

Education and Training Committee, 23 November 2017

Fees in education: an initial discussion paper

Executive summary and recommendations

Introduction

At the private meeting of Council in July 2017, the possibility of charging for education programme approvals was raised. It was subsequently agreed that this was a matter that the Education and Training Committee should discuss and feedback to Council on in due course. This paper is intended to initiate the discussion of the Committee, which in turn can guide the Executive as to the future direction and scope of work, as necessary. This paper is not intended to set out a case for change and it does not include any firm proposals or recommendations.

Decision

This paper is for discussion.

Background information

None

Resource implications

None as a result of this paper. Depending upon the decisions by Committee and Council, resource implications will need to be incorporated into future papers, as necessary.

Financial implications

None as a result of this paper. Depending upon the decisions by Committee and Council, financial implications will need to be incorporated into future papers, as necessary.

Appendices

None

Date of paper

15 November 2017

Fees in education: an initial discussion paper

1 Introduction

- 1.1 This paper highlights a number of areas pertinent to the Committee's initial discussion. It includes background and contextual information as well as areas for further consideration. The information is by no means exhaustive and instead attempts to set the scene, to help guide future policy and/or fee model development, if appropriate.
- 1.2 To date, references made about the possibility of charging for education programme approvals by Council have inferred costs associated to site visits. This paper has taken a broader approach and looked at the wider costs related to the regulator's work in education.

2 Context and history in UK professional regulators in healthcare.

Legal context

- 2.1 The Health and Social Work Professions Order 2001 ('the Order') makes reference to fees that the HCPC may charge and the payments it must make, however the overall intent of the legislation is somewhat muddled and lacks clarity in particular, in the area of education.
- 2.2 Part III of the Order (Registration) has very specific provisions. Article 7(2) stipulates the types of fees that Rules may provide for in the area of applications to the Register. No similar provision exists in Part IV of the Order (Education and Training)).
- 2.3 Part IV of the Order (Education and Training) only mentions the payment of fees in the context of Council making provisions to pay visitors to enable them to perform their function under the Order.¹
- 2.4 However, Part VIII of the Order (Miscellaneous) includes a catchall provision around the charging of fees. Article 45(1) says '*The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.*' This implies that a Privy Council order (i.e. Rules) is required to allow this to happen, but that it is permissible within the current legislation. .
- 2.5 In summary, there are no explicit powers to charge fees for approving programmes or providers, however there is wider provision which could be utilised.

¹ [Health and Social Work Professions Order 2001, Article 13](#)

Law Commissions

- 2.6 In 2014, the Law Commissions said their view was that the regulators should have express powers which allow charging for education activity, including for visits². Their proposed draft legislation³ read -

“A regulatory body may make rules with respect to the charging of fees in connection with:

- (a) approvals under section 109, including applications for approval;*
- (b) assessments under rules under section 116.*

(2) The rules may make provision for:

- (a) different fees to be charged in different cases or circumstances;*
- (b) the waiver of fees;*
- (c) the consequences of non-payment of fees.”*

Department for Health consultation ‘Promoting professionalism, reforming regulation’

- 2.7 In November 2017, the four UK governments launched a consultation on reforming the UK’s model of professional regulation in healthcare⁴. The aim of the consultation is to design a simpler and more flexible model of professional regulation which can be more responsive to the changes in health and care. The consultation raises wide reaching reforms and proposes radical changes to the legislative framework.
- 2.8 Of relevance to this paper, the consultation questions the current role and focus of the regulator in education and talks of regulators working in partnership with higher education⁵ in a more preventative and supportive approach in the future. The consultation reveals that the UK governments are supportive of the Professional Standard Authority’s (PSA) recommendation of a review of the regulatory approach and responsibilities of regulators in the area of education⁶.

“Such a review would aim to ensure that regulators have a clear focus and that they are not duplicating work. The main focus of the professional regulators in this area should be to assure that the higher education institutes produce high quality professionals who are suitable for registration at the end of the course, rather than detailed oversight of the course”⁷.

² [Law Commissions, Regulation of Health Care Professionals, April 2014](#)

³ [Law Commissions, Regulation of Health Care Professionals, April 2014, Page 308, Clause 117](#)

⁴ [Department for Health, Promoting professionalism, reforming regulation, October 2017](#)

⁵ [Department for Health, Promoting professionalism, reforming regulation, October 2017, Page 7](#)

⁶ [Professional Standards Authority, Regulation Rethought, October 2016, Page 11-12](#)

⁷ [Department for Health, Promoting professionalism, reforming regulation, October 2017, Page 23](#)

- 2.9 This consultation, aligned with the PSA's recommendations in Regulation Rethought, introduces a degree of uncertainty into the future role and focus of regulators work in education. It appears that change is ahead, or at the very least a comprehensive review, however at this point in time, it is very different to gauge what this will mean for our process of approving and monitoring programmes.
- 2.9 The consultation also discusses registration fees⁸ which may have a bearing on this Committee's discussion. The UK governments reinstate their current position that fee rises should be kept to a minimum and link regulatory reform with efficiencies and future cost savings.

*"Reform of professional regulation is likely to deliver more efficient regulation and there is a case for passing on at least some of the savings to registrants in the form of lower fees, in addition to investing in work to support professionalism. We would welcome the views of respondents about whether savings arising from changes to the fitness to practise process should be invested in supporting professionalism, should be returned to registrants in lower registration fees, or both."*⁹

Social Work England

- 2.10 The Children and Social Work Act 2017 sets the legal framework behind Social Work England, which will be the new, bespoke regulator for Social Workers in England.
- 2.11 The intent and scope of this new legislation around fees is very clear, especially in contrast to the Order.
- 2.12 Section 43 of the Children and Social Work Act 2017 outlines the role of the new regulator in education and training and Article 50(1) reads;
- "The Secretary of State may by regulations confer power on the regulator to charge fees in connection with—*
- (a) registration or continued registration in a register mentioned in section 39;*
 - (b) assessing whether a person meets a professional standard relating to proficiency as mentioned in section 41(4);*
 - (c) approval or continued approval in accordance with a scheme mentioned in section 43"*

⁸ [Department for Health, Promoting professionalism, reforming regulation, October 2017, Page 31](#)

⁹ [Department for Health, Promoting professionalism, reforming regulation, October 2017, Page 31-2](#)

UK health and care professional regulators

- 2.13 The quality assurance activity of virtually all professional healthcare regulators is funded from the registration fee, like other regulatory functions. There is no direct charge to education providers whose programmes are being quality assessed and assured.
- 2.14 The General Pharmaceutical Council (GPhC) is the only exception and only professional healthcare regulator to currently charge an accreditation fee. It is a cost recovery based fee and applies to initial accreditation visits only. The arrangement is similar to that of the Royal Pharmaceutical Society of Great Britain (RPSGB) who held both representative and regulatory functions of the pharmacy profession prior to 2010 and the creation of the GPhC. The fee income varies from year to year (depending on providers' stages of the accreditation cycles). In 2017-18, this income was budgeted to be £211,000, equivalent to 0.93% of their overall income. In February 2017, the GPhC announced that they planned to review the fees structure and the level of fees.
- 2.15 There are no definite plans from other professional healthcare regulators to charge for education work at this current time. Some have identified it as a possible area for further investigation in the future.

3 Experiences in other organisations in UK healthcare

Professional bodies

- 3.1 There are a large number of professional bodies that operate across the sixteen regulated professions, with varying levels of involvement with pre-registration education and training. Most (but not all) publish curriculum guidance for education providers and many operate a system of programme accreditation or approval (with differing levels of take up by providers). There are no publically available costs for the education related services offered by most professional bodies, including the Chartered Society for Physiotherapists, Royal College of Occupational Therapists and Royal College of Speech and Language Therapists. As one example, the British Psychological Society charge education providers' an annual subscription fee (£1420 per domain) plus costs for partnership visits based on their duration (£875 for one day; £1315 for two days).

Care Quality Commission (CQC)

- 3.2 The Health and Social Care Act 2008 permits the CQC to charge fees related to its registration and compliance functions to recover costs. Non-payment of fees is also linked to the cancellation of registration. The fees are charged once a provider is registered and there is no fee for initial application. The annual fee is calculated according to a combination of factors, including type

of provider, type of service, annual turnover and number of locations. Fees vary greatly from £1000 to £330,000.

4 Experiences in overseas health and care professional regulators.

- 4.1 The Australian approach to funding quality assurance activity contrasts markedly with the current UK arrangements. The Australian Health Practitioner Regulation Authority (AHPRA) currently works with 15 accreditation authorities to accredit and monitor education providers and programmes of study. Each accreditation authority (e.g. Australian and New Zealand Podiatry Accreditation Council (ANZPAC), Australian Physiotherapy Council) charges education providers. The fees vary across authorities, professional groups within authorities and models. Most include an initial assessment fee as well as an annual fee. Many include fee variants around number of programmes/sites (e.g. Medical Radiation Practice Accreditation Committee charge \$20,000 AUD for the initial accreditation assessment of one programme/one site and \$30,000 AUD for three programmes/one site) and phase of programme development/assessment. (e.g. ANZPAC charge \$30,000 AUD +GST for a standard accreditation visit and \$10,000 AUD +GST for a major change accreditation visit).
- 4.2 The Australian approach is broadly similar to that in the USA and Canada.

5 Experiences in other organisations in UK higher education.

- 5.1 There are many organisations active in UK higher education, and the healthcare specialism, including (but not limited) to -
- Funding bodies (e.g. The Higher Education Funding Council for England, the Department for the Economy in Northern Ireland, the Scottish Funding Council, the Higher Education Funding Council for Wales)
 - Quality bodies (e.g. Quality Assurance Agency for Higher Education, QAA Scotland)
 - Bodies who promote and safeguard access to higher education (e.g. The Office for Fair Access, Competition and Marketing Authority)
 - Complaints handling bodies (e.g. The Office of the Independent Adjudicator (England and Wales), the Northern Ireland Public Services Ombudsman, the Scottish Public Services Ombudsman)
 - Information and service bodies (e.g. Universities and Colleges Admissions Service, Higher Education Statistics Agency, Student Loans Company)
 - Commissioning bodies for NHS education and training (e.g. Health Education England, the Department of Health in Northern Ireland, NHS Education for Scotland, NHS Wales/Health Education and Improvement Wales)

- Membership bodies (e.g. Higher Education Academy, UK Universities, GuildHE, Council of Deans)
- 5.2 These organisations are funded in a range of ways, mainly linked to their legal and historical context. Their funding is predominantly from either government or subscriptions from higher education providers. In recent years, and in England in particular, there has been a shift towards higher education providers (and their learners) contributing more.
- 5.3 In England and Wales, higher education regulation is going through considerable change. The current regulator, Higher Education Funding Council for England (HEFCE), is funded primarily by government. The Quality Assurance Agency (QAA) in England and Wales is currently funded by subscriptions from higher education providers. Rates vary from £2800-£45,000 dependent on students numbers. There are no direct costs for quality reviews for these higher education providers. Alternative providers are currently charged application fees (approximately £1450); review visit fees (£20-30,000 for three days) and an annual maintenance fee (£3500-7500). However, this regime will end in April 2018.
- 5.4 The Higher Education and Research Act 2017 has set out the legal framework behind the Office for Students (OfS), which will be the new regulator for the higher education sector in England from April 2018. This Act gives the OfS clear legislative powers to charge providers fees. The Department of Education are currently consulting on the annual registration fees that registered higher education providers' will be charged by the Office for Students (OfS)¹⁰. They are consulting on principles (including proportionality; simplicity; evidence driven; efficient and economical to administer; enabling and cost recovery basis) and are proposing differentiated fees linked to registration categories and associated cost recovery as well as education provider size (determined by student numbers). The Department of Education is also currently consulting on the Quality Assurance Agency being the new 'quality body', however little detail is known about the new model of quality assurance and associated costs.

6 Areas for further consideration

Fee models

- 6.1 Fees could be limited to programme approval activity, or they could be extended to monitoring activity too. Fees for programme approval could focus on new programmes or include existing programmes undergoing major change. Fees could be charged on a direct cost recovery basis or on a subscription model, with the latter opening up the possibility of full(er) cost recovery. Direct costs would typically be restricted to partner costs (fees and

¹⁰ https://consult.education.gov.uk/he-landscape-reform/office-for-students-registration-fees/supporting_documents/OfS%20registration%20fees%20consultation.pdf

expenses) and executive expenses associated with standard case work (be that approvals, monitoring or both). Indirect costs could extend to include a proportion of overhead costs relating to the wider executive role in delivering and administering case work; a contribution towards the costs and expenses of Committee/Panel work as well as communication and system costs of engaging with education providers and maintaining a register of approved programmes.

- 6.2 Put simply, what services would be charged for? Options include (but are not limited to);
- Recharging the direct costs of each approval visit¹¹
 - Recharging the direct costs of each approval case
 - Recharging the direct costs of each (documentary) monitoring case
 - Charging an application fee (new programmes / provider)
 - Charging an annual registration/retention fee
 - Charging a renewal fee (possibly problematic with open ended approval)
- 6.3 Fees could be calculated and costed in a wide range of ways, with differing financial implications and impact on both the HCPC and the education provider. A simple approach would be to adopt the same fee for all providers, but arguably a more complicated and bureaucratic approach where the fee is variable and based on exact resources used by each provider is fairer and palatable. The fee could be pitched at numerous levels – programme, profession or provider would be the most obvious; however a multi-professional level (i.e. faculty or school) could be appropriate for some providers. The fee would need to be applied across a range of different education providers (e.g. higher education provider, private provider, charitable organisations), programme models (e.g. degrees, doctorates, work-based/apprenticeships, assessment certificates, ‘top up’ / ‘conversion’ programmes) and partnerships (e.g. validation, collaboration, ‘closed’ employer route) take these into account.
- 6.4 Put simply, how would the charge be calculated? Options include (but are not limited to);
- A flat fee model (equal fee to all programmes/providers)
 - A more proportionate model (e.g. fee scaled in relation to size of provider, income and/or learner numbers)
 - A more flexible model (e.g. fee scaled in relation to intensity of engagement or cycle of approval/monitoring)
 - A combination model (Base fee, plus per capita fee – with the latter based on size, income, learner numbers and/or intensity of engagement)
 - Use of banding
 - Minimum and maximum fees
- 6.5 Many organisations who charge fees (e.g. PSA, OfS) agree a set of principles to guide the development (and review) of their model. Principles include -

¹¹ The direct costs for a standard approval visit in the 2017-18 budget is £1573. There are 60 approval visits in the 2017-18 budget equating to direct costs of £94,368.

fairness; simplicity; transparency, data driven, cost neutral administration (i.e. setting and collecting the fee does not add significantly to the running costs (and therefore fees)).

- 6.6 There are also various conditions that could apply to the setting, implementing and reviewing of fees. Again, these have differing financial implications and impact on both the HCPC and the education provider. For example, increase or decreases in participation (e.g. number of providers/programmes) would impact a subscription model differently to cost recovery system. Fees need to be manageable and sustainable.
- 6.7 Put simply, how would the charge be implemented? Options include (but are not limited to);
- Refundable or non-refundable fee
 - Standard fee only or scope for additional charges on top
 - Payment of fees in full or by instalments
 - Payment of fees in advance or arrears
 - Inclusion (or not) of early or late payment treatments
 - Big bang or phased introduction of fees
 - Fixed fee changes agreed in advance over a specific period (e.g. annual or biennial changes set for six years) or review as and when depending on costs
 - Consequences (or not) of non-payment or late payment on related activity or programme approval status /decisions

Impacts

- 7.1 The potential economic impact of charging education fees is obvious. An additional income stream for HCPC would allow registration fee income to be utilised elsewhere in the organisation. However, the impact could potentially be much wider, there could easily be cultural, political, technological and societal/reputational impacts. The sections below are just an example, by way of introduction, of potential impacts and implications.
- 7.2 What could the impact of introducing fees be on our work?
- Increased stakeholder expectations around customer service and process timelines
 - Increased stakeholder engagement with the key milestones in our cases (e.g. visitor allocation; change notification decision; observation period)
 - Increased stakeholder expectations around use of technology
 - Increased commitment and preparedness of education providers
 - Reduced number of non-completed or cancelled cases
 - Reduced feeling of 'free consultancy'
- 7.3 What could the unintended consequences of introducing fees be?

- Increased stakeholder expectations around positive feedback and enhancement
- Increased stakeholder expectations around designing a quality assurance approach which is more developmental and collegiate
- Increased stakeholder expectations around designing a quality assurance approach which has clear bands or stages, linked to risk and with distinguishable fees
- Less informal and formal reporting of changes (as they could trigger an activity with an associated higher cost)
- Increased stakeholder engagement with the executive to ensure success, creating resourcing difficulties
- Increased stakeholder expectations around publically available information (e.g. kite mark; annual statement; more or less reports)
- Prohibitive to new or small-scale providers (with a disproportionate effect on some professions)
- Change to our (predominantly) positive relationships with the education sector (providers and stakeholders)
- Operational repercussions for other parts of the organisation (e.g. partner department, finance department, communications department)

8 Summary

- 8.1 This paper attempts to highlight a number of important matters that should be considered in opening discussion in this area. The area is complex with legal frameworks and sector norms in regulation, education and health providing the context in which one of many fee models would need to operate. The fee model itself is intrinsically linked to the model of programme approval, which itself is currently being probed from both the inside and outside.
- 8.2 The decision to charge fees for the regulator's work in education is not a simple one. It would seem sensible to start the discussion by asking *why* fees should be introduced. What are the reasons/drivers for introducing fees? What is the purpose? What would be the aim and desired impact on public protection? Discussion around the *how* and then the *what* could follow afterwards.