

Must or should?

Interpreting 'Standards for the dental team'

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In brief

Helps to clarify the language used in the GDC's *Standards for the dental team*.

Encourages reflection on what those standards entail.

Suggests the introduction of the terms 'must' and 'should' has added confusion rather than clarity.

The General Dental Council's *Standards for the dental team* sets out guidance for the conduct of dental professionals. In a departure from its predecessor, *Standards for dental professionals*, the words 'must' and 'should' are defined and employed in particular ways. However, this provision of more detailed guidance paradoxically creates greater uncertainty.

Introduction

The General Dental Council's (GDC's) standards guidance *Standards for the dental team* came into effect on the 30 September 2013.¹ At over 80 pages this document is considerably more detailed than the previous guidance *Standards for dental professionals*, and expands the number of standards from six to nine.^{1,2} The GDC undertook an extensive consultation process with the new guidance and it can be seen as a response to the extension of registration to other dental professionals and events in the NHS such as the care scandal at the Mid Staffordshire NHS Foundation Trust. In this opinion piece, we would like to focus on a particular innovation in the guidance. The terms *must* and *should* are employed throughout and are specifically defined. This would seem to follow the General Medical Council (GMC) who employ and define these terms in *Good medical practice*.³

The GMC state:

- 'You must' is used for an overriding duty or principle
- 'You should' is used when we are providing an explanation of how you will meet the overriding duty

- 'You should' is also used where the duty or principle will not apply in all situations or circumstances, or where there are factors outside your control that affect whether or how you can follow the guidance.

GMC, *Good medical practice*, 2013 p5

The GDC define *should* in a very similar way. It is used in two ways, to provide, 'an explanation of how you will meet the overriding duty' and to imply that a, 'duty would not apply in all situations...'.¹ However, *must*, 'is used where the duty is compulsory'.¹

This could be confusing to the registrant when applied to their practice. If a duty is compulsory it has to be performed. It may be that it can be performed in different ways as indicated by the use of *should* in describing how to perform the duty. However, the word *should* is also being used to indicate duties that, dependent on circumstances, may not be compulsory. *Must* means a compulsory duty, *should* covers both compulsory duties and duties that are circumstance specific.

All nine Standards are formulated as *musts* and are therefore compulsory. They are then broken down into component *must* statements (for example, the principle of putting patients' interests first is broken down into nine *must* statements). These statements are then further broken down into guidance that are typically broken down into all *musts* but most are a mixture of *musts* and *shoulds*. Curiously, Standard 6.5, 'You must communicate clearly

and effectively with other team members and colleagues in the interests of patients', has a single *should* statement regarding keeping records of all treatment discussions. If there is only one way of upholding the standard it could be confusing that it is not a *must* unless the standard is perceived as speaking for itself. However, when would it be acceptable not to keep a record of treatment discussions? The recording of discussions with colleagues where a treatment pathway is altered would seem to require a *must* in the interests of patient care.

It may be helpful to look at further examples. Standard 1.8 is 'You must have appropriate arrangements in place for patients to seek compensation if they have suffered harm', and is broken down into a *must* and a *should* (1.8.1 and 1.8.2). 1.8.1 states that insurance or indemnity must be in place while 1.8.2 states you should keep to the terms and conditions of your insurance. Why is it not you must keep to those terms and conditions? In what circumstances would it be acceptable not to keep to the terms and conditions?

Standard 1.2 is 'You must treat every patient with dignity and respect at all times'. Its component clause 1.2.4 states 'You should manage patients' dental pain and anxiety appropriately'. In what sense is *should* being employed here? It is hard to see how 1.2 can be upheld without managing dental pain and anxiety appropriately. So, 1.2.4 would seem to be an example of *should* being a way of fulfilling the overriding duty. However, if this is the case why is it not just a *must* akin to its companion clause

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1.2.3 ('You must treat patients with kindness and compassion')? It could be argued that while it is possible to always aim to effectively manage dental pain and patient anxiety, it is unrealistic to always achieve it. For example, occasionally an anaesthetic injection may not reach the right nerve. This may be an example of 'exceptional circumstances outside your control that could affect whether, or how, you can comply with the guidance'. However, are all of the *must* statements immune to such circumstances?

Standard 6.2 is 'You must be appropriately supported when treating patients' and as such is at the core of patient safety. However, 6.2.2 is a *should* statement: 'You should work with another appropriately trained member of the dental team at all times when treating patients in a dental setting'. This is confusing because if it applies 'at all times' why is it a *should*? It also creates a challenge for those dental care professionals who do not have an allocated dental nurse, and therefore have to assess at every clinical session as to whether they can adhere to 6.2.1, 'You must not provide treatment if you feel that the circumstances make it unsafe for patients'.

Does this seeming confusion, at least from the perspective of these readers, with regard to the use of the words *must and should*, actually matter? The guidance spells out expected behaviour in great detail and both *must* and *should* place a duty upon the dental professional. However, the confusion regarding *musts* and *shoulds* makes it difficult to determine what is compulsory and what may not apply given different circumstances. One possibility is to define *musts* akin to the GMC as overriding duties, rather than compulsory ones. However, this is problematic since it implies there are lesser duties that can be overridden without defining those lesser duties.

In the introduction on page five of *Standards for the dental team*, the standards are defined as 'what you must do' and the 'guidance is there to help you meet the standards'.¹ The *musts* in the guidance sections can be seen as adding emphasis; these are the most vital ways of upholding a standard. However, this guidance is used to hold registered professionals to account so it needs to be consistent.

Must and *should* were probably introduced to give professionals greater clarity as to what is

compulsory and what is circumstance specific. However, dividing duties into those that must always be performed and those that do not, is extremely challenging because not all future circumstances can be foreseen. It also limits professional autonomy: whether an action is required to uphold a standard in a particular circumstance requires professional judgement rather than a *must* or *should* statement. Striving for greater clarity is laudable, but giving more detailed guidance arguably (and paradoxically) creates more confusion. In *Standards for dental professionals* the word *must* was only used twice and the standards were given as simple injunctions such as 'Put patients' interests first and act to protect them'. This simpler approach has merit and could help registrants focus on what is truly important – caring for patients.

1. General Dental Council. *Standards for the dental team*. 2013. Available at: www.gdc-uk.org/professionals/standards (accessed April 2017).
2. General Dental Council. *Standards for dental professionals*. 2005. Available at: www.gdc-uk.org/api/files/OLD%20Standards%20for%20Dental%20Professionals.pdf (accessed April 2017).
3. General Medical Council. *Good medical practice*. Published March 2013, updated April 2014. Available at: www.gmc-uk.org/guidance/good_medical_practice.asp (accessed April 2017).