
Marc Seale, Chief Executive and Registrar
Council meeting, 6 July 2016

Reforming health and care professional regulation

Reforming health and care professional regulation – four country government consultation

- Public consultation on reform of health and care professional regulation expected
- Pre-consultation stakeholder engagement events - July and August 2016
- Formal consultation - Autumn 2016



Department
of Health



Northern Ireland
Executive



The Scottish
Government
Riaghaltas na h-Alba



Llywodraeth Cymru
Welsh Government

Background

- **‘Enabling excellence’ (2011)** – regulators’ legislation out-of-date and inflexible; need to secure independence whilst ensuring greater accountability
- **Law Commissions’ review of regulatory body legislation (2014)** – aim to produce a single piece of legislation; less in legislation and more in Rules or up to the regulator to decide
- **PSA’s ‘Rethinking regulation’ (2015)** – called for ‘radical reform’; better understanding of risk; and noted the number of different regulators
- **Ministerial statement (2015)** – committed to reform of professional regulation with focus on better regulation, autonomy and cost-effectiveness, whilst maintaining and improving focus on public protection

Pre-consultation themes

1. Purpose of regulation
2. Agile regulation
3. Cost-effective regulation

Number of regulators

- Nine UK statutory regulators of health and care professionals
- Renewal fees range from £90 (HCPC) to £890 (GDC - dentists)
- OECD report highlighted inconsistencies and concluded that there was scope for rationalisation (2016)
- Consolidation might achieve consistency of approach, better outcomes and economies of scale
- In Australia, a single nationwide regulatory scheme has been successful (AHPRA)
- HCPC has proven track record of regulating further professions and transferring registers from other regulators
- 9→8→5→4→3→1 regulator?

Governance – unitary boards?

- Reforms to date – reduction in size; appointment of Council members; Councils to focus on strategic matters and holding their Executives to account
- Unitary boards – non-executive directors and some executive directors sit on board, with a non-executive chair
- Model used widely in private sector and in some arm's length regulators (e.g. CQC; Ofcom; Ofgem; PSA)
- Potential benefits include streamlined decision making and cost-efficiencies



Autonomy and accountability

- Balancing accountability to parliaments vs autonomy to change and innovate
- More ability for regulators to amend their own procedures
- Inconsistencies in oversight arrangements – e.g. HCPC has to change its rules to increase the renewal fee; the GMC does not
- Options for accountability on fees include:
 - Imposing an ‘RPI minus X’ formula where the regulators are permitted to put their fees up but only by ‘minus X%’ below inflation (e.g. Ofgem)
 - Removing Privy Council oversight of fees rules

Other areas for consideration

- **Prevention and intervention** – What more can the regulators, or the system do, to focus more on prevention and early intervention with the aim of reducing unnecessary fitness to practise cases?
- **Shared services to deliver cost-efficiency** – Can regulators share back office functions / services?
- **Consistency** – potential ideas include a single set of generic standards across the regulators; consistent fitness to practise processes; a single adjudication system.
- **Regulation / deregulation** – What criteria should be used to make these decisions?
- **Statutory versus non-statutory regulation** – What criteria should be used to make these decisions?

Possible timetable?

- Consultation response – spring 2017
- Legislative commitment in Queen’s speech – 2017
- Draft legislation for pre-legislative scrutiny – 2017-18 parliamentary session
- Legislation laid in parliaments – ?
- General election – May 2020

Section 60 Orders (1)

- In the meantime, we will seek legislative changes (in part in line with a forthcoming NMC Section 60 Order). Changes include the following.
 - Clarifying the law on striking-off in cases where a registrant has been continuously suspended or subject to conditions of practice for more than two years (to bring it into line with a previous amendment to the NMC's legislation)
 - Removing the requirement for Council members to Chair registration appeal panels (so that partners can perform this role)
 - Correcting an error in our legislation so that NI qualified solicitors can be appointed as legal assessors
 - Creating a single fitness to practise committee to hear cases on conduct, competence and health in the round.

Section 60 Orders (2)

- Allowing the Investigating Committee or Case Examiners to issue warnings and advice
- Allowing the Investigating Committee or Case Examiners to agree undertakings
- Allowing final hearing panels the discretion to decide whether a suspension or conditions of practice order should be reviewed before its expiration

Questions?