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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.

Abstract

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.

Main body

Introduction

The General Dental Council’s (GDC) standards guidance ‘Standards for the Dental Team’, came into effect on the 30 September 2013. 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. 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’.

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”. 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 musts and shoulds. Some of the guidance is 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 whilst 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 1.2.3 (“You must treat patients with kindness and compassion”)? It could be argued that whilst 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.

References
