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## The sexual abuse of vulnerable people by registered social workers in England – an analysis of the Health and Care Professions Council Fitness to Practise cases

### Abstract

This article explores the context of sexual misconduct by social workers and asks the question, does the regulatory body for social workers in England provide an effective response when cases come to light? The focus is on the regulator as a key part of the institution of social work and examines how it responds to the relational vulnerabilities of victims; the attitudes of perpetrators to their offences; and the needs of victims within the process. The approach mirrors recent inquiries into the institutional context of abuse perpetrated by celebrities and within large institutions. Cases where a social worker has been struck off the register for sexual misconduct are analysed through the lens of institutional betrayal theory. Recommendations are made for a more victim focused approach to be adopted by the HCPC including an end to euphemistic references to harmful behaviours. Finally, implications for education, policy and practice are also presented.

**Key Words:** institutional betrayal; misconduct; professional regulation; sexual abuse; supervision

The sexual abuse of children and vulnerable adults has recently been at the forefront of media attention in the UK with reports of incidents of historical sexual abuse committed by high profile celebrities such as the late Jimmy Savile, Stuart Hall and Rolf Harris. In the case of Jimmy Savile a comprehensive inquiry into the institutional locations of his abuses concluded that there must be wide public debate about how professionals and public bodies identify and respond to such abuse (Lampard and Marsden, 2015). The current Independent Inquiry into Child Sexual Abuse (IICSA) in the UK is also undertaking a wide-ranging investigation into the way that the Catholic and Anglican Church and residential or custodial settings as well as individuals have historically failed to protect children from sexual abuse. Both inquiries have sought to expose failings in previously unaddressed historical incidents, some of which go back several decades. However, the contemporary sexual abuse of vulnerable children and adults by the professionals who work with them in the community, remains an area of concern that has received limited attention worldwide. Where research has been published it has largely focused on sexual abuse by psychotherapists, counsellors, psychiatrists or psychologists and focused on the therapeutic alliance as the context of that abuse (Melville-Wiseman, 2008).

We know from data published in annual reports by the former regulator of social workers in England, the General Social Care Council (GSCC), that

between 2003 and 2008 over one third of their Fitness to Practise hearings were where a social worker had engaged in what was euphemistically called an ‘inappropriate relationship’ (GSCC, 2009). Such a high percentage of cases compared to other forms of misconduct such as dishonesty (although cases may include both), raises the question of whether the institution of social work services and the regulation of social workers is relevant to understanding what can be done about social workers who sexually abuse. This paper focuses specifically on the role of the professional regulator and their remit to uphold public confidence in the profession and protect vulnerable people through the way it manages such cases of sexual abuse.

The term ‘sexual abuse’ or ‘abuse’ is used throughout the paper to denote a range of inappropriate and often unlawful sexualised behaviour that a social worker is alleged to have engaged in within their professional role. The term ‘victim’ is used to denote the target of the professional’s sexualised behaviour but with caution. It is used to denote the specific impact and harm that is at least initially caused by such professionals at the time of the abuse. It is not used to attribute permanent disempowerment of the individuals concerned who may have chosen to be referred to as ‘survivor’, ‘activist’ or another term if it had been possible to consult with them.

The current regulator of social workers in England, the Health and Care Professions Council (HCPC) does not publish such detailed annual data but

it is possible to review all cases from the information published on their website about Fitness to Practise hearings (<http://www.hcpc-uk.org/complaints/>).

The paper is organised into sections that present the context of such sexual abuse including social work services; the concept of institutional betrayal; the research method; findings and analysis; and finally a discussion and conclusions based on the findings.

### **The context of care and professional sexual abuse**

Characteristics of institutional abuse have been identified over many years through investigations into large scale abuse of children, people with disabilities or older people living in institutional care including long stay hospitals and religious institutions (Wardaugh and Wilding, 1993; Stanley *et al.*, 1999; Colton, 2002; Kennedy, 2002; Fleming, 2005). An early paper on a range of abuse perpetrated by professionals defined the possible context as both relational and institutional (Sobsey, 1994). This was further identified by Wardaugh and Wilding (1993) who used the term the “*corruption of care*” to describe the characteristics of institutions where abuse had occurred. The description can however, be applied to contemporary contexts of professional sexual abuse including social work services.

### **Social work services**

Society and service users need to know that social work services can be trusted (Orme and Rennie, 2006). Effective regulation, training, management and supervision all play a part in the trustworthiness chain and supporting social workers with ethical challenges in everyday practice (Kadushin and Harkins, 2003; Munro, 2011; Banks, 2016). The quality and content of supervision can be pivotal in situations where there may be vulnerability to sexual and other types of abuse (Colton, 2002). However, Wardaugh and Wilding (1993) argue that supervision that does not recognise this shared responsibility can instead become supervision that colludes with abuse. This challenges supervisors to provide a context that is not simply focused on managerial tasks but becomes a place where a worker can discuss their vulnerability to behaviour that may become abusive.

Past experiences of relational violence and abuse is a key dimension in the lives of women, particularly those with mental health needs (Agar and Read, 2002) and a significant part of any mental health worker's caseload will include people with such a history (Banyard *et al.*, 2004). There is also an established link between childhood sexual abuse and later sexual abuse or re-victimisation by a professional (Kluft, 1990, Pope and Vetter, 1991, Jehu, 1994).

However, this can lead to pathologisation and inadvertent victim blaming if wider institutional factors are not addressed (Melville-Wiseman, 2011).

People who have experienced previous boundary violations should be able to access services, and trust that the professionals who work with them, will know how to work with them without replicating the abuse. This requires social workers and their supervisors to have substantial sexual abuse literacy and employers to accurately assess sexual abuse propensity at selection (Smith,1999; Nelson and Cowburn, 2010).

### **Institutional Betrayal**

Characteristics of institutions can have a major impact on whether abuse occurs and how victims are treated (Pring, 2005, Melville-Wiseman, 2011). Ineffective institutional responses can also increase the trauma experienced by victims (Fred 1997). In his review of the multiple and long term abuse of residents in the Longcare care homes for people with learning difficulties, Pring (2005) identified the collective responsibility of many individuals and institutions in addition to the care staff who perpetrated the abuse. This included staff who failed to complain; the legal system that failed to provide justice; the health service and the GMC who did not take action against the GP; and the placing authorities who failed to keep in touch with residents. This collective culpability is unlikely to be effectively considered in our current system of individual regulation as means of protecting vulnerable service users. Freyd (1997) has identified the phenomena of institutional betrayal and its impact on victims as betrayal trauma and this is particularly relevant where the victim knew the abuser and where the abuser may work

in an institution. Aspects of institutional betrayal can include action or inaction in response to allegations (Smith and Freyd, 2014). Characteristics of potentially harmful institutions include those that hold significant power; ones that create dependency (and therefore increase vulnerability); ones that value performance or reputation above the wellbeing of individuals; ones where damage control is given priority over dealing with the underlying problem; and where there are institutional policies do not explicitly name the problem (Smith and Freyd, 2014). Pope (2015) also found that many organisations disregard the need to continually improve their ethical awareness; use misleading or minimisation driven language; believe that having a code of ethics in place will prevent abuse without the need for effective enforcement of that code; and create a culture of silence or near silence that fails to acknowledge the deep impact of abuse. Freyd (1997) also describes a collective and individual process within institutional betrayal of Deny, Attack and Reverse Victim and Offender (DARVO) whereby investigations may seek to explain an incident of professional sexual abuse by an examination of the psychopathology of the victim; criticism of the victim; and the defence of the role of the offender by portraying them as a victim of a dangerous or predatory service user. However, this type of analysis fails to remain located in the reality of the dynamics of power between social workers and service users. Social workers are trained and paid, often have greater knowledge and authority,



are the gatekeepers of needed resources and have personal information about a service user that the service user does not have about them (Davidson, 2005). It is therefore difficult to see how any sexual contact between a social worker and one of their service users could ever be entered into in a consensual way. In an historic case of a woman social worker who sexually abused a male service user the panel made the following statement:

*...the committee concluded that [the registrant] had taken advantage of a professional relationship to start a personal one with someone under her care and in doing so had abused her position of authority.*

And

*In coming to their decision to suspend [the registrant] from the Social Care Register, the committee noted the relationship was consensual and there was no coercion and accepted evidence that she was a good, even excellent, practitioner. They concluded the issue was less one of protecting the safety of the public than protecting the reputation of the profession. They felt suspension reflected the gravity of misconduct whilst taking into account mitigating factors.*

(General Social Care Council, 2009)

It is difficult to understand how a relationship can be adjudged as abusing “a position of authority” but at the same time be “consensual”. To describe

the sexual abuse as consensual infers that there was the possibility of informed consent on an equal basis between the two parties involved. If it has already been determined that one party was in a position of authority, it is difficult to then claim that mutual consent was possible. It also suggests that the victim should have been able to say 'no' when a range of explicit or implicit pressure exists to say 'yes', or not to say 'no'. Such pressure can include emotional dependency, wishing to please the professional, or dependency on the professional for access to needed services and resources. This study aims to examine cases of sexual misconduct perpetrated by registered Social Workers in England heard under the HCPC Fitness to Practise proceedings and to identify aspects of institutional betrayal that may be evident within these cases.

## **Method**

Secondary data previously published and in the public domain on the HCPC website was accessed. The project did not require full ethical approval as the HCPC is required to make this information available to the public. However, it was submitted to the University Research Ethics Committee under the Proportionate Review process and formal approval given. Basic statistical analysis was applied to this data and a narrative analysis undertaken of the description of each case. A search of the HCPC on-line portal was conducted for 'Social Workers in England' and where the final

outcome was a 'Striking Off' order. There is some consistency in the presentation of each case in that the notice of the hearing and of the allegations is published. However, not all cases involving sexual misconduct have a full report of the proceedings if it was held in private.

The HCPC held the first hearings relating to social workers in August 2012 and so the sample included cases from then to March 2016. An initial reading of the reports identified cases where there was some kind of sexual misconduct alleged or proven in other proceedings. This included where the registrant had received a criminal conviction relating to a sexual offence; where the allegations included an 'inappropriate relationship' or other sexual misconduct; where a registrant had been charged but not prosecuted for an alleged sexual offence; and where another regulator had undertaken Fitness to Practise proceedings that related to sexual misconduct. For example, some registered social workers hold additional or dual registration as nurses and social workers and so are liable to the Fitness to Practise proceedings of the Nursing and Midwifery Council (NMC) as well as the HCPC.

The details of each hearing was then downloaded and data extracted where available. It should be noted that some standard information was obvious (such as gender of registrant, gender of any direct victims, allegations and outcome) but other data was missing or inconsistently recorded such as

length of time since qualification. Some data could be reasonably deduced such as whether the registrant attended the hearing.

Data extracted was organised into themes and included the nature of offences; gender of registrant; gender of any direct victims; relational context of the sexual misconduct (e.g. how did the registrant know the direct or associate victims); vulnerability of victims; attendance at the hearing; denial or acceptance of misconduct. The generation of themes used the broad framework of 'DARVO' to identify possible institutional betrayal (Smith and Freyd, 2014). In particular examples of minimisation of the abuse; where perpetrator mitigation was given priority over lack of acceptance of responsibility for their actions; or where the panel sought to pathologise the victim. A basic narrative analysis was also undertaken of the language used by the panel including references to inappropriate relationships as opposed to sexual crime or sexual abuse. The quality of the publicly available reports was also noted and whether any referrals were made to the Disclosure and Barring Service (DBS) or to the police. The DBS is the organisation that manages applications for criminal conviction disclosures. However, they also hold the register of people who have been barred from work with children or vulnerable adults due to previous concerns.

## **Findings**

This section begins by describing the role, function and regulatory powers of the HCPC in relation to the regulation of social workers in England and presents some general data captured from the HCPC website about the number of registered social workers and number of Fitness to Practise cases. The initial case analysis is then presented including the gender, professional role and professional relationship to the victim. Data is then presented under themes identified from the individual case analyses. Themes identified include vulnerability, types of misconduct, the conduct of hearings, the language of abuse, the treatment of victims and accountability.

### **Health and Care Professions Council**

The HCPC was established by law to regulate a number of different allied health professions such as radiographers, occupational therapists and paramedics (Health and Social Work Professions Order 2001). In 2012 the regulation of social workers in England was passed to the HCPC. Its functions include undertaking Fitness to Practise proceedings when an allegation of misconduct has been received. The regulations for such proceedings do not require the registrant to attend hearings only that they are given the right to attend and/or to be represented. However, witnesses can be compelled to attend.

Whilst this gives the HCPC important powers to require the disclosure of information that might otherwise be deemed confidential (such as from

employers) it does mean that victims may find themselves forced to attend a hearing and recount their painful story regardless of the impact of doing so.

A search of the HCPC website did not bring up any information about referrals to the DBS. It can be assumed that the police referred all those registrants who were convicted of an offence that harmed a vulnerable person but the HCPC did not record if any of them had been so barred as a result.

The latest published data from the HCPC shows that in October 2015 there were 90,664 registered Social Workers in England. The gender breakdown was 73,296 women and 17,368 men. Between August 2012 and March 2016 there were a total of 644 Fitness to Practise hearings against Social Workers in England and a total of 128 (20% of FtP cases) Striking Off orders were made. Of those striking off orders there were a total of 26 cases (24% of all striking off cases) that involved some kind of sexual misconduct.

### **Initial case analysis**

The initial case analysis was challenging as there is no set format used by the HCPC to record hearings. Some of the reports went into extensive detail but others were fairly brief. Reports of hearings are not presented in a standard template unlike other regulators. However, the majority followed a series of headings including preliminary matters such as proof of service;

background; decision on facts; decision on grounds; decision on impairment and sanction. However, some cases also had headings related to consideration of mitigation and aggravating factors but this was not consistently recorded. The HCPC does not provide the names or profession of panel members.

Of the 26 cases examined 23 involved a male social worker and three a female social worker. The area of practice was not consistently recorded, but where it was, included children and families' team, mental health team and youth justice team. There were 21 cases where there were direct victims of sexual abuse as opposed to unknown or indirect victims, for example, in an offence related to child pornography. Five involved some kind of offence relating to the possession or distribution of indecent images or extreme pornography. The gender of direct victims was consistently recorded and showed that 29 were women and three were men. Of the female social workers two of their victims were other women and one was a young man. The majority of victims were service users or closely related to a service user and had been targeted through the social worker's involvement with that service user. In one case the registrant was convicted of eight counts of voyeurism and these victims were unidentified women. These have been counted as eight separate unknown victims.

Table One – Relationship of direct victim to registrant	
Service user of social worker	13
Service user of social work team	3
Relative of service user	3
Colleague	3
Unknown	10
Total	32

The majority of victims were accessed through the social worker's professional role either directly working with the victim or the family of the victim. Such scenarios are complex in terms of dealing with the aftermath including ensuring that the full impact on colleagues and teams and their ability to continue to provide services is considered.

### **Vulnerability**

Of the 16 service users who were abused nine had been receiving treatment for mental health difficulties; three were receiving services as young people aged 16 or 17; two were known through fostering services. The other two were not specified or it was not possible to discern from the published report. However, in one case of the sexual abuse of a woman who was vulnerable due to mental health needs the panel made a point of recording:



*Indeed, the Registrant's employers own code of practice at the time was included in the bundle by the HCPC and suggested that the Registrant should have discussed the matter with his manager or supervisor. The manager or supervisor could then have determined the appropriate way forward including reallocating a different social worker to Service User A if required. The Panel was provided with no evidence as to whether or not such a discussion took place. The Panel was in no doubt that this is what should have happened.*

Case 24

This comment and the employer's code of practice raise the question of what is a realistic expectation of a registrant who may realise that their behaviour has breached an employer code, the regulatory body standards or even the law. It is safe to assume that victims need consideration of their on-going and probably increased need for care and treatment for their original mental health needs. However, it may not be a safe assumption that this can be effectively provided by colleagues or former colleagues of the perpetrator who remain loyal to their colleague or associate victims themselves (Melville-Wiseman, 2011).

### **Types of misconduct**

Nine registrants had received criminal convictions and were subject to Fitness to Practise proceedings in the aftermath of those convictions. These convictions included:

Table Two - Type and number of convictions (Nine male registrants in total)		
	Conviction	Number of counts
1	Sexual offences Act 2003 Section 16 <i>Sexual activity with a child by person in a position of trust</i>	1
2	Sexual Offences Act 2003 Section 45 <i>Making indecent photograph or pseudo-photograph of a child</i> Criminal Justice and Immigration Act 2008 Section 63 <i>Possession of extreme pornographic Images</i>	4 2
3	Sexual Offences Act 2003 Section 67(3) and (5) Voyeurism <i>Seven counts of an act outraging public decency by behaving in an indecent manner, namely filming up a female's skirt using a camera on a mobile phone and/or a camera.</i>	7
4	Sexual Offences Act 2003 Section 67(3) <i>Sixteen counts of distributing indecent photographs of children;</i> <i>Possession of indecent photographs of a child.</i>	16 1
5	Sexual Offences Act 2003 Section 67(3) and (5) <i>Recording another person doing a private act with an intention that you would, for the purposes of sexual gratification</i>	1
6	Criminal Justice and Immigration Act 2008 Section 63 <i>Possession of extreme pornographic images</i>	1
7	Sexual Offences Act 2003 Section 45 <i>Making an indecent photograph or pseudo-photograph of a child</i>	1
8	Sexual Offences Act 2003 Section 3 <i>With intent assaulted man aged 16 or over by touching him and that touching was sexual when he did not consent and you did not reasonably believe that he was consenting contrary to section 3 of the Sexual Offences Act 2003</i>	1
9	Criminal Justice and Immigration Act 2008 Section 63 <i>Possession of extreme pornographic images - act of intercourse/oral sex with dead/alive animal</i>	5 2

	Sexual Offences Act 2003 Section 67(3) <i>Possession of an indecent photograph/pseudo photograph of a child</i>	
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All other registrants were alleged to have breached different parts of the HCPC Standards of Conduct, Performance and Ethics (HCPC 2016). However, the relevant parts of the code were not consistently recorded. It is interesting to note that the majority of convictions related to indecent or pornographic images and there were no convictions under Sections 30-34 of the Sexual Offences Act 2003. This makes it an offence to have sexual contact with a person with a mental disorder impeding choice. It was recorded that a number of victims were receiving services when they had mental health needs but there is no indication that perpetrators were referred to the police for consideration of criminal proceedings or that the issue of informed choice examined.

### **Conduct of hearings**

Only five social workers out of a possible 26 attended the hearing in full. One registrant attended and made an application for the hearing to be heard in private. When this application was denied the registrant left the hearing. In all cases where the registrant did not attend the HCPC could demonstrate that the registrant had been given due notice and was fully informed of the hearing date and venue. Of the registrants who attended only one accepted responsibility for his impaired fitness to practise (a newly qualified social

worker who had been convicted under Section 16 of the Sexual Offences Act 2003. There were no examples of a victim refusing to give evidence as a witness.

### **Language of abuse**

Within the cases of direct sexual abuse of a vulnerable service user the panel's preference is to use terms that do not include reference to the sexually abusive nature of the behaviour thereby minimising the seriousness:

*The Panel considers that these matters together with the other facts found proved and detailed below are sufficient to establish that (registrant) did not maintain professional boundaries in her dealings with service user A.*

Case 3

And,

*She was perfectly candid in her account that a sexual relationship started in mid-2005 when the Registrant was her Care Co-Ordinator. The Panel is satisfied that she was able to place the start of this sexual relationship with accuracy by the use of contemporaneous material.*

Case 16

Also

*There was a wealth of information within the witness statement ...that she and the Registrant engaged in a sexual relationship from July 2008 to September 2012. There was uncontested evidence from TW that at the time A was a vulnerable adult.*

Case 15

There were no examples of the abuse being referred to as sexual abuse or as a possible criminal act. The reason for this is not clear but the panel does have access to its own legal advice on any matters related to the hearings and could presumably ensure that any more explicit statements remained within the law.

### **Treatment of victims**

Once a victim reports a professional they become primarily witnesses to the abuse. Unlike the perpetrator they are required to give evidence if asked to do so by the HCPC and can be made legally liable if they fail to attend. The HCPC provides information on the website for what might happen at a hearing but this does not include the sometimes intrusive nature of questioning by the registrant's legal representative or indeed of the council's legal representative. The panel seeks to ascertain whether each witness is a 'witness of truth' and therefore whether their testimony can be believed.

The criteria for making such a judgement are not clear from the guidance or from the examples examined here. In fact one witness was adjudged to be telling the truth because she was calm when she was speaking. Special arrangements can be offered to who the panel identify as particularly 'vulnerable witnesses' such as children or people with mental health needs but there is within this an assumption that some witnesses/victims are not vulnerable. In criminal proceedings for sexual offences there is an assumption that all alleged victims/witnesses are potentially vulnerable and therefore eligible for special arrangements. Applications can be made for anonymity of witnesses in terms of reporting and the law protects them in this way even if the press are present and report the case. Similar anonymity is not usually afforded to the registrant unless health issues form part of the proceedings.

As witnesses, victims are there simply to give their evidence and to be cross examined on it. There were no examples of the panel inviting the victim to make or present a victim impact statement. Similarly, there were no cases of the panel making any apology to the victim on behalf of the profession of social work once the case was concluded. There were examples of the victim's behaviour or alleged responsibility for the abuse being questioned. For example, there was one case of a woman social worker who sexually abused the mother of a child on her caseload (Case 2). The social worker went to live with the mother and her child and took confidential files there

after work. The mother then accessed some of the information about herself and her child. The hearing report states:

*[the registrant] ... had monthly supervision meetings but failed to follow the advice she was given by her supervisor, not to visit Ms A alone, to reduce the number of visits and to maintain proper boundaries. [the registrant] did not promptly disclose to her supervisor that she was living with Ms A. It was clear that Ms A wanted to prevent Social Services from being involved with her child and that [the registrant]'s behaviour had the potential to compromise her duty of child protection.*

And

*It was difficult however for proper supervision to be fully provided when [the registrant] and Ms A colluded in order deliberately to deceive the supervisor about the true nature of the relationship and where [the registrant] was living at the time.*

Case 2

The report of this case appears to seek out shared responsibility and to attribute a proportion of culpability to the victim as at the time it is stated that she wanted to prevent social services involvement. However, there is no evidence to suggest that Ms A's wish to prevent social services becoming involved with her child lowered her vulnerability to abuse and in

fact probably increased it. Many vulnerable parents do not welcome social services involvement and what may have appeared to be a new partner in her life to support her vulnerability turned out to be an abusive experience. Ms A was also unlikely to do anything but hide the so called relationship and had no duty to report it and so the articulation of her role in collusion is inexplicable. It also suggests an attempt to reverse the victim and offender role (Smith and Freyd 2014).

Other reports describe the demeanour of the witness when giving evidence and how that is assessed by the panel in order to determine the credibility of their account:

*Service User A, in her evidence, was credible, consistent, very calm, and was able to provide a reasonable explanation for events. The Panel found her account to be fair and balanced and to be without malice.*

Case 16

It is interesting to note that the fact that this witness was perceived to be ‘very calm’ during her evidence was taken as evidence of her credibility. This suggests that a distressed witness may not be so easily believed. In addition, the absence of malice assessment presents real challenges. It would be healthy from a psychological perspective for a victim of sexual abuse to be very angry with what had happened to them. The proceedings



are subject to a number of checks and balances to ensure the registrant receives a fair hearing and would not have reached this stage if a number of others did not think that they may be in breach of professional standards. However, there is no evidence of how the panel would assess compared to understandable anger.

### **Accountability**

There was only one example of a registrant taking full responsibility for his actions. The most common scenario across the remaining cases was denial and lack of remorse. This was considered by the panel and used as part of the risk assessment of future misconduct:

*The Panel has no material before it to indicate that the Registrant has meaningfully acknowledged that his behaviour fell well below acceptable standards of behaviour for Registrant Social Workers. Further the maintenance of his position that he has done nothing wrong and no evidence of remorse from the Registrant, mean that there is no indication that the Registrant would not repeat past behaviour.*

Case 19

In this example the HCPC confirms that where there is no acknowledgement of wrong-doing there is on-going risk of repeat behaviour. However, there was no evidence in any cases reviewed where the panel took this further.

For example, to be fully confident of no risk of repeat behaviour the panel could also consider if the registrant has sought any treatment for the behaviour, if that treatment has been available and if it has been successful. In addition admission of guilt and acceptance of full personal responsibility may be a key aspect of addressing the impact on victims but there was no evidence of this within panels' deliberations.

## **Discussion**

The number of cases where a social worker in England has been struck off the register for some kind of sexual misconduct represents a very small number of professionals. However, given the range of difficulties there may be in cases coming to light or ending up in a regulatory body hearing this may not provide a true representation of the number of sexual misconduct incidents. In addition it has not been possible to review all 644 Fitness to Practise hearings to determine if some received sanctions short of a striking off order. The proportion of cases that involved a striking off order as a result of some kind of 'inappropriate relationship' was fewer than the one third recorded by the GSCC (GSCC 2009) but it still represents a significant number of cases. The number of cases, the number of victims and the scope of the potential significant harm must be a major concern to the profession. As the overarching regulator of the profession in England, the HCPC has a particular remit to protect vulnerable people and to uphold public confidence. However, to date, it has been viewed as a body with a remit to

hold individuals to account rather than examining its role as part of the institution of social work or to hold institutions to account in individual cases. The lack of detail about the nature of conduct cases in its annual reports is not consistent with its predecessor and may be an area for consideration for the future. The quality and inconsistency of information in the reports of individual cases was noted as part of this study and this raises questions about the legal imperative to make details available to the general public.

Findings of this small study confirmed that the gender balance of abusive professionals does not align with the gender balance in the profession. The majority of abusers are men and even when the abuser is a woman the victim or victims are more likely to be women. The majority of abusers sought out their victims from within their own work setting including service users or close relatives of service users. Again the majority were additionally vulnerable by virtue of mental health needs. Unfettered access to such women by a professional who has sexual abuse in mind is presents a potentially “toxic mix” of power and vulnerability (Melville-Wiseman, 2016). Relational risk as well as risk of physical harm should form part of all initial assessments in mental health services (Melville-Wiseman, 2011). However, this also raises questions about how vulnerability and power dynamics are conceptualised by the regulatory body. It does give an option to witnesses with mental health needs to have special arrangements in order

to give their evidence but questions about the veracity of their evidence is still arbitrarily determined. There are many mental health problems that may make a service user test or push boundaries including relational or sexual boundaries but surely services are where they should go for help. Such problems may present a particular challenge to a needy professional in terms of keeping boundaries but those problems should always be perceived as adding to the service user's vulnerability rather than adding to their culpability.

These findings also have implications for the core curriculum of social work pre-registration training which should always include compulsory teaching on complex boundary issues such as that proposed by Davidson (2005).

This would include accepting that some vulnerable people will test boundaries but that should not be mistaken for an invitation to cross them. Hearings where that has happened should be very clear about this point and not conflate problems, including intimate relational problems or needs with responsibility.

Current approaches to screening entrants to the profession may not be effective with the emphasis on past behaviour or convictions rather than on future risk. The HCPC does not publish the personal identity, professional background or other details of panels that hear cases unlike other regulators and this means that their qualifications for the role are unknown. However, the process of assessment of future risk does require particular skills that

may only be found in professionals who have undertaken such assessments in their past role. In some cases, presented here, the panel relied solely on the admission or not of guilt and evidence of remorse. In addition, the majority of registrants did not attend the hearing, so any assessment of future risk is at best partial. In the absence of changes to primary legislation to make this compulsory a two staged approach could be considered whereby the registrant is made responsible for attending the hearing if they wish future risk to be considered as anything other than unacceptable.

The poor treatment of victims is also of concern but may, in part, be perceived as inevitable if the regulator is to have a legal basis for its work. This may be misplaced concern as victims in UK criminal cases are currently afforded better treatment. For example, there is the possibility to meet with the prosecutor beforehand; all witnesses are deemed to be vulnerable in relation to the perpetrator regardless of how they may have met; and victims are invited to present a victim impact statement prior to the judge passing sentence to ensure that the court takes into account the nature and scope of the impact and damage. This also means that the victim has a chance to have their voice heard as opposed to simply being a witness to their own abuse. Support for victims in regulatory hearings should extend to their need to be given at least approximate justice and that includes restitution. There was no evidence of a panel making any kind of apology to the victims. This is an important part of restitution for victims and should

be made on behalf of the profession. It would take account of the regulator's shared culpability, that on this occasion their processes and initial decision to register the professional did not work (Melville-Wiseman, 2008). By contrast the registrant is always assessed in terms of culpability, remorse and apology.

Euphemistic and minimising language used by the HCPC to describe sexual abuse is likely to cause additional harm to victims or at best not help to restore their particular already damaged confidence in the profession. The HCPC appears to take a very broad and generalised view of this part of their remit and adjudging cases as though the victim's confidence in the profession no longer matters. For cases involving possible sexual offences the victim may not report the offence to the police for many years. It is therefore a concern that it becomes a matter of public record that such incidents are recorded by the HCPC as more akin to a romantic relationship than an offence. It would not be appropriate for them to refer to any possible as yet unproven criminal acts and their legal advisor should caution them against that. However, they equally should not make any statements that could compromise any future prosecutions or legal action. A neutral term such as 'sexual contact' would be factually correct without the associated risk of minimisation of the impact through inferences that this was in the context of a sexual relationship.

The main priority of the HCPC appears to be prevention of future risk to services or the reputation of the profession. However, even if these are legitimate priorities justice making for victims should be an equal priority as reflected in the approach of the current IICSA. Apart from the additional trauma related to institutional betrayal, we may never know the extent of the problem or if the current focus deters others from coming forward.

### **Conclusions**

This has been a small scale study but provides sufficient evidence to begin a debate about the need to view professional regulators as an institution that can overtly or inadvertently betray victims of abuse. There is evidence from recent proceedings that the impact on victims and their need for on-going support is not well considered; that a euphemistic and minimising approach to what are serious offences, whether proven by a court of law or not, is common; and that the assessment of future risk is not robustly undertaken. Furthermore, there is some evidence that the HCPC, as an institution, can inadvertently betray victims in very specific ways related to role reversal of victim and offender if the victim has not been a compliant service user in the past. Further research is indicated to include cases where the professional was not made subject to a striking off order and in addition to capture the views of victims on the process of being a witness in such cases.





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