Council meeting, 31 March 2011

Voluntary registration of students

Executive summary and recommendations

Introduction

The attached paper looks at the area of student registration in light of the Health and Social Care Bill 2011.

The paper proposes that the HPC should commence a process which would enable a decision to made about the voluntary registration of students.

Decision

The Council is invited to discuss the attached paper and to agree the decisions outlined in section 6. A further paper would be prepared for the Council's meeting on 12 May 2011.

Background information

Outlined in paper

Resource implications

The decisions for the Council on this occasion are 'in principle'. Subject to the Council's agreement, a further paper will be presented at the May 2011 Council meeting which will outline the associated resource implications.

Any future resource implications are likely to be accounted for through a combination of departmental resources and temporary staff.

Financial implications

The decisions for the Council on this occasion are 'in principle'. Subject to the Council's agreement, a further paper will be presented at the May 2011 Council meeting which will outline the associated financial implications.

The HPC is in receipt of a grant from the Department of Health to pay for costs associated with the regulation of social workers in England from April 2011.

Appendices

Outlined in paper

Date of paper

29 March 2011

Voluntary registration of students

1. Introduction

1.1   This paper looks at the issue of student registration in light of the Health and Social Care Bill 2011 ('the Bill') and the transfer of the registration of social workers in England to the Health and Care Professions Council (HCPC) from April 2012.

1.2   This paper proposes that the Council should agree the following 'in principle':

- to agree to consider the issue of voluntary registration of students as a discrete area separately from its discussions around establishing the other types of voluntary register outlined in the Bill;

- to agree to consider the issue of voluntary registration of students across the Register ('in the round'), with the register of student social workers as one relevant factor to consider; and

- to agree to expedite the process of considering the HPC's ongoing approach to the voluntary registration of students.

1.3   There are three appendices to this paper.

- Appendix 1 provides information about the wider regulatory context, including the HPC's past position on student registration.

- Appendix 2 provides information about the registration of student social workers by the General Social Care Council (GSCC).

- Appendix 3 provides information about impact assessments.

2. HPC and student registration

2.1 The HPC does not register students and currently does not have powers to do so. Amongst the 9 regulators, only the General Optical Council registers students. It is understood that the Nursing and Midwifery Council plans to introduce indexing arrangements for student nurses and midwives.

2.2 Although the HPC does not register students, its position to date has been that it does effectively regulate students and that any risks to service users can be effectively managed through:

- standards and guidance ensuring students' awareness of expectations of their conduct, performance and ethics whilst students and when registered;

- standards of education and training ensuring that effective and appropriate supervision, monitoring and complaints systems for students are in place on pre-registration education programmes; and by

- robust health and character processes including character references at entry to the Register.

2.3 Appendix 1 provides information about the wider regulatory context, including the HPC's existing position on student registration.

3. Health and Social Care Bill 2011

3.1   The Bill, if approved by parliament, would allow the regulators to set-up voluntary registers for:

- unregulated health professions;

- unregulated health care workers;

- unregulated social care workers in England; and

- students.

3.2   In relation to the students, the Bill says the following (Clause 212):

(1) A regulatory body may establish and maintain a voluntary register of persons who are (and where the body thinks appropriate, persons who have been) –
a) unregulated health professions;
b) unregulated health care workers;
c) unregulated social care workers in England;
d) participating in studies that come within subsection (2) or (3)

(2) Studies come within this subsection if they are studies for the purpose of becoming –
a) a profession to which section 60(2) of the Health Act 1999 applies, or
b) the social work profession in England

(3) Studies come within this subsection if they are studies for the purpose of becoming –
a) an unregulated health professional
b) an unregulated health care worker
c) an unregulated social care worker in England

3.3   In summary this means that the HPC can set up voluntary registers of students studying on programmes leading to becoming:

- a registrant, including social workers in England;

- an unregulated health professional or unregulated health worker; and

- an unregulated social care worker in England.

3.4   The Bill would only permit regulators to set up voluntary registers for those undertaking work that supports or relates to the work of the profession(s) they regulate, but this limitation would not apply to the renamed HCPC.

3.5	A voluntary register can only be established after the regulator has:

- undertaken a preliminary impact assessment;

- publicly consulted;

- revised the preliminary impact assessment in light of the consultation responses; and

- had regard to the final impact assessment in making its decisions.

3.6	Appendix 3 provides more information about impact assessments.

3.7	This paper is the first step in seeking agreement for an approach for how the Council will make a decision about if, whether and how it might exercise these powers in relation to student registration (subject to parliamentary approval of the Bill).

4. Registration of student social workers in England

4.1   The General Social Care Council currently maintains a voluntary register of student social workers. Please see appendix 2 for more information about the registration of student social workers.

4.2   The Bill currently before parliament makes no specific provision for the registration of student social workers and the HPC has no powers to establish a voluntary register of students until the legislation is approved by Parliament and comes into force.

4.3   The Government will publish a transfer order prior to the opening of the Register to cover practical matters related to the transfer of regulatory functions (for example, provisions related to the transfer of fitness to practise cases). The Bill Committee scrutinised the relevant sections of the Bill on 29 March 2011 and the Minister indicated that the Register of student social workers is likely to be included in the transfer order.

5. Proposed approach

5.1 The Council is invited to make a number of 'in principle' decisions at this meeting.

5.2 The Executive proposes that the Council should agree, in principle, to consider the issue of the voluntary registration of students as a discrete area, separately from its discussions around establishing other types of voluntary register outlined in the Bill. This is suggested because of the following.

- The powers related to voluntary registration in the Bill overall are more extensive than those available to the other regulators.

- The HPC does not already hold any registers, on a statutory basis or otherwise, that relate to students or trainees.

- The existence of a current register of student social workers (and the likely content of the transfer order), makes addressing this issue more crucial and indicates that the Council should consider its ongoing position on student registration.

- Some of the issues to consider in relation to the voluntary registration of students may be likely to be different from those that relate to other types of register – for example, it is perhaps more unlikely that students will approach the HPC for registration in the same way as may be the case with professional and/or occupational groups.

5.3 The Executive proposes that the Council should agree, in principle, to consider the issue of voluntary registration of students 'in the round' and across the existing regulated professions, rather than simply considering this issue in relation to student social workers and the student social worker register in isolation. This is suggested to ensure consistency and equity of approach, where necessary and appropriate, across the Register, although it is recognised that different conclusions may be reached in respect of different professions. The existence of the GSCC student social worker register, however, will be a factor in consideration of the issue.

5.4 The Executive proposes that the Council should agree to expedite the process of considering the HPC's ongoing approach to the voluntary registration of students, particularly given the points outlined in paragraphs 4.3 and 5.2.

5.5   The Council is asked to discuss and reach conclusions in relation to the 'in principle' decisions outlined in this paper. Subject to the Council's agreement of the points above, a further paper would be brought back to the Council's meeting on 12 May 2011. This paper would be informed by the separate paper looking at the principles for establishing voluntary registers planned for that meeting (and referred to in a separate paper being considered at this meeting of Council). This paper would address such issues as the following.

- The impact assessment and consultation process.

- The relevant factors and policy objectives that the Council might have regard to in undertaking this exercise.

- The timetable for the work.

6. Decision

6.1   The Council is invited to agree the following 'in principle'.

- To consider the issue of student registration as a discrete area separately from its discussions around establishing the other types of voluntary register.

- To consider the issue of student registration across the Register ('in the round'), with the register of student social workers as one relevant factor to consider.

- To expedite the process of considering the HPC's ongoing approach to the voluntary registration of students.

Appendix 1: Student registration, the wider regulatory context and the HPC

1. The regulatory context

1.1   Amongst the 9 professional regulators overseen by the Council for Healthcare Regulatory Excellence (CHRE), currently only the General Optical Council (GOC) registers students.

1.2   In summary, the arguments often made in support of student registration include the following.

- The potential risk of a student removed from a programme owing to concerns about their conduct moving to another education provider.

- The potential link (supported by some evidence in the medical profession) between conduct in pre-registration education and training and subsequent fitness to practise action.

- The need for students to be engaged with the standards and responsibilities expected of them, and to understand the purpose of regulation, at an early stage.

- The need for consistent decision making with respect to student fitness to practise cases between education and training providers.

1.3   In 2007 the Council for Healthcare Regulatory Excellence (CHRE) published the outcomes of a project looking at student registration. With respect to student registration the CHRE concluded: 'There is insufficient evidence to suggest that registration of students is necessary to protect patients and the public.'

1.4   The final report concluded that the aim of ensuring students develop a working knowledge of professional behaviour, ethics and values was not necessarily achieved through registration with a regulatory body. The report also referred to arguments for registration based on the ability of a student removed from one programme to commence another programme elsewhere, but concluded this concern is based on anecdote and that '…without evidence it is difficult to understand the size of the potential problem. On a risk based approach it is unlikely that such behaviour would identify that registration is the only way forward.'

1.5   Instead, the report made the following recommendations.

- Professionalism and regulation should be integral to the curriculum.

- The expectations of students should be made clear from the outset, recognising the different risks that might be involved in different practise environments.

- There should be arrangements ('student fitness to practise committees' or similar) for dealing with profession-related concerns about students.

- There should be a code of conduct for students.[1]

2. HPC and student registration

2.1   The Education and Training Committee agreed its position on student registration in January 2008 and this was sent to the Department of Health. The Committee concluded that:

- the case for registration had not been persuasively made;

- any risks posed to service users by students can be minimised through effective supervision and monitoring systems;

- the time and resources involved in registering students would be disproportionate and accrue few benefits;

- education providers were best placed to make their own decisions about admission to programmes; and that

- the existing models of student registration risked duplication of effort by regulators substantially repeating decisions already made by education providers on admission to their programmes (and in relation to cases of alleged misconduct).[2]

2.2   The HPC's position to date has been, in relation to the 15 regulated professions, that although it does not register students, it does effectively regulate them. The HPC's approach to date is outlined overleaf.

---

[1] Council for Healthcare Regulatory Excellence, Advice on student registration, (2007) http://www.chre.org.uk/policyandresearch/221/
[2] Health Professions Council response to the Department of Health on student fitness to practise (January 2008)
http://www.hpc-uk.org/aboutus/consultations/external/index.asp?id=58

Standards of conduct, performance and ethics (SCPE)

2.3   The CHRE recommended that there should be an agreed code of conduct for students. The SCPE describes public and professional expectations of behaviour and apply both to registrants and 'prospective registrants' (see article 21 (1) (9) of the Health Professions Order 2001). Applicants for registration have to sign a declaration to confirm that they have read and will abide by the standards if registered.

2.4   The HPC also publishes guidance on conduct and ethics for students which elaborates on the SCPE to explain what they mean in the context of a student or trainee undertaking an approved programme.

2.5   The standards of education and training ('SETs') ensure students become aware of the standards during their pre-registration education as an integral part of the curriculum. (SET 4.5.)

Standards of education and training (SETs)

2.6   The SETs are used in approving education and training programmes. The standards collectively ensure the fitness to practise of students - some particularly relevant standards are outlined below.

Admissions

2.7   The standards require the education provider to have suitable arrangements in place for admission to the programme including the following: criminal convictions checks; health requirements where appropriate; and appropriate academic and/or professional entry standards. (SETs 2.3, 2.4, 2.5.)

2.8   The HPC also publishes guidance on health and character which includes guidance for education providers making decisions about applicants to approved programmes who declare convictions, cautions and other relevant information.

Practice placements

2.9   The HPC does not quality assure or approve placements or practice settings individually, but requires the education provider, as the body that confers the award which would lead to eligibility to register, to take responsibility for the whole package of education and training, including that delivered in practice.

2.10   The standards collectively ensure that practice placements including the environment, level of supervision (appropriate to the profession) and teaching and learning approaches are supportive of, enhance and ensure student fitness to practise. This means that where concerns about a student's conduct are raised (including whilst on placement)

they are effectively managed by the education provider. (SETs 5.1 to 5.13.)

Student fitness to practise

2.11 The standards of education and training include a standard requiring education providers to have a process in place for dealing with concerns about students related to professional conduct (SET 3.16). Such arrangements are often via 'student fitness to practise committees' or similar. The standard ensures that only students who have successfully completed a programme and who have therefore met both the standards of proficiency and the pervasive ethical components of the programme are eligible to apply for registration.

2.12 The standard ensures consistency between education providers in dealing appropriately with fitness to practise concerns. We would expect that where a student's conduct raises concern about their fitness to practise as a future registered professional that the education provider should act appropriately, including considering removing that individual from a specific placement, removing them from the programme, or allowing them to exit with an award that does not confer entry to the register.

3. Related HPC work

3.1 As part of the revalidation project, Durham University have been commissioned to undertake two studies which are relevant to some of the issues in this area - focusing on student conduct and the development of professionalism. They are as follows.

- A qualitative study to explore study and educator perceptions of professionalism, and what constitutes professional and unprofessional behaviour. This study involves focus groups and interviews with staff from education providers and trainees / students in three professions: paramedics, occupational therapists and podiatrists. Analysis will then be undertaken by the researchers which will feed into development of the quantitative study from year two.

- A quantitative study to develop a meaningful quantitative approach to assessing professionalism and to relate it to the Conscientiousness Index (a tool for collecting discrete 'measures' of professionalism). This involves collecting data using these tools relating to trainee paramedics on programmes at Teeside University and the University of Hertfordshire. This includes 'tracking' students after graduation.

3.2   The results of the qualitative study will be presented to the HPC Council at its meeting in May 2011. An annual progress report will also be available at that time for the quantitative study, with completion of the study in March 2015

Appendix 2: Registration of student social workers

1.1   There are currently 17,958 student social workers registered with the GSCC, in addition to 87,381 social workers.[3]

1.2   The GSCC require student social workers to be registered prior to commencing practice placements. We understand that on application for registration the student would have the offer of a place on a programme (or have already commenced the programme), having met any requirements in place by the education provider. A cursory examination of education provider requirements shows that such admissions policies include academic / experiential requirements as well as enhanced criminal records checks and health checks.

1.3   The register of student social workers is currently voluntary. However, as the GSCC is involved in distributing funding for practice placements to education providers based on numbers of registered students studying at each institution, there is an incentive for the education provider to ensure that students are appropriately registered. The GSCC has reported that student registration levels are around 95%.

1.4   The cost of registration is £10 per year and students are required to renew their registration every year. The application requirements are similar to those for HPC registration.

1.5   The GSCC considers conduct cases about students. Education providers are advised to inform the GSCC about a case relating to a registered student if they have their place on a course withdrawn; if a student withdraws during a disciplinary investigation; if a student is suspended from a programme pending the outcome of a disciplinary investigation; when the education provider becomes aware of a criminal charge or conviction; and of any other circumstances which might have a bearing on suitability to be a registered social worker.[4]

1.6   The GSCC report that since 2005, they have refused registration to 9 student social workers who did not meet the GSCC's standards of good character and registered another 7 with conditions. To date 10 students have been through the conduct process in the last year.[5]

1.7   The following provides a sample of the cases considered by the GSCC about student social workers.

---

[3] GSCC website, 4 March 2011
http://www.gscc.org.uk/page/32/Registration+processing+times.html
[4] http://www.gscc.org.uk/The+Social+Care+Register/Apply+for+registration/Students/
[5] GSCC submission in relation to the second reading of the Health and Social Care Bill 2011
http://www.gscc.org.uk/news/30/Health_Bill_a_chance_to_embed_high_standards_in_social_work_regulation.html

- A student was removed from the Register after it was found that she had formed an inappropriate relationship with a father of two children for whom she was the allocated social worker. She had allowed the relationship to influence her professional judgement.

- A student was admonished for two years following a police caution for battery which she had failed to disclose to her employers.

- A student was admonished for five years following criminal convictions for benefit fraud. The decision does not mention what action, if any, was taken by the education provider.

- A student was admonished for two years following a conviction for assaulting a constable. The decision records that the evidence in mitigation included a testimonial submitted by the Associated Head of School of the education provider.

- A student was removed from the Register after being convicted of fraud by false representation for which she received a prison sentence of 8 months.

1.8   On its website the GSCC focuses on the vulnerability of service users in explaining why student registration is necessary and also argues that it is about recognition and parity with other professions. Under the title 'Students – be valued from the start' they explain:

'Students spend an average 200 days working with service users, so it is important that they meet the same criteria as qualified social workers.

Many other professions including teaching, nursing, the law and medical professions are regulated through registration. Registering the social care workforce, including students, will put you on a similar footing.'[6]

1.9   It should be noted that trainee teachers and trainee solicitors are required to register with their respective regulators but that no student register currently exists for nursing and medical students.[7]

1.10   In summary, the following arguments for (retaining) registration of student social workers have been made.

---

[6] http://www.gscc.org.uk/page/86/Student.html
[7] For more information, please see:
http://www.gtce.org.uk/
http://www.sra.org.uk

- Student social workers have access to vulnerable service users, in their own homes, often without direction supervision. This level of access to vulnerable service users makes a case for registration of student social workers over and above other professional groups. Social work involves 'the identification of a significant risk and sometimes the use of authority' in ways that (some) other professions do not.

- The conduct cases considered by the GSCC have involved serious breaches of professional boundaries and serious criminal offences often involving violence. Such offences might be more concerning in social work where students are likely to be put in challenging situations where they might be subject to provocation.

- HEIs may not be best placed to monitor students' conduct on placements as systems to do so are not 'universally effective and consistent'. Concerns from employers and external examiners that programmes are reluctant to exclude unsuitable candidates because of the financial penalties involved.

- Registration brings to students' attention their responsibility for high standards, enhancing public protection.

- Registration means the code of practice is binding. The code is often used to initiate debates about ethical issues or used by education providers as the basis of a contract with a student. This is important for the professionalisation of social work.

- Training students who may never be able to register (for example, if they have convictions which make them unsuitable for registration) is a waste of public money.

- Ending student registration would 'give the wrong messages to those aspiring to become social workers and to the public whose trust and confidence in social work requires development'.[8]

---

[8] For example see:

GSCC Chief aims for strong legacy after reform plan dash, Community Care, 1 September 2010
http://www.communitycare.co.uk/Articles/2010/09/01/115203/gscc-chief-aims-for-strong-legacy-after-reform-plan-dashed.htm
GSCC submission in relation to the second reading of the Health and Social Care Bill 2011

Appendix 3: Impact assessment

1.1 The Health and Social Care Bill 2011, once enacted, will give the regulators powers to establish voluntary registers, but these powers are subject to undertaking an impact assessment and a public consultation (Clause 212 of the Bill). In particular, the assessment must include an assessment of the likely impact of establishing the register on:

- prospective registrants;

- employers; and

- service users.

What is an impact assessment?

1.2 Impact assessment is an approach and tool widely used in Government as an integral part of the policy development and implementation process. A formal impact assessment is published at key stages in the policy cycle, such as when the Government consults on a proposal or when a piece of legislation is introduced.

1.3 Impact assessment is described as:

- a **process** to help policy makers fully think through and understand the consequences of possible and actual policy decisions; and

- a **tool** to enable the Government to weigh and present evidence on the positive and negative effects of policies.[9]

1.4 Impact assessments typically include (but are not limited to) the following.

- Identification of the policy problem or issue and the key policy objectives involved.

- Identifying the range of reasonable alternatives to a particular policy problem.

- Analysing the costs, benefits and disadvantages of the different alternatives against the policy objectives. This may include qualitative discussion of costs and benefits and/or quantifying the costs involved – for example, the financial costs to individuals and to businesses.

---

[9] Adapted from Department for Business, Innovation and Skills, Impact Assessment Guidance (December 2010)
http://www.bis.gov.uk/ia

- Considering the equality and diversity impact.

1.5   The relevant guidance is clear that impact assessment needs to be undertaken in a proportionate manner – that the depth of the information and analysis necessary is likely to be less for low risk or low impact policy decisions compared to decisions, for example, that might have a significant impact on a large number of people or a significant financial impact on businesses.

1.6   The Health and Social Care Bill 2011 says that in performing an impact assessment, the regulators must 'have regard to such guidance relating to the preparation of impact assessments as it considers appropriate'.

1.7   Such relevant guidance includes the guidance on impact assessment by the Department for Business Innovation and Skills and other relevant guidance – for example, the European Commission's impact assessment guidelines.[10]

---

[10] Department for Business Innovation and Skills, Impact Assessment Guidance (December 2010) And Impact Assessment Toolkit (April 2010)
http://www.bis.gov.uk/ia
European Commission, Impact Assessment Guidelines (January 2009)
http://ec.europa.eu/governance/impact/index_en.htm