



Department
of Health

Promoting professionalism, reforming regulation

Questionnaire

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1. Summary of the questions

Q1: Do you agree that the PSA should take on the role of advising the UK governments on which groups of healthcare professionals should be regulated?

Response:

We agree – but caveat with point that the PSA (and Government) must thoroughly engage with and listen to professionals and professional bodies who may be affected by changes suggested by the PSA. We also agree the ultimate decision must remain with Ministers.

Q2: What are your views on the criteria suggested by the PSA to assess the appropriate level of regulatory oversight required of various professional groups?

Response:

The criteria suggested by the PSA seem sensible and rational. Account also needs to be taken of how well the current system is functioning and there must also be thorough consultation with professionals and professional bodies who might be affected.

Q3: Do you agree that the current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight? Which groups should be reassessed as a priority? Why?

Response:

We have no particular view on this.

Q4: What are your views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals?

Response:

We think that prohibition orders have the potential to work however much thought needs to be given to exactly how they would work in practice. There needs to be thorough consultation with the non-statutory regulators on this issue.

Q5: Do you agree that there should be fewer regulatory bodies?

Response:

We think this would likely increase public protection and would be more cost effective.

Q6: What do you think would be the advantages and disadvantages of having fewer professional regulators?

Response:

We do not believe that there are any disadvantages to having fewer regulators as long as public protection and risk of harm are assessed. We think that fewer professional regulators would provide greater clarity to the public when raising concerns or complaints.

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We also recognise that reconfiguring statutory regulatory bodies so that there are fewer would lead to maximised economies of scale. This would apply in the same way to non-statutory regulators.

Q7: Do you have views on how the regulators could be configured if they are reduced in number?

Response:

We think professions should be assessed by risk of harm and public protection. We agree that there should be ministerial overview of the number of applications made for statutory regulation. We also believe that due consideration must be given to the fact that the Professional Standards Authority receives much of its funding from regulatory bodies, yet the consultation paper proposes that the PSA recommends which professional groups should be regulated.

Q8: Do you agree that all regulatory bodies should be given a full range of powers for resolving fitness to practise cases?

Response:

We think that in some of the serious cases full powers to resolve cases are required. However we have found that introducing a system where everything does not have to go to an adversarial hearing works very well in dealing with cases efficiently and proportionately. We have a practice review method which concentrates on peer review where the emphasis is on training and improving a practitioners' ability to carry out their profession. There is no adversarial approach, although it is not mediation - the setting is more informal like a mediation.

Q9: What are your views on the role of mediation in the fitness to practise process?

Response:

The BPC's new complaints process came into force in September 2016. Whilst establishing the new complaints procedure we went out to consultation on a number of different mechanisms to handle complaints efficiently and effectively. We also approached the idea of mediation. However we found that it is difficult to use a mediation approach when you are assessing a practitioners' wrong doing. Mediation is a technique you can use in cases where there is a customer service type complaint but not when there is an allegation of misconduct. Those types of cases we found are best addressed in practice review and full hearings.

Q10: Do you agree that the PSA's standards should place less emphasis on the fitness to practise performance?

Response:

We agree that in order to achieve professions where training, education and fitness to practise are interlinked, the PSA will need to have an all-rounded approach on assessing performance. However the problem that the big regulators have is the time taken in litigation of cases and investigations and therefore the PSA would need to give FTP performance some importance.

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Q11: Do you agree that the PSA should retain its powers to appeal regulators' fitness to practise decisions to the relevant court, where it is considered the original decision is not adequate to protect the public?

Response:

Yes we agree. We also think that the regulatory body should also have an opinion on the cases that should be appealed.

Q12: Do you think the regulators have a role in supporting professionalism and if so how can regulators better support registrants to meet and retain professional standards?

Response:

We agree that regulators do have a role in supporting professionalism. This can be done by incorporating standards throughout the training and education provided. The CPD requirements can also bring in adherence to such standards.

Q13: Do you agree that the regulators should work more closely together? Why?

Response:

Yes. The regulators should work more closely together, in order to learn from each other around procedures and with regard to fitness to practise cases. Most regulators share very similar codes of ethics and at the moment they all work very separately from each other. There are also professionals who hold membership of a number of different regulatory bodies. This is another reason why information sharing is important. To this end, the BPC has been working closely with the BACP (British Association for Counselling and Psychotherapy) and UKCP (UK Council for Psychotherapy) since 2015. We have been looking into how to improve information sharing for example on practitioners who have gone through fitness to practice cases, have been discussing establishing protocols and procedures, and have been sharing learning in relation to legal rulings and the implications of changes in the law for example around data protection.

Q14: Do you think the areas suggested above are the right ones to encourage joint working? How would those contribute to improve patient protection? Are there any other areas where joint working would be beneficial?

Response:

As stated above a number of the regulators share similar codes of ethics and therefore their standards will be similar in terms of training and education. If there are set standards that everyone recognises then patients will be better informed of the service they should be expecting and that means better public protection. Other staff that work with professionals will also be aware of these set standards and can police whether these standards are being adhered to. Joint working could also be more available in terms of training in education. Universities and other establishments could share standards that professionals should follow.

Q15: Do you agree that data sharing between healthcare regulators including systems regulators could help identify potential harm earlier?

Response:

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We agree with this statement, taking into consideration that data sharing is a complex issue, given data protection and confidentiality. We have been looking into this with colleagues from the BACP and UKCP.

Q16: Do you agree that the regulatory bodies should be given greater flexibility to set their own operating procedures?

Response:

Yes. This allows for bodies to deal with procedures and cases in a more proportionate way rather than sticking to rigid rules that sometimes work out to be more costly than using a common sense approach.

Q17: Do you agree that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Irish Assembly, in addition to the UK Parliament?

Response:

This depends on whether the regulatory body has registrants in these locations.

Q18: Do you agree that the councils of the regulatory bodies should be changed so that they comprise of both non-executive and executive members?

Response:

Yes we agree with this. Non-executive input is very important. The BPC was scrutinised by an Independent Scrutiny and Advisory Committee until recently. This was composed wholly of lay people. The BPC is currently moving to having non-executive members on its board. We recognise the useful and vital contribution of non-executive members.

Q19: Do you think that the views of employers should be better reflected on the councils of the regulatory bodies, and how might this be achieved?

Response:

Yes we agree. Consultations could be a way of encouraging views.

Q20: Should each regulatory body be asked to set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals?

Response:

Yes. In this way their processes can be audited and transparent.

Q21: Should potential savings generated through the reforms be passed back as fee reductions, be invested upstream to support professionalism, or both? Are there other areas where potential savings should be reinvested?

Response:

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The non-statutory regulators collectively have a large workforce of professionals whose work complements the workforce regulated by the statutory regulators. However, some of the smaller accredited registers can face disproportionately high risk of fluctuating legal costs. With a small number of registrants, a relative small increase in complaints in any one year can result in a relatively large increase in legal fees that could have the potential to financially destabilise them. This would not serve the public interest and so we believe that potential savings generated through the reforms could be passed to the accredited registers programme, run by the Professional Standards Authority. This would enable the PSA to better support the programme, for example in supporting the legal costs of smaller regulators on the programme.

Q22: How will the proposed changes affect the costs or benefits for your organisation or those you represent?

- an increase
- a decrease
- stay the same

Please explain your answer and provide an estimate of impact if possible.

Response:

The proposed changes could lead to savings being passed to the accredited registers programme, enabling it to be more robust. A more robust programme could, for example, support the legal costs of regulators on the programme as described in our response to Q21.

Above all, the proposed changes could signal a real opportunity for the statutory and non-statutory regulators to make the whole regulatory system more effective. Increased and improved joint working between regulators should lead to greater protection of the public. There are many other ways in which joint working could be more efficient, for example in the sharing of resources such as rooms for fitness-to-practice hearings.

Q23: How will the proposed changes contribute to improved public protection and patient safety (health benefits) and how could this be measured?

Response:

A smaller number of regulators would make it easier for members of the public to know which regulator to approach in order to make a complaint. This contributes to improved public protection. Improved training and education of professionals, with common ethical codes and a clearer set of standards, would likely lead to less complaints and fitness to practise cases and would be in the public interest.

Q24: Do you think that any of the proposals would help achieve any of the following aims:

- Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 and Section 75(1) and (2) of the Northern Ireland Act 1998?
- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?

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If yes, could the proposals be changed so that they are more effective?

Response:

Savings made from the proposals could lead to greater investment in training and education, for instance educating trainee professionals about LGBT+ issues, which would go some way to eliminate conduct prohibited by the Equality Act 2010 and Section 75(1) and (2) of the Northern Ireland Act 1998. The BPC has been an active member of the national group of professional bodies who have created two iterations of a national memorandum of understanding against the practice of conversion therapy. As a member of this group, and following recommendations from our own advisory committees on ethnicity and gender and sexual diversity, our accredited trainings have started looking at how ethnicity and gender and sexuality diversity are taught.

We also believe that the proposals may help bring about greater equality of opportunity in terms of recruitment and may help enact more visible equality and diversity in the workplaces of the regulators.

The proposals could additionally include a call for the codes of ethics of regulators to include more on equality and diversity. It is likely that a number of regulators have codes of ethics which are now somewhat antiquated with regard to these matters.