

Response ID ANON-XRUJ-QKDF-F

Submitted to **Promoting professionalism, reforming regulation**

Submitted on **2018-01-23 06:59:19**

Introduction

What is your name?

First name:

Trefor

Surname:

Watts

Are you responding as an individual or as part of an organisation?

Organisation

What is your email address?

Email:

chair@rccp.co.uk

Are you happy for the Department of Health to use your email address to contact you to clarify points in your response if necessary?

Yes

Organisation

What is your organisation?

Organisation:

Registration Council for Clinical Physiologists (RCCP)

Tell us more about your organisation

Individual or organisation:

Registration Council for Clinical Physiologists (RCCP)

What is the role of your organisation:

The RCCP maintains the voluntary register for healthcare professionals across the disciplines of audiology, cardiac-physiology, gastrointestinal physiology, neurophysiology, respiratory physiology, and sleep physiology.

England

where are you or your organisation based.:

Which section of the consultation would you like to answer first?

Options for sections of consultation to complete:

Protecting the public

Protecting the public

1 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?

Agree

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

Please provide below:

The RCCP believes the PSA is best positioned to assess the need for regulation of healthcare practitioners based upon criteria set out in the PSA's paper titled Right Tough Assurance: a methodology for assessing and assuring occupational risk of harm.

3 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?

Disagree

Which groups should be reassessed as a priority? :

The RCCP believes the criteria set out the PSA (i.e. a two-stage process assessing evidence of risk of harm and then wider external policy factors) represents a sensible and appropriate means of assessing the level of oversight required by various professional groups.

The RCCP is currently in the process of applying to the PSA for accreditation of its voluntary register, and a significant factor in the decision to seek such accreditation is the criteria set out in the PSA paper Right Touch Assurance: a methodology for assessing and assuring occupational risk of harm. The RCCP believes these criteria enables a forward-looking assessment of the possible risks to patients and, consequently, the level of oversight required by professional groups – whether that be a system of assured voluntary registration or statutory regulation.

The RCCP does not believe that every healthcare professional or practitioner should be subject to statutory regulation, but that this should be in place for those practitioners whose roles present significant potential risks to patients' safety and wellbeing. It considers the current system of voluntary registration is insufficient in the case of clinical physiologists.

Further comments:

The RCCP contends that a review should be made not only of statutorily regulated professions but also of those professions currently voluntarily regulated, so that a more consistent approach can be obtained. Healthcare is delivered by teams of practitioners with a mix of registration arrangements based on custom and practice rather than evidence. A systematic review of all healthcare practitioners, based on the PSA criteria would ensure that registration arrangements were appropriate and robust. It would seem an anomaly, for example, that an educational psychologist is statutorily regulated but clinical physiologists, who have direct patient contact (including vulnerable adults and children) and may carry out invasive procedures, are not. There is also the anomaly that Hearing Aid Dispensers and Clinical Scientists in Audiology are statutorily registered with the Health and Care Professions Council (HCPC), Audiologists who comprise the bulk of the workforce, have the option to be either voluntarily registered or to be not registered at all. All three professionals perform procedures related to the assessment and rehabilitation of hearing loss. This creates the possibility of unsafe practitioners moving from one role to another and having the option of continuing to practice in an unregulated capacity.

Whilst a system of assured voluntary registers offers some benefits, the RCCP believes that it is insufficient for practitioners across the disciplines of clinical physiology, and that statutory regulation would offer greater patient safety and reduction of possible harm.

Clinical physiologists perform procedures, tests and investigations critical to patients' diagnosis and treatment. Included within these (albeit an indicative and not comprehensive list) are lung function tests, cardiac ultrasound (Echocardiogram) and electroencephalograms (EEGS), Clinical physiologists will also monitor and modify technologies, such as cardiac pacemakers and breathing equipment (continuous positive airway pressure (CPAP) and non-invasive ventilation (NIV). In 2003 the Health Professions Council (now HCPC) used its discretionary powers under the Health and Social Work Professions Order (2001) to recommend to the Secretary of State for Health that clinical physiologists be statutory regulated. This was following an assessment against published criteria, including the potential harm to the public posed by the clinical physiologist profession.

In 2015 the HCPC provided further information to a Health Select Committee about the professions it had previously recommended for regulation, including Clinical Physiologists.

<http://www.hcpc-k.org/assets/documents/10004E02Statutoryregulationoffurtherprofessions-enclosuretoLettertoHealthCommittee18032015.pdf>

The RCCP provided evidence for the submission. This evidence included instances where patients were put at risk by clinical physiologists and where these risks – and the risk of future occurrence – may have been mitigated by the greater protection afforded by statutory regulation, rather than voluntary regulation. The primary risk from voluntary registration is where complaints have been raised against clinical physiologists who are either not registered with RCCP or then remove themselves from the register as well as refusing to participate in any disciplinary procedures. This risk is compounded by the fact that voluntary registers (unlike statutory registers) have limited authority and cannot compel complainants, employers or others to give evidence as part of an investigation or hearing.

In 2016 further evidence of serious failings in care by clinical physiologists was provided via an anonymous survey of RCCP registrants. Whilst anecdotal, these accounts have included examples where patients suffered potentially fatal hypertension as a result of errors in the administration of medication; and a patient dying as a consequence of misdiagnoses during routine echocardiogram investigations. Many of these concerns related to the employment of locums, with locum contracts being terminated with immediate effect without the implementation of any investigation or disciplinary process. Whilst recognising that errors may always occur, the RCCP believes that statutory regulation would better allow effective action against those professionals who fail to meet minimum standards of care and so ensure greater public protection.

In 2017 research by the respected ComRes market research company found that in a survey of over 2,000 members of the British public, approximately two-thirds of respondents would expect practitioners undertaking the work performed by clinical physiologists to be subject to statutory regulation

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

Agree

Further comments:

The RCCP believes that following an assessment of risk by the PSA, such orders could be appropriate for some sectors of the workforce, such as those working as care assistants in care homes.

5 Do you agree that there should be fewer regulatory bodies?

Agree

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

Advantages:

Any means to simplify regulation and so make the process clearer for the public and patients is to be welcomed.

Fewer regulatory bodies have the potential to bring greater efficiency and consistency as well the potential to deliver cost benefits. It would also simplify the regulatory landscape and so be easier to be understood by all stakeholders.

Disadvantages:

A possible disadvantage is that a single regulator may lose sight of the unique risks posed by different professions. It is important that quality assurance is appropriate for the diverse range of professions covered by the regulators.

Further comments:

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

Please provide below:

No, a full option appraisal of a limited number of options should be developed.

Which section of the consultation would you like to go to next?

Options for sections of consultation to move to next:

Efficient regulation

Responsive regulation

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

Agree

Further comments:

This will ensure a more uniform approach across the multi-disciplinary healthcare team

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

Please provide below:

Mediation may have a place in for example, complaints regarding fees or premises. However many fitness to practice cases would not seem amenable to mediation. The mediation pilot run by the HCPC received very little uptake despite being promoted and the pilot period extended.

The RCCP has recently appointed a Professional Conduct Officer with experience of mediation and it will be interesting to see if this approach is useful. His viewpoint is that mediation enables a focus to be given to the patients, concurrently with a firm stance in investigating clinical errors. NHS Resolution is committed to mediation.

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

Agree

Further comments:

Whilst fitness to practice is one aspect of regulation the ability to deal with potential problems 'upstream' by, for example, addressing education and on-going continual professional development is also important. Healthcare delivery is becoming increasingly complex, involving a wide range of health and social care professionals in many different sectors, with increasing risks to patient safety. Regulation has to be able to respond to, and influence, such developments by ensuring a focus on patient safety. It can only do this by having methods of assessment that span care pathways and consider longer term health outcomes

11 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?

Agree

Further comments:

12 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?

Agree

Further comments:

Professionalism is a developing and complex concept. Regulators are potentially in a strong position to commission research to help explore what it means, how it is generated, and how it is translated into practice. This could also help identify areas of concern and enable the development of recommendations for education and training. This could also lead to a wider discussion on the systemic support required for professionals to meet required standards, for example employers ensuring adequate time for CPD activities.

Which section of the consultation would you like to go to next?

Options for sections of consultation to move to next:

Protecting the public

Efficient regulation

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

Agree

Further comments:

Greater collaboration could result in greater consistency of approach leading to enhanced patient safety. It would also enable the sharing of resources such as back office functions. A single online register would be simpler and more accessible for the public.

14 Do you think the areas suggested below 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?

Agree

How would those contribute to improve patient protection?:

Greater collaboration would enable an increased understanding of factors that lead to failings in care across complex pathways and systems. A single access point to registers would have advantages for patients, employers and colleague, providing a one-stop shop for checking all healthcare professionals are registered, rather than having to work out which ones are regulated and by whom, then accessing several websites. The HCPC has shown that it is possible to operate with generic standards across a range of professions, with the addition of specific profession-related standards as necessary. It should be possible to replicate this approach across all healthcare professionals. .

Are there any other areas where joint working would be beneficial?:

A single adjudicator would also mean there could be a consistency of approach, for example when a range of healthcare professionals are involved in the same incident resulting in an investigation.

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

Agree

Further comments:

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

Agree

Further comments:

Although within a general oversight set by the regulator.
This would allow specific professional issues to be investigated appropriately.

17 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?

Agree

Further comments:

Yes this would assist in a uniform approach across the UK, but care must be taken to ensure that variability in policy decisions and the slowing down of decision making to achieve consensus is not introduced.

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

Agree

Further comments:

This would bring the councils into line with NHS and other organisations within the healthcare arena which have unitary boards.

19 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?

Agree

Further comments:

This could be achieved by ensuring that at least one of the Council members is able to reflect the views of employers (though not act as a representative). The Council could also ensure it holds regular stakeholder events with employers and canvases their views so as to inform decision-making.

20 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?

Agree

Further comments:

21 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?

Both

Are there other areas where potential savings should be reinvested?:

Further comments:

Which section of the consultation would you like to go to next?

Options for sections of consultation to move to next:

Impact assessment and Equality analysis

Impact assessment and Equality analysis

22 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.

Increase

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

If the PSA were to carry out a review of regulation and to make recommendations as to which professions should be statutory or voluntary regulated, this would have an obvious impact on the professions concerned.

If clinical physiologists were recommended for statutory regulation this may cause an increase in registration costs from the current annual fee of £40. However the RCCP believes that the majority of its registrants would welcome statutory regulation, even if the costs increased by over 100% to, for example, the level of registration fee charged by HCPC because statutory regulation has been a longstanding organisational aim.

For those clinical physiologists who have taken the option not to be voluntarily registered then this would be a new cost.

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

Please provide below:

A streamlined system of professional regulation, which includes a risk assessment of all healthcare professionals irrespective of their current regulatory arrangements should provide a more consistent approach to regulation and so improved patient safety. The proposed system should also enable the PSA to respond to changes in the workforce as new professions emerge and existing ones take on new responsibilities and roles.

24 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?If yes, could the proposals be changed so that they are more effective?If not, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims?

Yes

If you agree, could the proposals be changed so that they are more effective?:

It is not clear how these recommendations in of themselves would help achieve these aims; rather it is how they are implemented which will impact on issues of equality.

The main benefit of the proposal would be to

- 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

This is especially important in the modern NHS where care is provided by a wide group of professionals with different regulatory status

If you disagree, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims? :

Which section of the consultation would you like to go to next?

Options for sections of consultation to move to next:

End of consultation

Closing permissions

How we will use your response

Yes

Yes

Your organisation's name

How was the consultation

Help us improve how the department runs consultations by answering the following questions:

Satisfied

Further comments::

Satisfied

Further comments::

Would you like to receive information about other DH consultations?

Yes