Regulation Matters:
a CLEAR conversation

Episode 103: Aligning Expectations and Focusing on Outcomes: Inside the PSA's New Standards

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Line Dempsey: Welcome back to our podcast, Regulation Matters: a CLEAR conversation. Once again, I'm your host, Line Dempsey. I am currently the Chief Compliance Officer with Riccobene Associates Family Dentistry, with practices in North Carolina, South Carolina, and Virginia. I've also been a board member and past president of CLEAR.

As many of you are aware, the Council on Licensure, Enforcement and Regulation, or CLEAR, is an association of individuals, agencies, and organizations that comprise the international community of professional and occupational regulation. This podcast is an opportunity for you to hear about important topics in our regulatory community.

In this episode today, we explore the Professional Standards Authority's new single set of standards, which brings together expectations for both professional regulators and accredited registers. Joining me is Graham Mockler, Director of Regulation and Accreditation with the PSA, to discuss what this shift means for consistency, public protection, and the future of regulatory oversight. So welcome, Graham, and thank you for speaking with me today.

Graham Mockler: Thanks, Line, and thanks for inviting me on. It's great to be here.

Line: Great, well, we're certainly happy to have you. So, for context, can you give our listeners maybe a brief overview of the role of PSA, Professional Standards Authority, in the UK?

Graham: Sure, of course. So, the Professional Standards Authority for Health and Social Care, which is our full name, or PSA for short as we're known, is the UK's oversight body for the regulation of people working in health and social care. Now, we're sometimes referred to as a super- or meta-regulator, but we're technically not a regulator; we're an oversight body. So within this role, we oversee 10 organisations that regulate health professionals in the UK, and social workers in England. Now, within this, we assess their performance on an annual basis against our standards and review their fitness to practice decisions. So, these are the outcomes of their processes to assess complaints against

registrants, to ensure that those decisions are sufficient to protect the public, and, if we consider those decisions insufficient, we can refer them to the courts to try to change the outcome.

We also accredit and set standards for organisations holding registers of health and care practitioners that aren't regulated by law. So, in the UK, this can be anything from counsellors and psychotherapists, to sports rehabilitators, complementary therapists, some healthcare science roles, really any role that isn't regulated by law. Now, this part of our role is a voluntary program that registers can apply to join, and they need to demonstrate that they meet the standards to gain and to maintain accreditation.

And alongside these oversight functions, we also have a policy role through which we conduct and promote research on regulation and share good practice knowledge and our right touch regulation expertise.

Line: Excellent. Well, thank you for giving that overview. So, I know a lot of our listeners will be already familiar with the PSA's previous "Standards of Good Regulation" that applied to professional regulators. So, you've recently published a new set of combined standards, and that's the "Standards for Regulators and Accredited Registers." What was the driving force, if you would, behind moving to a single set of standards?

Graham: Yeah, and just for background in terms of the standards, so the Standards for Regulators and Accredited Registers, like you say, are a single set of standards we're bringing in from the 1st of July this year, and we use those to assess regulators and accredited registers. We currently have two separate sets of standards, like you say, the Standards of Good Regulation for regulators, which many listeners will be aware of, and the Standards for Accredited Registers, which, to be fair, listeners may be less aware of. The standards broadly sit around the four key regulatory functions of education and training, registration, guidance and standards, and fitness to practice, and they focus on the outcomes required to regulate effectively in these areas.

So, there were a number of reasons that we moved to a single set of standards. One of the key ones was that, for patients and service users, the difference between a regulator and an accredited register are likely to not be well understood, if at all. So in our view, this pointed to a need for greater alignment between the expectations that we have of an accredited register and those that we have of a regulator. So, we took the approach that the two sets of standards should be the same wherever possible, really, and in line with the principles of right touch regulation. So, if there's a variation between the two sets of standards, we should justify that and explain it. And the longer that we applied those principles to our policy development and evidence collection when developing the standards, the more it seemed possible to develop a single set of outcome-focused standards, although one that was underpinned by different structures and detail for the two types of organization.

Line: So, you kind of alluded to partly my next question, because obviously regulators and accredited registers operate quite differently in practice. So, maybe, can you outline some of the differences, and maybe any challenges that the PSA faced in designing a framework that would work across both?

Graham: Yeah, of course, and what I'll do is just to start with one thing that's actually contextually similar about the regulators and accredited registers, but we think it's often overlooked, and that's the fact that the regulators and accredited registers both have a diverse range of size of organisation across those that we oversee. So, how the standards apply to a very large organization, with over, say, a thousand staff, regulating many hundreds of thousands of practitioners, compared to a much smaller organisation and population of practitioners. It's something we've always had to think about quite carefully for both groups. And that's one of the reasons, really, that we've focused on outcomes, risk, and also right-touch principles, because they give us the tools to build a model that flexes to the different type of organisation and regulatory challenge.

So, in the process of revising the standards, we talked about levelling. So, how they could work across all the different contexts, for example, size, sector, legal framework, UK nations, because not all of the organisations we oversee work across the entirety of the UK. So, for example, the two previous versions of the standards both included expectations to manage the risks arising from misrepresentation of registration status, but they were levelled at the specific mechanisms that regulators and accredited registers had to manage that risk. For regulators, that's the legal powers they have to enforce protected titles, whereas for the accredited registers, that system relies on cooperation between the PSA and the registers to enforce our trademarked quality mark, because there are no protected titles for those occupations. So, we realized within this that rather than focusing on the mechanisms, but instead the outcomes, that we should be able to align the standards, even if how they're met may actually be quite different in practice.

So that means that we can hold organizations to account, but do so flexibly, and without being overly prescriptive as to how they must meet the standards. And we think there's some additional benefits there, too, in that approach, because it means the standards should become resilient to broader context changes, and also permit innovation within the constraints of the outcome that must be achieved.

Line: So, how would you describe, then, the most important shifts in expectations under the new standards compared to the previous framework?

Graham: Yeah, so the new standards emphasize that regulation needs to be judged not only by the robustness of its processes, but by its impact on public protection and professional standards. And I think that represents an important shift and emphasis towards outcomes, and whether regulatory action is generally making patients and services safer, maintaining trust and supporting improvement

across the system. Because we're clear that process is important, and it does matter, but it's not enough on its own. So, a few more detailed expectations that we're looking to introduce, and that are different to previous frameworks, just to highlight quickly. So, we've changed our scrutiny of governance of organisations. So, we previously covered areas relating to good governance across our standards, but this is the first time we've introduced an explicit governance standard across both regulators and accredited registers. We've looked at changes to professional suitability requirements to introduce proportionate new expectations that reduce the risk of failure to declare a matter of professional suitability that could undermine public protection or confidence. So, for example, within that, how are organizations assessing and mitigating risks associated with practitioners that may have undeclared convictions and aren't declaring those?

We've separated out our assessment of timeliness of complaints handling from other areas of quality, fairness, and proportionality within our fitness to practice standard. These are currently tied together within one standard, but over the past few years, we've found that the majority of regulators are currently taking too long to process cases. So separating that into its own area makes that point clearer for those reading our assessments, but we think it also makes it fairer for organisations that we're assessing, as it doesn't tie other elements into that standard that they might be performing well on.

We're also looking to support efforts to resolve concerns locally, rather than non-regulatory issues being referred to regulators and accredited registers. We recognise there's a balance between this and ensuring that we don't discourage people from raising concerns with regulators and accredited registers, so it's really about being clear on the role of the regulator and the things that are and aren't regulatory matters that should and shouldn't be referred to them to review.

And then lastly, just looking at encouraging collaboration and alignment where it's possible across the whole system of regulation. So, in the UK, regulation of professionals and of systems and places is done by different organizations, so we know that there are regulatory gaps in the system. The organisations that we oversee have put in place processes to mitigate the risk posed by the gaps, and we want to do what we can to support this and encourage more through our standards. So that's just a few expectations, kind of examples of the new standards that we're introducing.

Line: And obviously, you know, there's going to be gaps, but obviously your goal is to build some consistency across the regulatory landscape. How does this new approach, then, from that perspective, strengthen public protection in practical terms?

Graham: Yeah, so we know that health and care regulation operates within a complex system in the UK, and improving consistency of our expectations of the organisations we oversee should help to reduce this complexity and increase clarity for the public and those involved in regulation. And also, by

ensuring our standards are up-to-date and contemporary, and also flexible enough to adapt to the changing landscape, we should be able to assure that our oversight is as effective as possible. And I think the context for that change is important. We know that the environment within which professional regulators operate is becoming more complex and more demanding, with new technologies, including AI, digital health tools, reshaping practice; workforce pressures that are increasing across health and care systems; and also, I think, public expectations of transparency, accountability, and responsiveness being on the rise. At the same time as this, we think there's also less tolerance for avoidable harm, inconsistent decision-making, or regulatory processes that are actually quite difficult to understand. So in that environment, the role of regulation is not only to maintain standards, but also to anticipate risk, support safe practice, and sustain public confidence in the professions.

So, the standards that we have, and that we're introducing now, also reflect the importance of maintaining public confidence in regulation itself. We know that trust in professions is closely linked to trust in the systems that regulate them. And where regulation is seen to be fair, effective, and responsive, it strengthens confidence, not only in the individual professions, but in the wider system of care and service delivery. And the converse is true as well, where regulation is perceived as inconsistent or unclear, confidence can be undermined, even where individual decisions are actually well-intentioned. So, the new standards that we have place emphasis on clarity, transparency, and accountability as core components of effective regulatory practice. Now, the standards also encourage stronger alignment, collaboration, and information sharing across the regulatory landscape, and we think by working together and addressing issues at the earliest appropriate stage, and also by working upstream, organizations can help to reduce the likelihood of problems escalating and repeating, which should then improve outcomes and prevent avoidable harm.

Line: Well, I know you mentioned, briefly talking about decision-making, and obviously the updated standards place a strong emphasis on governance and risk management, right? Two very important things in this. What changes in behavior or decision-making are you hoping to see, maybe at the board or leadership level, across regulators as well as accredited registers? Like, how do you see that fitting?

Graham: Yeah, so kind of coming back to effective regulation, and that depends on organisations having strong oversight, clear accountability, and leadership that understands the risks associated with their work. So we're clear that boards, councils, and senior leaders must be able to identify the emerging issues, respond appropriately to concerns, and ensure that learning is embedded across their organizations. So one of the things that we've discussed internally is how the standards themselves might shape the thinking of governance bodies to help them focus on the right things for public protection without infringing on their responsibilities and duties, and kind of getting too much into the weeds, in terms of what they're doing. So we know that it's for the leaders to make their own

decisions and comply not only with our standards, but all their other responsibilities that they have to do, and we know that is a lot. But we think the standards should help focus that thinking, so looking at how we can help that.

Are boards, councils asking themselves regularly about the evidence that they receive about organisational performance and about how our standards are met? Are they interrogating that reporting effectively? Are they holding the executive to account with effective questioning and probing of the information that they're receiving? Whether they're giving sufficient time to govern all the different components that make up the totality of public protection? And also, whether the culture of the organization is the right one to ensure effective public protection, and if it's safe in the organization to speak up and to learn from mistakes. So the culture point is one that we've brought in within the new standards in the evidence that we're seeking as well. And we know that most regulators and accredited registers will be doing much of this already. But we think the explicit standard allows us to interrogate those areas ourselves more effectively, and therefore hopefully help to drive improvement across those organizations that we oversee.

Line: Now, change is always challenging, right? And to do something like this, as you guys implement these standards and as organizations implement them, what do you anticipate will be maybe the most difficult areas of transition with this?

Graham: Yeah, I think, naturally, anything that's new always comes with challenges. So, the introduction of the governance standard, I think, across the piece is possibly one of those key pinch points that transition from the current standards to the new ones kind of hinges on, really. So within the new standards, what we've done is provided greater detail than we have before, including what we hope are, kind of, helpful in-practice points - breaking down the standard into what does it mean in practice; what are the outcomes that we're looking for within the standard itself? Hopefully, that provides greater clarity for those that we oversee, and that should go some way to aiding a smooth transition. For example, in the governance standard, there's five key areas of, kind of, in-practice points that we're expecting to look at.

And what we've also done alongside that is, clarify the specific things that we'll look at under the standards separately for regulators and accredited registers. So, for the regulators, that takes the form of an evidence framework, whereas for the accredited registers, it's a set of core expectations that we require. So hopefully, both the kind of more detailed standards and the evidence framework core expectations should together help and aid transition in a more smooth manner than might otherwise be the case.

Another point I just wanted to highlight, it's partly on transition because we've separated out the standard, but I think it's worth highlighting because it's one of, if not the most, challenging and

difficult to solve problem across our regulators and registers, is that number of increasing complaints about practitioners and how you manage those cases and potential backlogs. Now, it doesn't look like there is one solution to this issue by any means, and I'm not going to pretend that our standards will help to completely solve this issue, but it has appeared from what we've seen that one of the only ways that it has been successful to try to address this at the moment is the investment of resources into complaints handling processes. But we know that can't continue to be the only answer, because it's going to strip resources from other opportunities and other areas. Regulators and accredited registers only have a finite amount of money and resources to direct at these problems. So while it's not a new area, it's something we wanted to maintain focus on by separating it out into its own standard, so that we can continue to hold regulators and accredited registers accountable for their performance in that area in a fair way. But also try to help where we can, so we're considering at the moment how best we can use our convening role to bring these organisations together to look for solutions for the future. But like I say, I don't think that our standards in and of themselves will help resolve this issue across the piece.

Line: It's always challenging to predict how that will work. You know, if you have to look ahead now a couple of years, how will you all know that this move to a single set of standards has been 'successful.' For regulators, for accredited registers, and also for the public. Like, what's your litmus test to know where we are?

Graham: Well, practically, I think we can separate the impacts of the standards into two areas, and this is what we've been looking at recently. So, regulatory practice and regulatory outcomes. So, in terms of regulatory practice, what are organizations doing differently in two to three years, like you say? And in terms of regulatory outcomes, how has the public protection been enhanced? Now, I'm not going to pretend for a second that attributing improved regulatory outcomes is easy, especially standing as far from the coalface as we do. And we're still finalizing our metrics in relation to this, but there's a number of areas that we think we can look at.

So, to give a couple of examples in relation to this, for the accredited registers, we're really hoping that one of the signs of success will be increasing acceptance, that the system of oversight that we provide for accredited registers is similar to the one that we provide for regulators. Now, that's a really important thing to land in the minds of the people who make decisions about safety and quality of the healthcare workforce, and also how services are delivered, because we think at the moment, there's a missed opportunity in solving some of our workforce challenges. Because we don't always think of the accredited registers, and even when we do, we might not think that there are similar safeguards for the public as there are for regulators. But the reality is now that the outcomes that we're seeking are the same, and our standards are explicit in showing this, so hopefully that should shift the dial on that piece in terms of outcomes.

And another point in terms of both groups, and really for everybody else in the system, I think a clear indicator will be the products of alignment and collaboration across the systems of regulation of people and places in health and social care. I think if we start to see that complaints are being resolved more effectively at the soonest opportunity, and prevent it from occurring because information sharing and risk management is happening collaboratively, then while acknowledging the difficulty in attributing calls that I mentioned, I think we can maybe, just maybe say that a tiny bit of creating the context in which that happened was because of the new standards.

Line: Awesome. Well, I hope that's the case, for sure. Excellent! Thank you so much for sharing your insights into this important shift in regulatory oversight. Your perspective helps clarify not only what is changing in the standards themselves, but why that change matters for building more consistent and trustworthy systems of professional regulation. So, thank you, Graham. I really do appreciate you joining me today.

Graham: Thanks, Line, and thanks for the opportunity to talk with you. I've really enjoyed it.

Line: Absolutely, it has been a pleasure. And, you know, we'd like to continue this conversation with our members on the CLEAR Regulatory Network. This podcast episode will be placed there, along with some questions for our members to consider, such as:

- How does the approach described in the UK's new single set of standards compare with regulatory frameworks or expectations in your own jurisdiction? What similarities or differences stand out the most?
- What element of the new standards feels more relevant or impactful for your own regulatory context as an opportunity to improve consistency, governance, or public trust based on these ideas?

We greatly appreciate and thank our members for your discussion and feedback in that CLEAR Regulatory Network. And if you haven't already, we invite and encourage you to join and take a part in these online discussions.

I also want to thank our listeners for tuning in for this episode. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. And if you are new to the CLEAR podcast, please subscribe to us. You can find us on Podbean or any of your favorite podcast services. If you've enjoyed this podcast episode, please leave a rating or comment in the app. Those reviews help us to improve our ranking and make it easier for new listeners to find us.

Also, feel free to visit our website at www.clearhq.org for additional resources, as well as a calendar of upcoming programs and events. Finally, I'd like to thank our CLEAR staff, specifically Stephanie

Thompson. She is our content coordinator and editor for this program. Once again, I'm Line Dempsey, and I hope to be speaking to you again very soon.

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