



## **Complaints Handling in Dental Practice**

**Aim:** To provide an understanding of how to reduce the risk of complaints in the dental surgery and how to manage complaints should they arise.

**Learning outcomes:** On completion of this verifiable CPD article the participant will be able to demonstrate, through completion of a questionnaire, the ability to:

- Identify the meaning of a complaint
- Identify the current regulations regarding complaints
- Identify the responsibility of the dental professional in handling complaints
- Recognise why patients may complain and measures that can be taken to reduce the risk of complaints
- Demonstrate knowledge of good practice in communication skills
- Identify the key aspects of a clear and effective complaints procedure
- Identify where to send patients for help and advice regarding NHS and private complaints if a satisfactory solution cannot be reached within the dental practice
- Complete a questionnaire, scoring more than 70%
- This CPD article meets the GDC development outcome A

### **Introduction**

The majority of patients are satisfied with the treatment they receive from their dentist or dental care professional. However, sometimes things can go wrong which may give rise to patient dissatisfaction and the potential for a complaint to be made.<sup>1</sup> A complaint can be defined as “any expression of dissatisfaction by a patient (or their representative) whether justified or not.”<sup>2</sup>

The role of dental care professionals is changing and evolving as the scope of practice enables us to take on extended duties, resulting in an increased contribution within the dental team. This is likely to have an increasing impact on the care the patient receives. With increased responsibility comes the potential risk of a direct complaint from the patient. It is therefore important that every team member is aware of the professional regulations regarding the handling of complaints, should one arise.<sup>3</sup>

In August 2018, the General Dental Council (GDC) will transition to new Enhanced Continued Professional Development (CPD) rules which will change the CPD requirements for GDC registrants. Dental Professionals will be expected to complete CPD that links to the GDC Standards and to meet GDC development outcomes. One of these development outcomes is:

*“Effective communication with patients, the dental team, and others across dentistry, including when obtaining consent, dealing with complaints, and raising concerns when patients are at risk.”*

This CPD article will fall under the above GDC development outcome and will also cover Principle 5 of the Standards for the Dental Team which is to “have a clear and effective complaints procedure.”<sup>4</sup>

### Patient Complaints



A patient who is dissatisfied with any aspect of the dental care they have received has a number of options open to them. They may:

- find another dental practice;
- complain to friends and family about the service they have received;
- complain to the practice themselves;
- complain to the health authority- NHS patients have the right to complain about any aspect of NHS care, treatment or service, and this is firmly written into the NHS constitution. Complaints should normally be made within 12 months of an incident or the matter coming to their attention. However, this time limit can be extended providing there are good reasons for not making the complaint sooner.<sup>5</sup>
- complain to the General Dental Council (complaints regarding Private treatment may be referred to the Dental Complaints Service which is funded by the GDC)<sup>6</sup>

### The Dental Complaints Service

The Dental Complaints Service was set up by the General Dental Council in 2006 to deal with complaints from private patients who have complained to their dental practice but have been unable to reach a satisfactory conclusion to a complaint. The service mainly deals with complaints relating to failure of treatment where the outcome being sought by a patient may be a refund of fees, a contribution towards remedial treatment, an explanation or an apology. The Dental Complaints Service is an informal process with no legal involvement and by working with the patient and

registrant to reach a resolution, the possibility of legal action can be prevented. For more serious conduct issues the DCS would refer the matter to the Fitness to Practise (FTP) team at the GDC for assessment. Other patients may be referred to NHS England, ICO, CQC or advised to seek independent legal advice.

From January-December 2014, the Dental Complaints Service dealt with a total of 1068 complaints.

- **93%** were complaints about the **dentist** (compared with 96% in 2013)
- **3%** were complaints about the **clinical dental technician** (compared with 1.5% in 2013)
- **2%** were complaints about the **dental technician** (compared with 1% in 2013)
- **1%** were complaints about the **hygienist** (compared with 1.15% in 2013)
- **0.5%** were complaints about the **dental nurse** (compared with 0.15% in 2013)
- **0.4 %** were complaints about the **dental therapist** (compared with 0.15% in 2013)
- **0.1%** were complaints about the **orthodontic therapist** (compared with 0.05% in 2013)<sup>7</sup>

The service received 660 complaints from January - September 2016, compared to 529 for the same period of 2015 (increase of 20%). The most recent figures show that the number of incoming enquiries in 2017 were broadly in line with those received in 2016.<sup>8</sup>

### GDC Fitness to Practise Cases

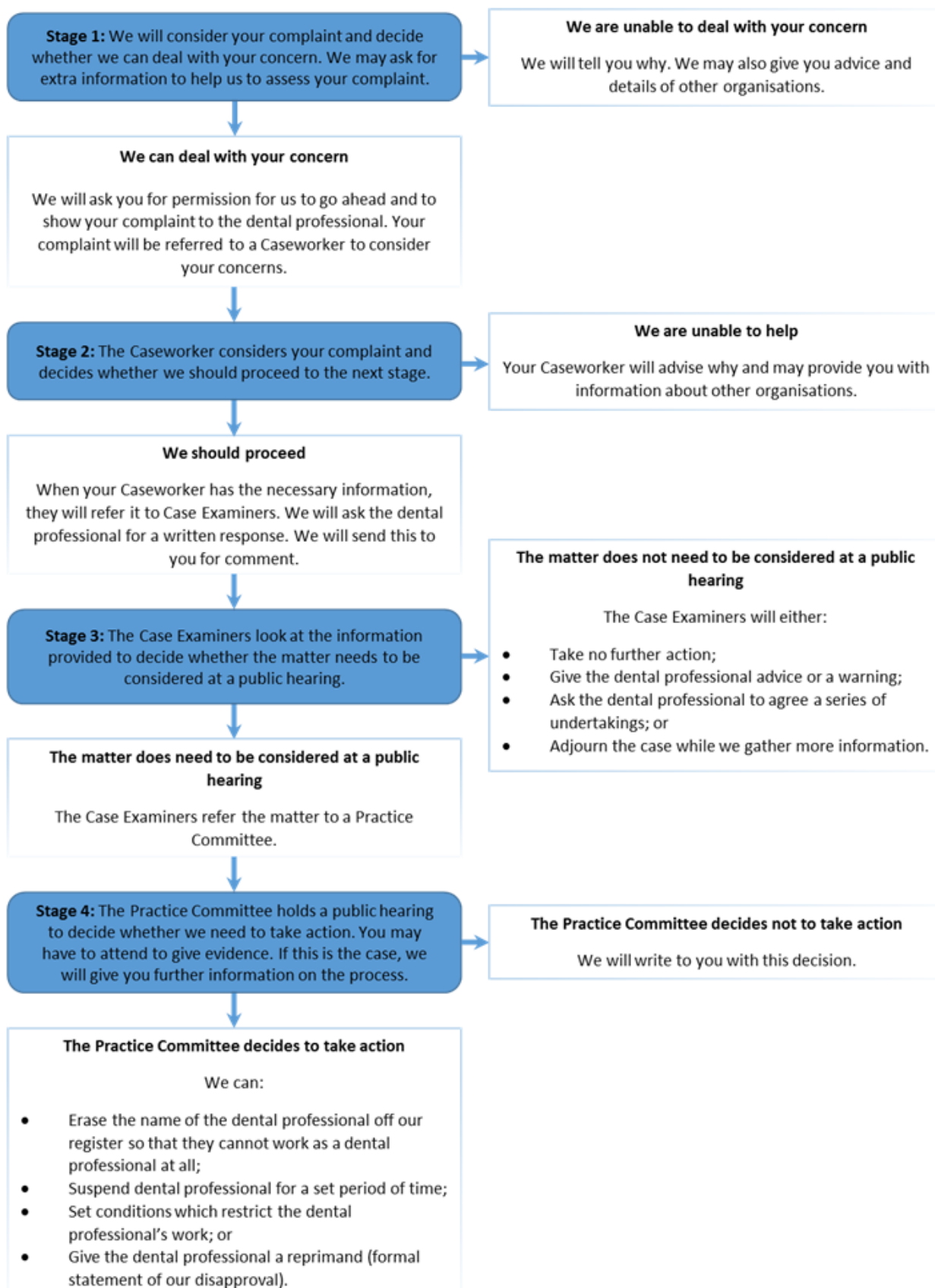
Dentists and Dental Care Professionals must meet certain requirements from when they first qualify and throughout their career to be considered “fit to practise”.

The GDC will investigate serious concerns about the behaviour or the clinical abilities of an individual dental professional including:

- Serious or repeated mistakes in clinical care, for example mistakes in diagnosis or dental procedures.
- Failure to examine a patient properly, to secure a patient’s informed consent before treatment, or to respond reasonably to a patient's needs.
- Not having professional indemnity insurance.
- Cross infection issues.
- Serious breaches of a patient's confidentiality.
- Being under the influence of alcohol or drugs.
- A serious criminal offence.
- Poor health or a medical condition that significantly affects the registrant’s ability to treat patients safely.
- Fraud, theft or dishonesty by a dentist or dental care professional.<sup>7,8</sup>

The **Fitness to Practise** procedure has the following four stages<sup>9</sup>:

## Four stage complaints procedure



## **Interim Orders Committee**

The Interim Orders Committee considers serious allegations to decide whether it is appropriate to either prevent or to place limits on an individual's practice until their case is heard.

At the time of writing, the 2017 report was yet to be published. However, in 2016 there were 414 hearings, of which 66 involved dental nurses, 24 dental technicians, 12 clinical dental technicians and 4 hygienist/therapist.<sup>10</sup>

## **The Professional Conduct Committee**

The Professional Conduct Committee considers whether an allegation referred to it amounts to misconduct and if this misconduct amounts to an impairment of the registrant's fitness to practise.

In 2016 there were 282 hearings, of which 35 involved dental nurses, 22 dental technicians, 4 clinical dental technicians and 1 dental hygienist/therapist.<sup>10</sup>

## **The Professional Performance Committee**

The Professional Performance committee considers allegations where it appears that a dental professional's performance is deficient and if this deficiency amounts to an impairment of their fitness to practise.

In 2016 there were 26 hearings on the Professional Performance Committee and all of these were dentists.<sup>10</sup>

## **The Health Committee**

The Health Committee considers cases where it appears that a dental professional's fitness to practise is affected by a physical or mental condition.

In 2016 there were 35 hearings on the Health Committee, of which 10 involved dental nurses and 1 involved a dental hygienist.

Dental professionals referred to a Practice Committee will appear before an independent panel of lay and dental professional members as part of a formal hearing where the GDC and the dental professionals both have the right to legal representation.

## **Why do Patients Complain?**

The Dental Defence Union state, that in their experience, there are two main underlying causes for most complaints:

- The patient is dissatisfied with some aspect of treatment or service.
- There has been a failure to meet the patient's needs or expectations.

Factors that can trigger a complaint may include:

- The attitude of the treating dental professional or another member of the dental team.
- Time-keeping for surgery appointments.
- The standard of treatment provided.
- The basis on which treatment was provided (NHS or private) was unclear.
- Fees and charges.<sup>11</sup>

Patients who complain often want one or more of the following:

- An opportunity to be heard. It is best to conduct this in a more private area of the dental practice.
- An explanation of what has happened and why.
- An assurance that it won't happen again, to them or anybody else.
- An apology - a sincere expression of regret and empathy, even if you do not believe you have done anything wrong. This is not the same as an admission of guilt or liability.
- Remedial treatment, either by the dental professional or by referral to an appropriate colleague inside or outside the practice.
- An ex-gratia payment or goodwill gesture e.g. waiving or refunding the fees paid.<sup>11</sup>

## How can the risk of complaints be reduced?

### 1) Communication



As suggested above, patients may complain about any aspect of their care. Societal and technological changes could be considered to have increased the capacity for patients to access information, and patients may wish to take a more active role in treatment planning. As such, it could be considered that patients have increasing expectations as to what they expect from a dental service.<sup>12,13</sup> Complaints can arise when the treatment and service provided does not meet the patient's expectations. This can be due to a failure to communicate.<sup>2</sup>

The Parliamentary and Health Service Ombudsman reported that poor communication is at heart of many dental complaints. Between 2013 and 2015 it identified 27 cases where confusion about dental charging was an issue. A study

found that dentists were failing to spell out the treatment patients need, to provide details on NHS and private options or to explain the costs of treatment to patients.<sup>14</sup>

It is therefore important that the dental professional uses good communication techniques.

Establishing good communication requires building rapport with the patient. This involves:

i) Listening to the patient. If you are involved in communicating information to the patient, remember the Acronym S.O.L.E.R.

- Sit **S**quarely to the patient
- maintain an **O**pen position
- **L**ean towards the patient
- maintain **E**ye contact
- **R**elax

ii) Listening to the tone of voice.

iii) Watching and mirroring body language. <sup>13,14</sup>

iv) Communicating in a way the patient can understand, taking into account their learning styles and any disabilities.

The GDC states that patients expect:

- “To receive full, clear and accurate information that they can understand, before, during and after treatment, so that they can make informed decisions in partnership with the people providing their care.
- A clear explanation of the treatment, possible outcomes and what they can expect. To know how much their treatment will cost before it starts, and to be told about any changes.
- Communication that they can understand.
- To know the names of those providing their care.”<sup>4</sup>

Research shows that practitioners with a low claims experience possessed several common characteristics:

- ✓ They spent slightly longer with their patients at each visit.
- ✓ Better patient knowledge of what was happening and why.
- ✓ Active listening skills.
- ✓ Warm, friendly atmosphere.
- ✓ Humorous, warm personality.

It also shows a range of similar characteristics that existed in doctors who had never been sued:

- ✓ Respecting a patient’s dignity.
- ✓ Respecting privacy.
- ✓ The ability to listen patiently without interrupting.

- ✓ Being available.
- ✓ Being polite and not over-familiar.
- ✓ Respecting a patient's time.<sup>15</sup>

## 2) Consent



It is important to ensure the patient has understood the message and given consent for their treatment plan. The GDC state that you must:

- “Obtain valid consent before starting treatment, explaining all the relevant options and the possible costs.
- Make sure that patients (or their representatives) understand the decisions they are being asked to make.
- Make sure that the patient's consent remains valid at each stage of investigation or treatment.”<sup>4</sup>

The dental professional must ensure that the information regarding treatment is given in a way that is clearly understood by the patient to minimise misunderstandings and the discussions you have with patients in the process of gaining consent should be documented. Although a signature on a form is important in verifying that a patient has given consent, it is the discussions that take place with the patient that determine whether the consent is valid.<sup>4</sup>

## 2) Ensure that you are trained and competent

Dental Care Professionals are able to develop additional skills throughout their careers. As a dental care professional, it is important to ensure you are working within your knowledge, professional competence and physical abilities.



### 3) Invite feedback



A review of 100 complaints received from an international indemnity provider, showed that in more than 40% of cases, a patient referred to a previous unsatisfactory experience prior to the incident that finally caused them to complain.<sup>16</sup>

Inviting feedback from the patient will give the opportunity for the team to review their performance and improve the quality of care that can be given to patients, thus reducing the risk of complaints.

Feedback can be achieved through:

- Comment cards.
- Surveys.
- Asking the patient if they are happy.
- Follow up post-operative phone calls.

The aim is to encourage the patient to let the dental team know if there is a problem. This will enable the dental team to review their performance, before the patient begins to feel any slight dissatisfaction which could then result in a complaint.

### The Process for Handling Complaints

#### **The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Care Quality Commission (CQC)**

Section 23 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 says that the CQC must produce guidance to help providers comply with the regulations made under this Act.

Regulation 16: The CQC state that: "The intention of this regulation is to make sure that people can make a complaint about their care and treatment. To meet this regulation providers must have an effective and accessible system for identifying, receiving, handling and responding to complaints from people using the service, people acting on their behalf or other stakeholders. All complaints must be investigated thoroughly and any necessary action taken where failures have been identified."<sup>17</sup>

Any complaint received must be investigated and necessary and proportionate action must be taken in response to any failure identified by the complaint or investigation.

The registered person must establish and operate effectively an accessible system for identifying, receiving, recording, handling and responding to complaints by service users and other persons in relation to the carrying on of the regulated activity.

The registered person must provide to the Commission, when requested to do so and by no later than 28 days beginning on the day after receipt of the request, a summary of:

- a) complaints made under such complaints system,
- b) responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and
- (c) any other relevant information in relation to such complaints as the Commission may request

CQC can prosecute providers for a breach of the part of this regulation that relates to the provision of information to CQC about a complaint within 28 days when requested to do so. CQC can move directly to prosecution without first serving a Warning Notice. In addition, CQC may take any other regulatory action in response to breaches of this regulation.

### **The General Dental Council (GDC)**

The GDC advises that patients initially see if the matter can be resolved directly with the dental practice. Local resolution is the first stage for both NHS and Private dentistry complaints.

The GDC state that:

“You must make sure that there is an effective complaints procedure readily available for patients to use, and follow that procedure at all times. It is part of your responsibility as a dental professional to deal with complaints properly and professionally.

You must:

- ensure that there is an effective written complaints procedure where you work;
- follow the complaints procedure at all times;
- respond to complaints within the time limits set out in the procedure; and
- provide a constructive response to the complaint.

You should make sure that everyone (dental professionals, other staff and patients) knows about the complaints procedure and understands how it works. If you are an employer, or you manage a team, you must ensure that all staff are trained in handling complaints. If you work for a practice that provides NHS (or equivalent health service) treatment, or if you work in a hospital, you should follow the procedure set down by that organisation. If you work in private practice, including private practice owned by a dental body corporate, you should make sure that it has a procedure which sets similar standards and time limits to the NHS (or equivalent health service) procedure.”<sup>4</sup>

Patients should know who to contact if they have a problem and everyone in the dental team should be familiar with the complaints procedure. The complaints procedure needs to be:

- ✓ Somewhere patients can see it- patients should not have to ask for a copy;
- ✓ Easy for patients to use- clearly written in plain language and available in other formats if needed;
- ✓ Provides information on other independent organisations that patients can contact to raise concerns;
- ✓ Allows you to deal with complaints promptly and efficiently;
- ✓ Allows you to investigate complaints in a full and fair way;
- ✓ Explains the possible outcomes;
- ✓ Allows information that can be used to improve services to pass back to your practice management or equivalent; and,
- ✓ Respects patients' confidentiality.

If a patient wishes to complain, the GDC advise that you must give them a prompt and constructive response. They state that:

- ✓ "You should give the patient a copy of the complaints procedure when you acknowledge their complaint so that they understand the stages involved and the timescales.
- ✓ You should deal with complaints in a calm and constructive way and in line with the complaints procedure.
- ✓ You should aim to resolve complaints as efficiently, effectively and politely as possible. You must respond to complaints within the time limits set out in your complaints procedure.
- ✓ If you need more time to investigate a complaint, you should tell the patient when you will respond.
- ✓ If there are exceptional circumstances which mean that the complaint cannot be resolved within the usual timescale, you should give the patient regular updates (at least every 10 days) on progress.
- ✓ You should try to deal with all the points raised in the complaint and, where possible, offer a solution for each one
- ✓ You should offer an apology and a practical solution where appropriate.
- ✓ If a complaint is justified, you should offer a fair solution. This may include offering to put things right at your own expense if you have made a mistake.
- ✓ You should respond to the patient in writing, setting out your findings and any practical solutions you are prepared to offer. Make sure that the letter is clear, deals with the patient's concerns and is easy for them to understand."<sup>4</sup>

When dealing with complaints, it is important not to be defensive but to deal with the situation practically. You should listen carefully to patients who complain and involve them fully in the complaints process. You should find out what outcome the patients want from their complaint.<sup>4</sup> If, after attempting to come to a solution, the patient is still not happy, the patient can be informed about relevant Ombudsman for health service complaints or the Dental Complaints Service for complaints about private dental treatment.<sup>4</sup>

## Indemnity

Standard 1.8 of Standards for the Dental Team states:

'You must have appropriate arrangements in place for patients to seek compensation if they suffer harm'

Dental hygienists/therapists are legally required to have indemnity and will be asked to declare they have appropriate indemnity arrangements in place when they join the GDC register or renew their registration.

Making a false declaration to the GDC is a serious issue. If you declare to the GDC that you have appropriate indemnity or insurance in place and this is found to be false, this is likely to be considered as a fitness to practise matter.

## Learning from Complaints

Complaints can be an opportunity for you to improve the service you provide.<sup>4</sup> Research has shown that where a complaint is handled well, the loyalty of the patient may actually be strengthened. If a complaint occurs, lessons should be learnt from it to avoid the same situation happening again.

For future risk management consider:

- Why did the complaint arise?
- How could the complaint have been avoided?
- Was the complaint handled well?
- Did the practice and patient reach a satisfactory outcome?

You should keep a written record of all complaints together with your responses. This record should be separate from your patient records so that patients are not discouraged from making a complaint. You should use your record of complaints to monitor your performance in handling complaints and identify any areas that need to be improved.<sup>4</sup>

## Conclusion

The majority of patients are happy with the treatment they receive from their dental practice. However, complaints may sometimes arise when the patients expectations of what they expect from a dental service are not met. Dental Care Professionals are taking on increasing roles and responsibilities and could be considered to be at increasing risk of having a direct complaint made against them by a patient. The Dental Care Professional needs to be aware of the complaints procedure so that they can advise patients who wish to make a complaint about any aspect of their care. Complaints need not have a negative outcome, and if handled correctly, may strengthen the loyalty of the patient to the dental practice.

## Personal Development Plan and Reflective Learning

This CPD is linked to the following GDC Enhanced CPD Development Outcome:

**A. “Effective communication with patients, the dental team, and others across dentistry, including when obtaining consent, dealing with complaints, and raising concerns when patients are at risk.”**

Reflective learning opportunities are provided in your verifiable CPD log. It is best to fill in the initial part whilst it is fresh in your mind. You can always revisit and update later if you need to. Ask yourself the following:

- What information did this CPD activity provide?
- Will you be able to apply this to practice?
- What, if anything, will you change about your current practice as a result of completing this CPD?

Reflective learning will be part of the new Enhanced CPD from 1st August 2018, therefore we recommend that you get into the habit of reflective learning.

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