

Trust, Professionalism and Regulation: A critical exploration

A report prepared by the Research Department for Medical Education (RDME) at University College London (UCL)

Dr Laura Knight

Dr Kirsty Alexander

Prof Ann Griffin

Dr Catherine O’Keeffe

Dr Judith Tweedie

Dr Milou Silkens

February 2020

UCLMedical School
R D M E
Research Department
of Medical Education

Acknowledgements

The authorial team at UCL are very grateful for the generous support of the Nuffield Foundation in funding this research through the reactive grant programme.

The Nuffield Foundation is an independent charitable trust with a mission to advance social well-being. It funds research that informs social policy, primarily in Education, Welfare, and Justice. It also funds student programmes that provide opportunities for young people to develop skills in quantitative and scientific methods. The Nuffield Foundation is the founder and co-founder of the Nuffield Council on Bioethics and the Ada Lovelace Institute. The Foundation has funded this project, but the views expressed are those of the authors and not necessarily the Foundation. Visit: www.nuffieldfoundation.org.

We would also like to thank Professor Dame Jane Dacre for her advice and support of this project. We thank our steering group members for their invaluable feedback and innovative ideas, as well as the feedback from our reviewers at the Nuffield Foundation. This input has undoubtedly strengthened this project. Finally, we thank Dr Oluseyi Adesalu and Dr Bettina Friedrich for generously aiding the team with various aspects of this project.



Executive Summary

Overview

This project aims to describe and explain what values, attitudes and behaviours are required of professionals in modern society to maintain, or restore, trust and to be judged trustworthy. The project explores the concept of professional **trust**, questions what it means to be a trustworthy professional and examines these concepts in relation to **professionalism** and **regulation**.

Two professions were selected for this research, **Medicine** and **Law**, as these are hugely influential to the prevalence and continuation of social welfare (Medicine) and social justice (Law). A critical exploration of the ways in which trust in these professions impacts professionals' behaviour and how the professions are regulated, sheds light on how the enactment of professional trust can have wider societal ramifications; ultimately affecting individuals' chances in life. Trust is essential to every individual, institution and profession (O'Neill, 2002). For example, Medicine and Law possess high degrees of socio-political power which can control a member of the public's ability to participate in society: to legitimise an individual's relief from social norms and expectations (Medicine); and to prescribe what those social norms and expectations are (Law). Trust in these professions is therefore paramount because of the influence society subscribes to them and the real-world impact they have on public health and order.

Professional trust as a concept can be understood as a virtue, traditionally held in the highest regard by professionals and understood to be given to them by the public. Two recent public polls tracked trust in the medical and legal professions by asking the public to indicate whether they trusted professionals to tell the truth. According to the IPSOS MORI veracity index (2018), 85% of the public trust doctors to tell the truth and 70% trust judges. The YouGov Legal Services Consumer Tracker (2016) poll compares trust between doctors and lawyers, and reveals that 80% of respondents trust doctors to tell the truth and 42% trust lawyers. Moreover, the poll notes that the public's trust in lawyers has fallen slightly since the 2015 study (where 47% of the public reported that they trusted lawyers to tell the truth) whereas trust in doctors remains static. The differences in these results, informed our rationale for examining trust across these two 'traditional' professions.

This project aimed to reference professionals' conceptualisation of trust against two other notions: views about professionalism and professional regulation. Professionalism is a complex and shifting concept. The nature of what it means 'to be professional' requires constant re-examination because historical accounts and definitions are often inadequate in rapidly and substantially changing societal contexts. By investigating professionals' views on professionalism, this project will provide a rationale for the values, attitudes and behaviours that professionals use in modern society. Professional regulation is also critical in this contemporary re-examination of trust because the implementation and expansion of regulatory practices has been a political response to building trust in professions, achieved, arguably, through the demonstration and facilitation of transparent processes resulting in professional accountability. By unpacking the perceived and actual relationship between trust and regulation, this project explores the impact of current regulatory practices on professionals' work and decisions, and problematizes current practices to encourage audiences to consider how things could be different. Understanding contemporary notions of these three concepts - trust, professionalism and regulation - within Medicine and Law is important because both professions have a moral contract

with society to advance health and justice. The values, attitudes and behaviours medical and legal professionals hold demonstrate how they understand their societal responsibilities, and therefore provide deeper insights into the impact that of the presence (or lack) of trust can have. As result, this study will help inform the ways in which policy related to these professions can improve social welfare and social justice.

The following research questions guided and focussed our study:

- 1) What are the significant socio-political events that have impacted upon perceptions of professionalism and approaches to regulation in Medicine and Law?
- 2) In what ways do these perceptions of professionalism and approaches to regulation impact on conceptualisations of trust in these professions?
- 3) What impact do these conceptualisations of trust have on the behaviours of associated professionals?
- 4) What are the implications of the research and areas for future development?

Theoretical framework and methodology

To explore these questions, we used Political Discourse Theory, which holds that there is no one single truth, rather that there are always multiple interpretations of reality and that social phenomena are subject to change. Political Discourse Theory purposefully recognises the role of politics and power in shaping societal discourse. This theory has been used to design the research and analyse the data, in order to characterise the relationship between trust, professionalism and regulation, and subsequently generate a critical explanation of it.

We undertook in-depth qualitative interviews with representatives from each profession. Our aim was to recruit a participant group that would provide a rich and diverse range of views, beliefs and rationales and therefore we sought participants who practised in a range of contexts, cultures and professional roles. The sample we recruited was purposeful and stratified, and included medical and legal professionals who were practitioners as well as those who were opinion formers and leaders (who made and enacted policy). A total of 30 professionals were interviewed, 15 from the medical and 15 from the legal professions.

Political Discourse Theory has a particular approach to analysing data which enables explanation, interpretation and critique. It understands that any analysis speaks only of a particular 'snapshot' of time within a particular context. Using this approach, within the data we looked for 'common sense' or normative conceptualisations of 'reality' that are implied in the day-to-day practices of interview participants; descriptions of what they believed and did, and justifications as to why; the attitudes and beliefs they reported to either challenge or defend these beliefs and practices; and the emotional and ideological reasoning that participants applied to reinforce and maintain their ways of doing things.

The main findings

Findings from the literature

To set the study in its context, we examined the current social-cultural context in which Medicine and Law function, understanding this to be a significant influence on the attitudes, values and behaviours required of modern professions to maintain trust. In the literature review, we considered what this socio-cultural context *is*, and drew on social theorists who argue that we live in a ‘neoliberal society’; that is, a society which adopts market principles and positively progresses the ideas of competition and subsequent imbalances in equity. Neoliberalist influences have also promoted a shift to a ‘managerialist’ approach to professionalism, arguably eroding more traditional views on trust, with the introduction of explicit professional standards and regulation.

We also reviewed the literature to identify high-profile media events that have impacted upon trust in the professions. However, we were unable to determine which events were significant and to definitively state their impact upon trust through the literature review alone. This was because an in-depth description of the impact of these events on the conceptualisation of trust in the professions was lacking in the literature. This also meant that it remained unclear whether, and how, the values, attitudes and behaviours that are required from professionals may have shifted as a result of these events from the literature alone.

We therefore also explored our participants’ perceptions of the impact of significant events, collected during our interviews, to consider how these may have influenced trust in the professions.

Findings from the interviews

Our findings present the participants’ understandings regarding the three concepts of trust, professionalism and regulation, and the attendant practices implied within their accounts.

Central ideas underpinning professionals’ behaviours included:

- *The importance of trust and being trusted*
 - There was a belief that trust is central to establishing a positive relationship between the professional and their patient/client, and thus to enable a service to be properly and effectively provided.
- *The measurable nature of trustworthiness*
 - There was an acceptance of the belief that professionals must demonstrate professionalism to patients/clients in order to be trusted.
- *The idea of trust as an individualistic quality*
 - Trust is largely given or earned by the professional themselves (not the profession as a whole) when the patient or client enters into a professional relationship.
- *The fragility of trust*
 - Professionals considered that trust was delicate and that once lost, it was extremely hard to recover.

Two ideas which questioned and then reinforced these beliefs stood out as key:

- *Reinforcing the importance of trust.*
 - Participants sometimes contested the crucial importance of public trust by repositioning this as a lesser requirement if the public have 'no choice' but to use the services of professionals. However, this was countered by the argument of the importance of trust to perform well as a professional service provider.
- *Reinforcing the importance of transparency*
 - Participants' accounts sometimes challenged the political emphasis on demonstrating their professionalism to the regulator, however this was outweighed by the importance of evidencing the integrity and trustworthiness of the profession to the public through regulation.

Emotional or ideological beliefs shaped professionals' actual practice and included the following themes:

- *The dangers of untrustworthiness*
 - This belief was aligned with the idea of 'bad things to come' should trust be neglected in the client/patient to practitioner relationship.
- *The assurances of regulation*
 - This claimed that regulation not only maintained, but also promised to improve the profession.
- *The threat of regulation*
 - This supported the belief that professional systems could not function without regulation holding professionals to account; and that without regulation, malpractice incidents would reoccur.

Finally, two social practices were identified:

- *The social practice of service provision*
 - This conceptualised professionals to be service providers, who provided a service to their clients/patients (the service users) in a transactional way. Professionals aimed to provide an effective and consistent service through demonstrable professionalism.
- *The social practice of professional accountability*
 - This characterised accountability as inherent to the concept of what it meant 'to be a professional' and to belong to a profession. As a consequence, professionals understood that they had to demonstrate how the service they provided met the expectations of the service user (client/patient) in a rigorous and transparent way.



Figure 1: Similarities and differences between Law and Medicine in relation to trust

The inner circle shows key factors contributing to the maintenance of trust of both professions, as reported by our participants. These included an understanding of the role of the professional as sharing their expertise via the provision of a service. In doing so, professionals acknowledged the fragile nature of trust and power differentials within their professional relationship with clients/patients. This relationship was regulated by strict adherence to a professional code of practice.

The outer circle shows differences in key conceptualisations and systems of trust between the two professions. Within Law, accountability to the court was a key determinant of professional behaviour, also demonstrated to clients through professional rituals and dress. Direct payment for services caused some suspicion of professionals' motives and eroded trust. Within Medicine, upholding patient safety via transparent and evidenced professionalism was paramount and closely enforced by the regulator. Public scandals threatened the trustworthy image of Medicine as altruistic and working solely in the public interest.

Conclusions and social implications

Impact of scandals and socio-political events

An examination of the academic literature did not reveal conclusive evidence of the impact of specific scandals and socio-political events on the professions. An in-depth evaluation of the impact of particular events on the trust in the professions and/or professionals is therefore missing and represents a substantial gap in the literature. This gap also highlights the originality of our approach, whereby we sought the perspectives of those currently working within, or allied to, the professions of Law and Medicine, in relation to this topic.

There was a noticeable difference between how medical and legal participants positioned high-profile events within their professions. Law scandals were predominantly seen to be finance related, reinforcing a perception that Law is a financially orientated profession; whereas in Medicine, scandals related to high-profile malpractice events where exposure and disposal was justified in relation to the greater risks at stake (a loss of life, rather than a financial loss), as well as crucially, a threat to the trustworthy image of the profession. Medical participants were vocal about the need for rigorous regulation to proactively remove mal-practicing individuals - 'bad professionals' - so that they did not harm patients or damage the overall altruistic image of the profession.

Some events were cited more frequently than others, particularly in Medicine. Some events were understood to have precipitated changes such as increased regulation, especially within Medicine. However participants did not perceive that any one event had radically shaped the professions in a completely new direction. Rather, it seemed that high-profile events had further reinforced their acceptance of neoliberalist values (e.g. transparency, individual accountability and responsibility, increased regulation) within their practice.

Trustworthy attitudes, values and behaviours

In their accounts, participants clearly divided up those who adhered to 'professionalism' and could thus be trusted (the 'good professional') and those who did not (the 'bad professional'). Professionalism was conceived of as a demonstrable and assessable quality, whereby 'good professionals' were able to evidence their professionalism, whereas 'bad professionals' could not. We suggest that the neoliberal obligation for evidenced, rather than ideologically based, judgements drove this belief.

The importance of maintaining trusting professional relationships with clients and patients, through demonstrating appropriate attitudes, values and behaviours was stressed by participants. Professionals understood that, if trust was lost, clients/patients would be reluctant to honestly confide in them and would stop seeking advice from them. This would substantially impede their ability to perform their services to that client/patient. Moreover, participants' narratives contained concerns about the serious detrimental effects of a loss of public trust in the wider professions. Participants described the anti-vaccine movement, a resurgence of disease and poor public health, social unrest and disruption as examples of the consequences of a loss of public trust in traditional professional institutions and norms.

The impact of regulation on professionalism and trust

The extra pressure of patient safety and the altruistic image on those within the medical profession to establish themselves as 'good professionals' in order to maintain trust resulted in an increased reliance on the need for external validation of 'professionalism': this was accomplished by the regulator.

Participants reported that the self-regulation of the professions was important and widely used, and that, although this may be adequate for 'good professionals', external regulation was necessary to remove and remediate 'bad professionals'. Professionals at all levels and in a wide range of roles, thus argued that regulation was a necessary addition to self-regulation. This was justified from the point of view of the public, who they accepted would never see self-regulation as legitimate or effective. The need for external regulation, even if just to reassure the public, was therefore presented as necessary.

Within both professions, participants cited the benefits of increased regulation to increase public trust. In tandem, their accounts threatened that professional systems would not function without regulation to maintain trust within the professions. These benefits and threats were thus used to reinforce the necessity of the regulator as a guardian of trust in the profession, positioning regulation as inherently tied to trust within the professions.

The impact of trust on professional behaviour

Participants deemed trust as crucial, seeing it as fundamental to the functioning of their 'service' and the satisfaction of both client/patient and practitioner. Accordingly, the highly valued identity of a 'good professional' was characterised as someone who could create and maintain trust in professional relationships.

Participants recognised that, although scandals might shake the trust in the profession as a whole, trust in the individual professional could be almost totally disassociated with this. This understanding of trust as an individualistic quality - established through relationships between individuals – meant that participants perceived it as still possible to maintain trust within their own practice, even if trust in the wider profession was challenged (e.g. the anti-vaccine movement in Medicine, or the perception of 'ambulance chasers' in Law). This was vital as it was understood that, once lost, trust was extremely difficult to rebuild.

We therefore suggest that establishing trust through professional relationships might be considered a 'protective force' for individual professionals, as well as a facilitator to effective practice. Both these reasons encouraged participants to prioritise behaviours which underpinned 'trust' in them as a professional.

Recommendations for research

The comparative approach (between Medicine and Law) greatly aided analysis and helped bring unexpected findings to light. These two well-established and prestigious professions shared key commonalities in relation to conceptualisations of 'trust', as well as marked differences. Future research into trust, professionalism and regulation could utilise this comparative approach. Comparisons which included the 'newer' professions (e.g. Nursing, Engineering, Piloting etc.) and compared these to the 'traditional' professions (e.g. Law, Teaching, Medicine etc.) would be particularly interesting. International comparisons of the same profession across differing contexts may also usefully illuminate context-specific differences.

Furthermore, it would be interesting to investigate 'trust' in the professions from the point of view of the 'service user', (clients and patients). This might reveal interesting and useful comparisons to understand both how 'trust' is understood to be 'received' and built from this viewpoint.

Concluding Statement

Professionals and their regulators should critically consider the impact of modern society (neoliberal structures) and associated conceptualisations of 'trust' on their professions, and everyday practice. The individualistic conceptualisation of trust may be protective for 'good professionals' who are buffered from wider challenges to the image of the professions as a whole and can continue to forge trust relationships with patients and clients unhampered. However, for medical professions particularly, this concept is predicated on a need to 'evidence' that one is a 'good professional' through intensive and continual regulation. This currently creates an increasing dependency on the growing 'trust-industry' of regulatory bodies and systems. However, and interestingly the legal profession runs largely without this supporting 'industry'. Although Medicine functions within a different context and under an increased perception of risk, increasingly strong regulation is not the only possible response – just one of many. In this project we have exposed professionals 'ways of thinking' that have brought about the current situation and structures, and work to reinforce these as assumed and unquestioned. With these understandings revealed, we encourage audiences to consider how these might be different, and improvements changes might bring.