
Council, 15 May 2014

Law Commission Bill; Regulation of Health and Social Care Professions Bill

Executive summary and recommendations

Introduction

On 2 April 2014 the Law Commissions published their report explaining and setting out their recommendations and draft bill following their review of the UK law relating to the regulation of health care professionals, and in England, the regulation of social care professionals. The final report and draft Bill sets out a new single legal framework for the regulation of all health and social care professionals.

The project was announced in the 'Enabling Excellence' White Paper and the Law Commissions and was referred to the Law Commission by the Secretary of State for Health in September 2010. The issues included in the review included:

- The registration and renewal of professionals, student registers, registration appeals, protected titles and protected functions
- How the regulators set standards for professional conduct and practice, and ensure on-going practice standards
- The investigation and adjudication of fitness to practise cases
- The role of the Professional Standards Authority
- The regulation of business premises and activities
- The governance arrangements of the regulators, including the size and composition of Councils
- The systems through which the regulators can be held to account, including the roles of the Privy Council, Government and Parliament, and duties to consult the public

The Law Commissions review was divided into three stages which included pre-consultation between March 2011 and February 2012, Public Consultation between March and May 2012 with publication of the consultation analysis on 20 February 2013 with publication of the final report setting out the final recommendations and draft bill on 2 April 2014.

The aim of the Law Commissions Bill is to provide a single statute which provides the framework for all of the regulatory bodies and the Professional Standards Authority and to give the regulators greater operational autonomy and impose greater consistency between the regulators in certain key areas where it is in the public interest to do so, such as fitness to practise adjudication. It also provides that regulators will be given powers to make legal rules which are not subject to approval by Government or any Parliamentary procedure.

Since publication, members of the Executive have attended various meetings both with other regulators and the Department of Health. The Department of Health is now considering which of the Law Commissions proposals it intends to take forward in primary legislation. The Executive has specifically fed back to the Department on the need (particularly in the area of fitness to practise) to provide an appropriate, proportionate and reasonable balance between the rights of the registrant on one hand and the need to protect the public on the other). We set out are concerns with regards to any movement to reducing the procedural safeguards contained within the Bill and the need to provide a degree of flexibility without reducing the fairness afforded to registrants and complainants.

Timescales for legislation are uncertain at this stage. The state opening of Parliament for the 2014-15 session is on Wednesday 4th June 2014. The Queen's Speech will set out the governments' agenda for the coming session and will outline the proposed legislation and policy before the General Election on 7th May 2015.

Decision

This paper is for discussion

Background information

Law Commissions Report 'Regulation of Health and Social Care Professionals'

<http://lawcommission.justice.gov.uk/publications/Healthcare-professions.htm>

Resource implications

Director of Policy, Director of Fitness to Practise, Head of Assurance and Development and Chief Executive attendance at, contribution to, and preparation for meetings and responding to DH questions.

Financial implications

None at this time

Appendices

None

Date of paper

30 April 2014