

The unregulated sector: a paper to aid discussion

Background information

The Health Professions Order 2001 created the Health Professions Council as a statutory regulator of twelve professions, with the potential to take on new groups.

A new professions process was established, and the Council has heard applications from nine groups:

- Operating Department Practitioners
- Applied Psychologists
- Clinical Perfusionists
- Clinical Physiologists
- Dance Movement Therapists
- Clinical Technologists
- Medical Illustrators
- Maxillofacial Prosthetists & Technologists
- Sports Therapists

In addition, as a result of the Hampton Review, the Hearing Aid Council (HAC) is being abolished and it appears likely that the hearing aid audiologists currently on the HAC Register may move to be regulated by the HPC.

Due to the Foster review and the White Paper, and other factors, the only profession to have joined the Register has been ODPs in October 2004.

The White Paper recommended that other professions should be regulated, specifically psychologists, healthcare scientists, and psychotherapists and counsellors.

The White Paper also mentioned Complementary and Alternative Medicine (traditional Chinese Medicine, herbal medicine and acupuncture) for which a working group has been set up to look at regulation. This group is chaired by Professor Mike Pittilo, Robert Gordon University. The Director of Policy & Standards has been a member of this group, and has presented on HPC and multi-professional regulation.

Currently unregulated groups of health professionals

These could be divided up into several groups. Some key questions for each group are suggested.

Advanced Practitioners

Normally taken from health professionals who are already regulated. Eg: surgical care practitioners, emergency care practitioners.

Key questions:

Should these groups be separately regulated?

What would be the advantages and disadvantages of separate statutory regulation?

At what stage should regulation be considered?

What action should the Council take, given that a new group is unlikely to have an established professional body?

Un-regulated professions

Including those who have applied to the Council (in addition to those who have made a formal application to the Council, a working list of groups who have made contact regarding statutory regulation is appended to this paper)

Key questions:

What should the Council's approach be to these groups, post-White Paper?

Can the Council provide guidance for un-regulated professions on work they can do in the interim?

What other groups or organisations could we work with?

Assistant practitioners/ support workers / healthcare workers

Terminology varies, but this group covers those individuals who are working in a similar (if not the same) area to a professional group, but with important differences around educational requirements, autonomy, accountability and responsibility.

Key questions:

What are the implications of the Scottish project into employer-led regulation?

How might these groups be regulated?

What standards might we set?

What stakeholders are important in this area?

Appendices

List of groups who have approached HPC re: regulation

Briefing paper to the Education and Training Committee re: the regulation of healthcare support workers, September 2006

Aspirant Groups who have contacted HPC about statutory regulation but not submitted an application

This is not an exhaustive list, but is provided to give Council members an overview of the breadth of organisations that have made contact with HPC regarding the aspirant groups process.

Aspirant Group	Profession
Acupuncture Regulatory Working Group	Acupuncture
The Alliance of Private Sector Chiropody & Podiatry Practitioners	Foot Health Practitioners
Artists in Mental Health	Artists in Mental Health
Association of Child Psychotherapists	Child Psychotherapists
Association of Osteomyologists	Osteomyologists
Association of Professional Ambulance Personnel	Ambulance Practitioners, Advanced Ambulance Practitioners and Ambulance Technicians
British Academy of Audiologists	Audiology
British Association for Counselling and Psychotherapy	Counselling and Psychotherapy
British Association for Nutritional Therapy	Nutritional Therapy
British Association of Play Therapists	Play Therapists
British Association for Psychoanalytic and Psychodynamic Supervision	Psychotherapists and Counsellors
British Association of Sports Rehabilitators and Trainers	Sports Rehabilitators and Trainers
British Confederation of Psychotherapists	Psychotherapists
British Orthopaedic Association	Orthopaedic Technicians
British Society of Clinical Hypnosis	Hypnotherapy/Clinical Hypnotherapy
British Society of Echocardiographers	Echocardiography
British Association of Tissue Banking	Tissue Banking
Cambridge Society for Psychotherapy	Psychotherapists and Counsellors
College of Health Care Chaplains	Health Care Chaplains
The College of Psychoanalysts UK	Psychotherapists and Counsellors
The Commission for Healthcare Regulatory Excellence	Healthcare Assistants in the Prison Service
Confederation of Analytical Psychologists	Psychotherapists and Counsellors
Craniosacral Therapy Association of the UK	Craniosacral Therapists
Diabetic Retinopathy	Diabetic Retinopathy
Hospital Play Staff Education Trust	Hospital Play Staff

Aspirant Group	Profession
Institute of Sterile Services Management	Sterile Services Managers
International Society of Professional Counsellors	Counsellors
National Association of Assistants in Surgical Practice	Surgical Care Practitioners
National Sports Medicine Institute of the United Kingdom	Exercise and Sports Care
The Nutrition Society	Nutritionists
Orthotic Research and Locomotor Assessment	Gait Analysis/Gait Laboratory workers
Regional Laboratory for Toxicology	Toxicologists
The Royal College of Surgeons of England	Surgical Care Practitioners
Society of Health Advisers in Sexually Transmitted Diseases	Health Advisers in Sexually Transmitted Diseases
Society of Vascular Technology of Great Britain and Ireland	Vascular Technologists
Sports Massage Association	Sports Massage Therapists
Thrive	Horticultural Therapists
The Trichological Society	Trichologists
United Kingdom Association of Sonographers, and the Society and College of Radiographers	Sonography
UK Council for Psychotherapy	Psychotherapists and Counsellors
UK Council for Health Informatics	Health Informatics
United Kingdom Voluntary Register for Public Health Specialists	Public Health Specialists
Voluntary Registration Council	Healthcare Scientists
Association of Perioperative Practice	Perioperative Practitioners
National Artificial Eye Service	Orbital Prosthetists

**Health Professions Council
Education and Training Committee 28th September 2006
Regulation of healthcare support workers (HCSWs)**

Executive Summary and Recommendations

Introduction

At its meeting on 11th April 2006, the Education and Training Committee requested that a paper be produced which details the current situation with regards to the regulation of non-professional healthcare staff (“healthcare support workers”).

A paper summarising the developments in this area is appended.

Decision

This paper is for information only. No decision is required.

Background information

None

Resource implications

None

Financial implications

None

Background papers

None

Appendices

None

Date of paper

12th September 2006

Regulation of Healthcare Support Workers (HCSWs)

Introduction

The regulation of healthcare support workers has been the subject of consultations by the Department of Health and Scottish Executive and was one of the 'strands' examined by the Department of Health review of non-medical regulation.

In this paper the term 'healthcare support workers' is used. This term has been used by the Scottish Executive and other organisations. 'Healthcare support workers' are sometimes also known as 'assistants' or 'non-professional staff'.

Consultation

The regulation of currently unregulated staff is a matter which can be looked at separately in England and Wales and by the devolved administrations in Scotland and Northern Ireland.

Both the Department of Health in England and Wales (March 2004) and Scottish Executive in Scotland (May 2004) consulted on proposals for the regulation of healthcare support workers.

The Scottish Executive detailed the purpose and benefits of extending regulation to non-professional staff in the following areas:

- Protection of the public
- Capturing the changing roles of unregulated support staff (including recognising how support staff undertake tasks previously performed by professionals)
- Closing existing loopholes (by ensuring that someone struck-off a professional registered cannot seek work as a support worker)¹

The Department of health recommended regulation of 'those staff who have a direct impact on patient care' who 'are not currently covered by existing regulatory arrangements'. Direct impact, the department concluded, 'implies face-to-face provision of prevention, diagnosis, treatment and care sometimes involving the application of clinical judgement, and may also cover provision of technical analysis and scientific support involving patients' body samples'.²

Regulation of the following groups was recommended:

- health care assistants, assistant practitioners and those undertaking similar roles across a range of care settings;
- therapy assistants; and
- healthcare scientists (excluding those who hold professional qualifications).

¹Scottish Executive, *Regulation of Health care support staff and social care support staff in Scotland*, May 2004 <http://www.scotland.gov.uk/consultations/health/rohc-00.asp>.

²Department of Health, *Regulation of Healthcare Staff in England and Wales*, March 2004, <http://www.dh.gov.uk/assetRoot/04/08/51/72/04085172.pdf>, p.8.

The Scottish Executive specifically included social care support staff and pathology assistant practitioners (including medical laboratory assistants) within the terms of its consultation.

The options for regulation detailed in each consultation were:

- statutory shared regulation (regulators take on the regulation of those staff who work with the professions they regulate – i.e the NMC would regulate nursing assistants);
- statutory self regulation by the Health Professions Council;
- voluntary regulation led by staff organisations; and
- employer-led regulation linked to employment contracts.³

The Scottish Executive advocated statutory regulation as the best option; the Department of Health recommended statutory regulation by the Health Professions Council. The Department of Health favoured this option because the Council already had experience in multi-professional regulation and believed that this would avoid unnecessary bureaucracy. In its consultation response, the Council welcomed the Department of Health's preferred option.⁴

The responses to the Scottish Executive's consultation indicated that 93% of those who responded agreed that regulatory arrangements should be extended to cover health and social care support staff. 90% of responses favoured statutory regulation but there was no clear consensus about which regulatory bodies should undertake this role.⁵

The responses to the Department of Health consultation indicated a 70%/30% split in favour of regulation by HPC.⁶

Further developments

Since the consultations in England, Wales and Scotland, further work has been undertaken which is relevant to the issue of the regulation of healthcare support workers.

Wales

In Wales, Health Professions Wales consulted in late 2005 on a proposed national framework for the education and training of healthcare support workers in Wales. The framework, underpinned by National Occupational Standards, aimed to provide a clear career structure for healthcare support workers. It identified essential and supplementary training for each category of support worker, establishing threshold levels of knowledge and skills for support workers at their respective levels of relative 'seniority'.

³ Scottish Executive.

⁴ Health Professions Council, Response to 'Regulation of healthcare staff in England and Wales', <http://www.hpc-uk.org/aboutus/consultations/external/index.asp?id=22>.

⁵ Scottish Executive, *Summary report of consultation on regulation of health care and social care support staff in Scotland*, 2004, May 2006, <http://www.scotland.gov.uk/publications/2006/05/HCSW>.

⁶ Department of Health, *The regulation of the non-medical healthcare professions*, July 2006, <http://www.dh.gov.uk/assetRoot/04/13/72/95/04137295.pdf>, p.32.

Health Professions Wales also proposed consolidating role titles for support workers to aid recognition and transferability within Wales.

The functions of Health Professions Wales have subsequently been incorporated into Health Inspectorate Wales and the National Leadership and Innovation Agency for Healthcare.

Scottish Executive

Following their previous consultation on regulation, the Scottish Executive established a National Group for the regulation of healthcare support workers.

The group preferred ‘a model of service-led regulation with the addition of a centralised, mandatory, occupational register’. The group recognised that this was the best option given that UK-wide statutory regulation was not achievable within a realistic timescale.

Since then a four country steering group has been established to develop a Scottish pilot for employer-led regulation of healthcare support workers. A member of the Executive has been part of this group.

As part of this work, the Scottish Executive recently consulted on draft codes of practice for healthcare support workers and for employers (within the NHS), and national induction standards. The code of practice for support staff is very much consistent with the emphasis on scope of practice, responsibility and accountability articulated in the Council’s standards of conduct, performance and ethics.⁷

The steering group is undertaking further work around establishing a central register of assistants who have met the standards.

Northern Ireland

The devolved administration for Northern Ireland is currently suspended.

Other regulators

The regulators of social care and the General Dental Council have adopted models of regulation which incorporate professional and non-professional staff.

General Dental Council

The General Dental Council has adopted a ‘team based’ approach to regulation (that is, “regulating the dental team”). At present, dentists, dental hygienists and dental therapists have to register to practise. Regulation is being extended to dental nurses, dental technicians, clinical dental technicians and orthodontic therapists. The new group of professionals are known as ‘Dental Care Professionals’ (DCPs).

⁷ Scottish Executive, *National standards relating to health care support workers in Scotland – consultation document*, June 2006, <http://www.scotland.gov.uk/Publications/2006/05/30142444/0>.

Social care regulators

There are four regulators of the social care workforce in each of the four home countries: Scottish Social Services Council, Care Council Wales, Northern Ireland Social Care Council (NISCC) and the General Social Care Council (England).

All these regulators are working towards regulating the whole of the social care workforce.

In Northern Ireland all social care staff in registered children's homes, heads of residential homes and day care centres who are not qualified social workers or registered with another regulator have to be registered. NISCC plans to extend regulation to other staff who are working in adult residential care.

Review of non-medical regulation

The report of the review into non-medical regulation recommended that a decision is taken regarding the regulation of healthcare support workers in 2007, following the outcomes of the pilot in Scotland.

The report concludes that it 'seems sensible to first study the regulators of the Scottish pilot as there is an urgent need for factual information about the advantages and disadvantages of an actual scheme of regulation as opposed to consideration in the abstract'. The report concludes that the Scottish pilot 'could lead to the adoption of a UK-wide employer-led approach to the regulation of this group of workers'⁸.

The report identifies 10 areas which the Scottish pilot could help clarify, including whether different approaches for different groups are appropriate.

Summary

1.1 The outcomes of the Scottish pilot will make clearer the advantages and disadvantages of an employer-led system of regulation. In particular, helpful work has already been taken place in establishing clear, generic standards for all healthcare support workers working within the NHS in Scotland.

1.2 The Executive will keep the Committee updated with developments in this area.

⁸ Department of Health, p. 33.