities.

Learning Point 4 recommended the Society ensure that the education standards required for admission to its register are clear, understandable to the public and enforced consistently. Any exceptions should be explained and clear to the public. The Panel noted that the Society's website states that the academic level required for registration is 'equivalent to that of a first degree – Higher Education Level 6 – fostering the critical awareness, reflection and academic rigour associated with equivalent professional healthcare programmes'. The Panel noted the Society will consider publishing further academic information about homeopathy, including information about education levels, intended for the general public and potential service users in due course.

For Learning Point 5 the Panel noted that the Society's Professional Conduct Procedure and website states that it will provide assistance with reading, writing and completing its complaints form and will provide other assistance as required.

For Instruction 1 the Panel noted the actions taken by the Society to ensure that only its registrants and not any other grade of member or members of affiliate bodies could make use of the Accredited Registers quality mark and other benefits of accreditation.

Instruction 2 required the Society to have a clear communications plan to ensure the public can distinguish between registrants on the Accredited Register and other types of membership grades not eligible for registration, but which may appear on other membership directories. The Panel noted actions taken by the Society such as only displaying registrants, and not students, on its online register. The Panel noted that the Society's website promotes its accreditation in line with the messages provided by the Authority.

Instruction 3 required the Society to ensure it communicated accreditation as it relates to the Society's register and not as support for the efficacy of homeopathy. The Panel noted articles checked by the team and reports from the Society that it has sampled registrant's websites finding no instances to date of members suggesting that accreditation might be providing support for efficacy.

Instruction 4 required the Society to remove its requirement for the Board to ratify Adjudication and Appeals Panel decisions and to consider an alternate form of oversight that does not give rise to actual or perceived conflict of interest. The Panel noted that the Boards' ratification had been removed from Professional Conduct Procedures and replaced with an Independent Reviewer function. The Independent Reviewer may recommend that the Society convene a new Panel should they find that Adjudication or Appeals Panels did not follow the process correctly.

Instruction 5 required the Society to inform the Accreditation team of an Adjudication Panel hearing taking place so that it could seek consent to observe. The team confirmed to the Panel that it had been notified of a hearing but that consent for the team to observe was not provided by the involved parties. The Society confirmed it would inform the team of future hearings.

Standards

The Panel discussed whether or not the Society continued to meet the Standards for Accredited Registers. The Panel considered all of the information provided to it carefully and agreed that the Society continued to meet all of the Standards (1 to 11).

When reviewing Standard 1 the Panel noted that the Society had developed its website and online register over the past year of accreditation.

The Panel reviewed a call for information response stating that 'homeopathy cannot be considered a health care occupation and therefore the accreditation and re-accreditation of the Society is *ultra vires'* (beyond the Authority's legal power or authority). The response questioned whether the Panel could accept 'health claims' made about homeopathy as a form of health care as laid down in the National Health Service Reform and Health Care Professions Act 2002. The Panel disagreed that its initial decision was *ultra vires*, noting that homeopathy is used by the public as a form of healthcare and is provided by the NHS. The Panel restated that questions of efficacy are outside the remit of the Accredited Registers programme.

When reviewing Standard 2 the Panel noted previous and future planned changes to the Society's governance including the introduction of a Head of Professional Standards role and recruitment of two new independent (lay) members for its Professional Standards Committee. The Panel also noted that the Society has developed 'Guidelines for Safeguarding Children' and Fitness to Practise guidelines for registrants.

When reviewing Standard 5 the Panel noted that a potential conflict of interest was raised by registrants during the election of a new member to the Society's Board of Directors. The Panel noted new measures implemented to prevent similar issues in future elections and the statement issued to registrants regarding the issue. The Panel noted that published minutes of Board of Directors' meetings will include any conflict of interest issues and that the Society will consider relevant amendments to its Articles of Association at its 2016 Annual General Meeting. The Panel noted that since initial accreditation the Society had extended its Conflict of Interest policy to cover all committee members, staff and consultants

When reviewing Standard 7 the Panel noted the Society's lay involvement in its Board of Directors, Complaints panels and Professional Standards Committee (PSC). The Panel noted that the Board's lay 'Independent Directors' are appointed and removed from their posts by the professional members of the Board. Independent Directors are usually appointed on a renewable one-year contract. The Panel considered that this may be perceived as a lack of parity between the Society's professional and lay Board members. The Panel decided to issue a Learning Point for the Society to consider if

there is a lack of parity between professional and lay Directors and whether this could impact on the performance and continuity of the Board.

When reviewing Standard 8 the Panel noted amendments to the Society's Code of Ethics and Practice including its requirements regarding *Advertising and Media.* The Codes state registrants must ensure they 'do not allow misleading advertising and information about their practice' and must comply with relevant laws relating to advertising. The Panel noted that the revision of the Codes stated 'the Society may also take into account … relevant clauses of The UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing' (the CAP Code) when investigating breaches of the Code. The Panel considered that the Advertising Standards Authority's guidelines and CAP Code reflect good practice in advertising and that it would expect Accredited Registers to follow these. The Panel decided to issue an instruction for the Society to replace 'may also take into account' with 'will also take into account' to be implemented within three months. In making its decision the Panel considered the impact of the decision on the Society and noted that the Committees of Advertising Practice (CAP) is reviewing its Advertising Guidance (previously Help Notes) on health claims in due course.

When reviewing Standard 11 the Panel noted that sanctions issued through Professional Conduct Procedures are annotated on individual register entries and also on the Society website's Adjudication Panel decisions page. The Panel noted that the team had identified discrepancies in some cases which had the potential to confuse or mislead the public regarding a registrant's status. In one example, registration had been terminated as a registrant had not fulfilled conditions, which was reflected in the register entry but not the decisions page. In another, the decisions page noted that a registrant had resigned without fulfilling conditions, but the register entry had not been amended as when the decision was made the Society did not have the power to terminate in those circumstances. The Panel decided to issue a Learning Point to the Society to consider how to can ensure that a registrant's status is clear to the public on both its register and Adjudication Panel decisions page.

The Panel noted the Society's policy for publication of sanctions: sanctions would be removed once fulfilled, however in the case of termination of registration the register entry and annotation would remain on the website until such time the member successfully regained registration, having fulfilled conditions or any other requirements set by the Adjudication Panel. The Panel decided to issue a Learning Point for the Society to consider making this policy clear on its website.

The Panel noted a concern raised with the team in May 2015 about a Society registrant who had stated on their website that they did not abide by the Advertising and Media requirements of the Code of Ethics and Practice. The Society advised it had required the registrant to remove the exclusion clause from their website and confirmed this had been changed in September 2015.

The Panel noted concerns raised within a Call for Information response about sections of the Society's amended Professional Conduct Procedure. Section 2.1 of the procedure provides a list of who can raise a complaint against a registrant, which might be seen to limit or prevent concerns from being raised. The Panel noted that Section 3.1 states that the Society may accept complaints received outside of those

requirements and noted this is not limited to any particular source of concerns, such as through news or social media. The Panel noted this section allows the Society the discretion to investigate concerns outside the criteria of Section 2.1. The Panel noted the Society's confirmation that it will investigate any concern raised in order to see if it has any validity. The outcome of the investigation will determine if it becomes a formal complaint.

The Panel noted a Call for Information response regarding ten complaints made to the Society that were resolved by the Society's Preliminary Investigation Panel (PIP) without being escalated to an Adjudication Panel. The Panel noted that 'suitable action plans' were agreed with and carried out by registrants as required by the PIP but it was not clear if 'formal first warnings' were issued in line with Section 3.3 of the Professional Conduct Procedure. The Society confirmed that the PIP has discretion to issue such warnings and it had not been deemed necessary to do so as nine of the ten registrants involved had completed the required action plans. The tenth had failed to renew registration and ceased communication with the Society. The PIP had found this complaint did not require escalation to an Adjudication Panel. The Panel noted that the Society will apply its 'red flag' process against those who resign or lapse their registration so that it will be aware of outstanding issues if the former registrant attempts to reapply.

The Call for Information response stated that the actions taken by the Society were insufficient to make the named registrants' websites ASA/CAP compliant or in line with the Society's codes. The Panel noted the team had reviewed the email correspondence provided, in which the Society confirmed that 'action plans' had been issued to registrants and that formal warnings were not mandatory, as discussed above. The Panel considered whether the Society had, as claimed, 'failed to evaluate the risk to members of the public from misleading advertising claims made by their registrants' and noted the Society's response that the PIP that it 'did not necessarily agree with the respondent's interpretation of the CAP guidelines … The Society does not agree with the CAP Code in some areas and continues to work with ASA'.

The Panel noted that the team had asked the Society to clarify if the decisions issued by the Society were in line with the CAP Code. The Society responded that the majority of decisions would have been, however it disagreed with the ASA's comments on use of the word 'medicine' by registrants. The Society stated that the comments contradicted the CAP guidelines' own references to homeopathic medicines and medicinal products. The Society also found guidelines relating to testimonials were restrictive and could prevent registrants from providing sufficient information for service users to make informed decisions. The Panel noted the Society has provided a disclaimer for registrants' websites to make clear testimonials are not intended to make any false claims about homeopathy.

The Call for Information response received stated that the reasons provided for closing a case, at any stage, could be made clearer in its decisions and suggested the Society may wish to provide more information to complainants. The Society advised that it could raise this suggestion with its PIP, which may decide to provide more information in future. At present, an initial letter to the Complainant states what has been decided by its panels then, when any conditions have been fulfilled, a further letter will explain

this and state that the case is closed. The Panel noted that the Society should provide clear reasoning in its communications with registrants.

Call for Information

One call for information response was received that raised several points related to the Society's complaints process, registrant's advertising and the efficacy of homeopathy, as discussed above. The respondent also raised a concern about promotional materials sold by the Society that it considered could be in breach of ASA and CAP codes. The Panel noted a complaint was made to the ASA who responded that the materials were not under its remit as they were 'merely a product that can be purchased'. The Society stated it accepted that if there was a risk of the public buying materials meant for registrants to promote their practices, they may consider a checking process. The Society stated it will review materials aimed at children to ensure they meet relevant guidelines, for example, balloons and stickers purchased by practitioners to give to younger patients. The Panel noted the Society's acknowledgement that the respondent had raised some points regarding promotional materials, such as titles of leaflets, would be assessed and changed in due course.

Impact Assessment

The Panel noted a reduction in Society registrants since its initial accreditation and the Society's plans to promote registration and the occupation it registers accordingly. The Society raised its registration fee by £5 in 2015 and had not yet decided on any changes for 2016. The Panel noted changes implemented by the Society since its initial accreditation will assist it to provide benefits to service users and the public through the information provided on its register and website.

Equality Duty

The Authority has had due regard to the equality duty under the Equality Act 2010 in its consideration of the Society's application for renewal of accreditation.

Conclusion

Based on the discussion above the Panel decided to renew the Society's accreditation.

Annual Review of Accreditation

Accreditation of the Society's register is valid until **9 September 2016**. The organisation will be required to submit an update on their continuing compliance with the Accreditation Standards and demonstrate that any actions from learning points, instructions, conditions or other recommendations have been fully addressed. This will be due by **9 July 2016**. More detail about the annual review process is available on the Authority's website.