4 November 2014

Health and Care Professions Council response to Department of Health consultation on 'The Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015'

The Health and Care Professions Council welcomes the opportunity to respond to this consultation.

The Health and Care Professions Council (HCPC) is a statutory regulator of health, social work, and psychological professions governed by the Health and Social Work Professions Order 2001. We regulate the members of 16 professions. We maintain a register of professionals, set standards for entry to our register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our main role is to protect the health and wellbeing of those who use or need to use our registrants' services.

1. General comments

1.1 The following are the comments we wish to make which do not relate directly to the consultation questions.

Consultations

1.2 Paragraph 2.11 of the consultation document notes a series of consultations the HCPC would need to undertake when regulating a new profession. In due course we would need to consult on the following.

- The **standards of proficiency** for entry to the HCPC register as a public health specialist. These standards sets out the threshold knowledge, understanding and skills required at entry to the Register in each of the professions.

- The **standards of education and training**. We would consult on a minor amendment to the first of these standards which sets out the qualification normally required for entry to the Register.

- The **registration cycle**. We would consult on an amendment to our registration and fees rules to set the registration cycle for public health specialists.

- **Grandparenting criteria**. We would consult on high-level criteria for how we would consider applications via the grandparenting route to registration.

1.3 The consultation document also refers to 'routes to registration'. We will not consult directly on this topic. In the past when we have regulated a new profession, we have approved on a transitional basis all those programmes already recognised as leading to voluntary registration in that profession. In this

case that may mean approving all the routes to registration, including the training programme in public health and the portfolio routes, currently administered or recognised by the UKPHR (see paragraph 1.4 below). This is so that someone who is part way through their training or a portfolio assessment at the time the voluntary register transfers would be able to be registered upon successful completion. Once the Register is open, we would make arrangements to visit and quality assure open programmes to assess them against our standards. These issues will be considered by our Education and Training Committee prior to the opening of the relevant part of the Register.

Transfer of the register and future eligibility for registration

1.4 The draft Order outlines that the names of those entered into the register of specialists maintained by the UKPHR will transfer to the HCPC on the day that the relevant part of the HCPC Register opens, with the exception of those who are 'dual registrants' with the General Medical Council (GMC) and General Dental Council (GDC). We understand that this proposal is to provide clear separation between the roles of the different regulators involved for the public health workforce.

1.5 However, paragraph 3.21 then indicates that GMC or GDC registrants who wish to register with the HCPC would continue to be able to do so.

1.6 If separation between the regulators respective roles is intended, we would need to consider in future whether we should be involved in approving the existing training route in dental public health, given that those accessing it need to be dentists and could be entered into the specialist list maintained by the GDC. This is different with respect to the 'standard route' for public health training, which is open to competitive entry to both doctors and non-medics and therefore which we would need to visit and approve against our standards.

2. Our responses to the consultation questions

Background

Q1. Do you agree with the Department's decision that the HCPC should be the statutory regulator for public health specialists from backgrounds other than medicine or dentistry? If not, why not?

We agree.

As an existing multi-professional regulator, we consider that we are well placed to take on the responsibility of regulating public health specialists from non-medical backgrounds. We agree with the Department's assessment as outlined in paragraph 2.13 of the consultation document.

We are committed, subject to the outcome of this consultation and the passage of the necessary legislation, to working with the UK Public Health Register (UKPHR) to ensure a smooth and efficient transition from voluntary registration to statutory regulation in a timely manner.

Q2. Do you think that public health specialists should be regulated by another body? If so, who and why?

No.

Transitional arrangements – outstanding cases

Q3. Do you agree that outstanding UKPHR fitness to practise cases at the time of the transfer should be investigated and determined by the Health and Care Professions Council in accordance with the Health and Social Work Professions Order 2001 (S.I 2002/254)? If not, why not?

Yes, we agree.

We consider this is a proportionate approach to manage the transition to statutory regulation for this profession.

Transitional arrangements - Grandparenting

Q4. Do you agree that the grandparenting period for registration as a public health specialist should be two years?

Yes, we agree.

We consider that two years is a proportionate length of time, particularly given the work already undertaken by the UKPHR over a number of years to recognise and register those already in the specialist workforce. A period of two years would further be

consistent with the grandparenting arrangements which were put in place for the majority of the professions we regulate (where such arrangements were necessary).

The transferred register

Q5. Is the impact of these public health specialists being required to register with the HCPC of significant consequence?

No. Whilst we consider generally that the necessity for dual registration should be avoided wherever this is possible, we do not consider that this is of any significant consequence in this instance.

The consultation document sets out that doctors and dentists whose names are entered into the specialist register maintained by the GMC and the specialist list maintained by GDC will not be required to register with the HCPC. We agree with this proposal as the register and list maintained by these organisations means that the public and employers can easily identify those who have completed the required training to act as a specialist in public health, over and beyond the requirements for 'basic' registration in each of these professions.

In contrast, the regulators mentioned in the consultation document, including the Nursing and Midwifery Council (NMC), only maintain registers for the professions they regulate; they do not maintain specialist registers or lists which identify which of their registrants have subsequently gone on to qualify as public health specialists.

In addition, we note that the legislation would not introduce any additional need for dual registration. Nurses, pharmacists and environmental health officers (to use the examples given in the consultation document) who have also qualified as public health specialists and who need or wish to retain their original registration will already be dual registered with their respective regulators and with the UKPHR. In the future, they will need to be registered with the HCPC instead of UKPHR if they wish to practise as a specialist; there will be no additional burden. These individuals will, however, benefit from a significant reduction in the registration fee required for their public health specialist registration.

The consultation document correctly outlines our approach to dual registration. Those from non-medical backgrounds who wish to work as public health specialists will in future need to be registered with us, but this does not prevent them from being registered elsewhere, should they need or wish to be.

Offence – public health specialists

Q6. Do you agree that 'public health specialist' should become a protected title?

Yes, we agree.

We note in any event that the role of Public Health England will additionally ensure that only those who are appropriately registered with one of the three regulators will be eligible for appointment to director of public health posts.

We further agree with the rationale given in the consultation document for not protecting other titles and the proposed exemptions for doctors and dentists who are appropriately registered in the respective specialist register and specialist list.

Defined specialists

Q.7. Which of these options, if either, do you think is appropriate?

We agree with option a) outlined in paragraph 3.24 of the consultation document.

We consider that it is important that all public health specialists, including those registered via the defined specialists route, are regulated by the HCPC. We understand that both those who have completed so-called 'generalist specialist' training (or been assessed as equivalent) and those who been registered as defined specialists are able to compete for appointment to the same roles and that defined specialists are employed in roles using the same titles as other specialists. We therefore see no benefit in separately distinguishing defined specialists from other public health specialists in the structure of the HCPC Register. The consultation document further indicates that those registered as defined specialists have met the same standard as 'generalists' but via a different route and with additional specialism in one or more defined areas.

The consultation document notes debate about 'whether the sector sees the defined specialist portfolios as a short-lived, transitional route to registration, or, alternatively, it considers that there is a continued need to produce new defined specialists in the workforce going forward'. It should be noted that this is matter for the profession and the wider public health sector to determine. The HCPC sets standards and approves programmes that meet those standards. We will not be involved in delivering any portfolio assessment routes ourselves. Whether existing routes to registration such as the defined specialists portfolios continue to be required and delivered will be a decision for others based on need and demand.

Our role will be to ensure that whatever the training or assessment route someone completes, and whoever it is that delivers it, the outcome is the same – that someone who completes an approved programme will meet the standards of proficiency required for entry to the Register. As the consultation document notes in paragraph 2.11, the HCPC will need to develop these standards for public health specialists and consult on them prior to the opening of the Register. These standards will need to reflect the consensus in the sector that at entry all specialists should be required to demonstrate competency in all domains of public health practice.

Q.8. Do you agree that the requirement for a Council member to chair the Registration Appeal Panels should be removed?

Yes, we agree.

This is a straight forward but essential change with two important benefits set out in the consultation document.

The first is that removing the requirement for a Council member to Chair a registration appeal panel would be consistent with the principle applied elsewhere in our other core decision making processes – that of separation between the role of the Council in setting the strategy of the organisation and scrutinising the work of the Executive, and operational decision making. For example, for a number of years now Council members have not sat on fitness to practise panels, providing separation between decision making on individual cases and the Council's strategy and oversight role. Instead, HCPC partners recruited from registrant and lay backgrounds perform this role.

The second is that this will increase the number of individuals who will be able to Chair these panels. In January 2014, the Council was reduced from 20 to 12 members, only six of whom may chair Appeal Panels. This is because six Council members sit on the Education and Training Committee, which is responsible for the registration decisions against which appeals are made. It would be inappropriate for members of that committee to hear appeals against the committee's decisions. The proposed amendment to our legislation will mean that, in line with the fitness to practise process, there will be a much larger pool of panel chairs that will be able to undertake this role. This will assist us in ensuring that appeals are heard as expeditiously as possible.

Q.9. Do you agree that a HCPC panel should have the power to make a striking-off order in a health or lack of competence case provided the registrant has been the subject of a continuous substantive suspension or conditions of practice order for at least two years?

Yes, we agree.

The change proposed provides a useful clarification to the existing legislation, removing any ambiguity about the legislation's meaning or intent.

Q.10. Is our estimate of the numbers of non-medical public health specialists working in the independent or private sector reasonable?

We have not answered this question as we consider stakeholders in the public health sector will be better placed to comment on this.