

Council – 20 February 2008

Update Section 60 Orders

Executive summary and recommendations

Introduction

The White Paper “Trust, Assurance and Safety – the Regulation of Health Professionals in the 21st Century” was published by the Department of Health in February 2007. The Health and Social Care Bill 2007 – 2008 was published on 15 November 2007 and has had a first and second reading in the Commons. It has now been reviewed by Committee during February 2008. The Bill seeks to enhance professional regulation. A consultation on the Health Care and Associated Professions Order 2008 was published on 26 November 2007. The Order does not cover the Health Professions Council, the General Dental Council or the Royal Pharmaceutical Society of Great Britain. The consultation will close on 22 February 2008. A consultation on the Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008 was published in December 2007. The consultation will close on 22 March 2008. Lastly, seven working groups have been set up by the Department of Health to advise Government.

Two documents drafted by the Scottish Government Health Directorates entitled “Trust, Assurance and Safety – Legislation” and “Update from DH Working Groups” are attached for reference.

In January 2008 a meeting was held in Leeds between Department of Health officials and members of the HPC Executive. Part of the meeting was spent reviewing the Department of Health’s draft plan for 16 Section 60s.

Sections 60s Orders is the term that is used to refer to the legislation that links the Health Act to the Acts or Statutory Instruments of the nine UK regulators of health professionals. In addition the regulators will have to amend their rules and constitution orders will be required for each regulator.

This paper reviews the 16 Section 60s Orders that are planned to be completed by 2011. It is the intention of the Department of Health to undertake another review of the regulation of healthcare professionals in 2011.

The delivery of 16 Section 60s over the next 34 months will be challenging for the nine regulators, the Department of Health officials in the four Home Countries

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and the UK and Scottish Parliaments. To achieve this goal the size of the regulatory team at Richmond House and Leeds is being significantly increased. In addition, the responsibility for the regulatory portfolio has been split from Nic Greenfield's portfolio and Gavin Larnar has been appointed to manage the process.

Lastly it should be noted that, once implemented, the new legislation will significantly increase the demands on HPC's registration and fitness to practise processes and will also impact HPC's income and costs. The current version of the HPC's five year plan will be revised to reflect these external changes.

Decision

The Council is requested to note the document. No decision is required.

Background information

Department of Health's draft Section 60 programme plan

Scottish Government Health Directorates "Trust, Assurance and Safety – Legislation"

Scottish Government Health Directorates "Update from DH Working Groups"

Department of Health website information re the seven working groups

Resource implications

Once implemented, the new legislation will impact on many of HPC's processes and in particular registration and fitness to practise.

Financial implications

Once implemented, the new legislation will significantly increase HPC's income and costs.

Appendices

None

Date of paper

8 February 2008

Section 60s – Draft Programme plan

1A Governance

The Section 60 will amend the governance arrangements for five of the nine UK regulators of healthcare professionals, namely the General Medical Council (GMC), the General Optical Council (GOC), the General Osteopathic Council (GOsC), the General Chiropractic Council (GCC) and the Nursing and Midwifery Council (NMC).

The report of the Department of Health's Working Group that was led by Niall Dickson who is the Chief Executive of the King's Fund was published on 9 February 2008, is likely to have an important influence on the final parameters of any new arrangements.

1B Governance

Section 60 1B will, unlike the Section 60 1A, not only cover governance but also the statutory regulation of new professions.

It will amend the governance arrangements for the three regulators of healthcare professionals not included in the Section 60 1A, namely the General Dental Council (GDC), the Health Professions Council (HPC) and the Royal Pharmaceutical Society of Great Britain (RPSGB). As the changes relate to post devolution professions, the approval of the Scottish Parliament will be required. It should be noted that the Pharmaceutical Society of Northern Ireland (PSNI) is not covered by either the Section 60 1A or Section 60 1B.

Again, the report of the Department of Health's Working Group that was led by Niall Dickson who is the Chief Executive of the King's Fund was made available on 9 February 2008, is likely to have an important influence on the final parameters of any new arrangements.

In relation to extending statutory regulation, of particular importance to the HPC is that the Section 60 1B will bring practitioner psychologists on to the Health Professions Council register.

The HPC met Ben Bradshaw, the Minister of State for Health, and the British Psychological Society on 11 January 2008 to review progress to date. The Minister unequivocally stated that it was the Government's intention to statutorily regulate practitioner psychologists and this would be undertaken by the HPC. The HPC Executive have assumed that the register will open in autumn 2008 following the approval of the legislation by the UK and Scottish Parliaments, the publication of the Standards of Proficiency and Standards of Education and Training and the approval of any related Rule changes.

3 General Medical Council

This Section 60 will make further amendments to the workings of the GMC.

4 Medical Revalidation

The Section 60 will be supported by the recommendations of the Medical Education and Revalidation Working Group and the Tackling Concerns Locally Working Group.

5 and 6 Structures and Governance

These two Section 60s will address all other changes not covered in the 1A and 1B Section 60s.

Issues to be addressed will relate to the operations of the Statutory Committees. For example, if the HPC wanted to merge the Conduct and Competence Committee and the Health Committee, the ability to do this would be included in this Section 60.

7 Independent Adjudication

It should be noted that Recommendation 25 of the Niall Dickson report states:

“ All regulators should seriously consider joining the independent adjudicator before 2011.”

The Independent Adjudicator will become responsible for hearing Fitness to Practise cases for the GMC and the GOC. The DH has set up a Working Group, chaired by Sir Ian Kennedy of the Healthcare Commission, to make recommendations on how the new organisation will function. CHRE will no longer be involved in referring decisions to the High Court, as this will be the responsibility of the GMC and the GOC.

The type of business model to be used has not yet been published. Options may range from an organisation that only recruits and trains panel members to hear cases, through to an organisation that owns and manages the tribunal rooms and sets standards. On the working assumption that registrants, and not the taxpayer, will have to fund the costs of the adjudicator's services, from HPC's perspective the type of business model that is selected is of great importance. A process that GMC registrants are able to fund may be financially unsustainable by registrants with less economic resources.

8 Complementary and Alternative Medicine

This Section 60 is assumed to embrace three types of Complementary and Alternative Medicine (CAM), namely Acupuncture, Herbal Medicine and Traditional Chinese Medicine.

Professor Pittilo of Robert Gordon University has conducted a Department of Health funded review of the area and it was anticipated that his report would be published by the end of 2007. To date the report has not been published.

EU legislation must also be taken into account because the Medicines (Traditional Herbal Medicinal Products for Human Use) Regulations 2005 are the UK implementing regulations for EC Directive 2004/24/EC. The Directive amended the existing EC Community code for medicinal products for human use (Directive 2001/83/EC) and, without going into unnecessary detail, began the process of bringing herbal medicines within the regulatory regime which applies to other medicines.

The change has not yet had a significant impact on CAM practitioners as, in accordance with Community law, the regulations do not apply to herbal medicinal products which were on the market in the UK when the Directive came into effect (30 April 2004) and will not apply to such products until 30 April 2011. However, once the 2011 deadline has passed, herbal remedies will only be able to be dispensed by registered practitioners (currently doctors, midwives, certain AHPs with supplementary prescribing rights etc) and, therefore, some form of regulation will need to be in place by then for relevant CAM practitioners in order for them to be able to continue to practise.

Given that deadline, ideally the “grandparenting window” should close before that date, so that as many practitioners as possible are registered in time for the deadline. This means that the relevant part of the Register would need to open in March 2009. On that basis, the Department of Health would need to be promoting the relevant Section 60 Order very soon.

It has therefore been assumed by the HPC Executive that this professional group will be statutorily regulated after practitioner psychologists.

9 Non-Medical Revalidation

A working group has been established to review the issues surrounding revalidation and to make recommendations. The President of the HPC is a member of the working group.

The HPC has also formed a Professional Liaison Group (PLG). It has met twice and is due to report by October 2008.

The HPC continues to support revalidation provided the standards, processes and costs are appropriate for the risks identified.

10 Registration and Education

The Section 60 will enable the legislation concerning registration and education to be amended.

11 General Pharmaceutical Council

The Section 60 will establish a new regulator that will be independent from the Royal Pharmaceutical Society of Great Britain, which is currently both the

professional body and the statutory regulator. The Department of Health has set up a working group to make recommendations relating to the project.

To date the Department of Health has not published any definitive plans relating to the Pharmaceutical Council of Northern Ireland.

12 Psychotherapists

The Section 60 will enable Psychotherapists, Counsellors and other therapists to be statutorily regulated by the Health Professions Council. Following the publication of the White Paper, no specific working group has been established to advise the Government on the task. However, the professions that will be impacted by these changes have been actively engaged with the task for the last few years and are being ably assisted by initiatives supported by the Department of Health.

The key challenges associated with the exercise centre around four key areas. They are as follows:

- Title(s) to be protected
- Standard(s) of proficiency
- Standard(s) of education and training
- The number of potential registrants

The HPC Executive has assumed that this will be the second professional group to be statutorily regulated after Practitioner Psychologists. At the HPC Council meeting in December 2007, it was agreed that a Professional Liaison Group (PLG) would be established and that it would commence work in the summer of 2008. Again, as a post devolution extension of professional statutory regulation, the Scottish Parliament will approve all changes to the legislation.

It is important that the HPC ensures that this Section 60 is used to bring Dance and Movement Therapists into statutory regulation.

13 and 15 Advanced Care Practitioners and Assistant Practitioners

The two Section 60s will extend statutory regulation to a potentially large number of currently unregulated professions and occupations.

The scope of the eventual regulation in terms of the numbers of individuals and occupations is linked to the Scottish Healthcare Support Workers Pilot Project that is being managed by the Scottish Executive within NHS - Scotland. The initial results will be made available at a conference in Scotland on 28 and 29 October 2008. There is no definitive view on the number of individuals who may be affected but it could be in the order of hundreds of thousands.

The UK Department of Health has set up a working group to advise on the issues surrounding the Section 60, as has the Scottish Government. Both groups are due to report before late 2008. The Chief Executive of the HPC is a member of both groups.

14 Scientists

Over the last four years the HPC has to enhance public protection made five separate recommendations to the Secretary of State for Health that five types of healthcare scientists should be statutorily regulated. They are as follows:

| | | |
|-----|--|----------------|
| i | Clinical perfusion scientists | September 2003 |
| ii | Clinical physiologists | October 2003 |
| iii | Clinical technologists | May 2004 |
| iv | Clinical photographers | September 2004 |
| v | Maxillofacial prosthetic technologists | September 2005 |

The group is referred to as the “First wave” and it is assumed that a “Second wave” will then follow. Professor Sue Hill, the Department of Health Chief Scientific Officer, has been undertaking a project to decide how the 40 or so different types of healthcare scientists should be regulated. Professor Jeff Lucas was involved in the initial work of the project. To date no conclusions of the work have been published. However, Professor Hill has agreed to make a presentation to the HPC’s Education and Training Committee on 26 March 2008 to update the Committee on the project.

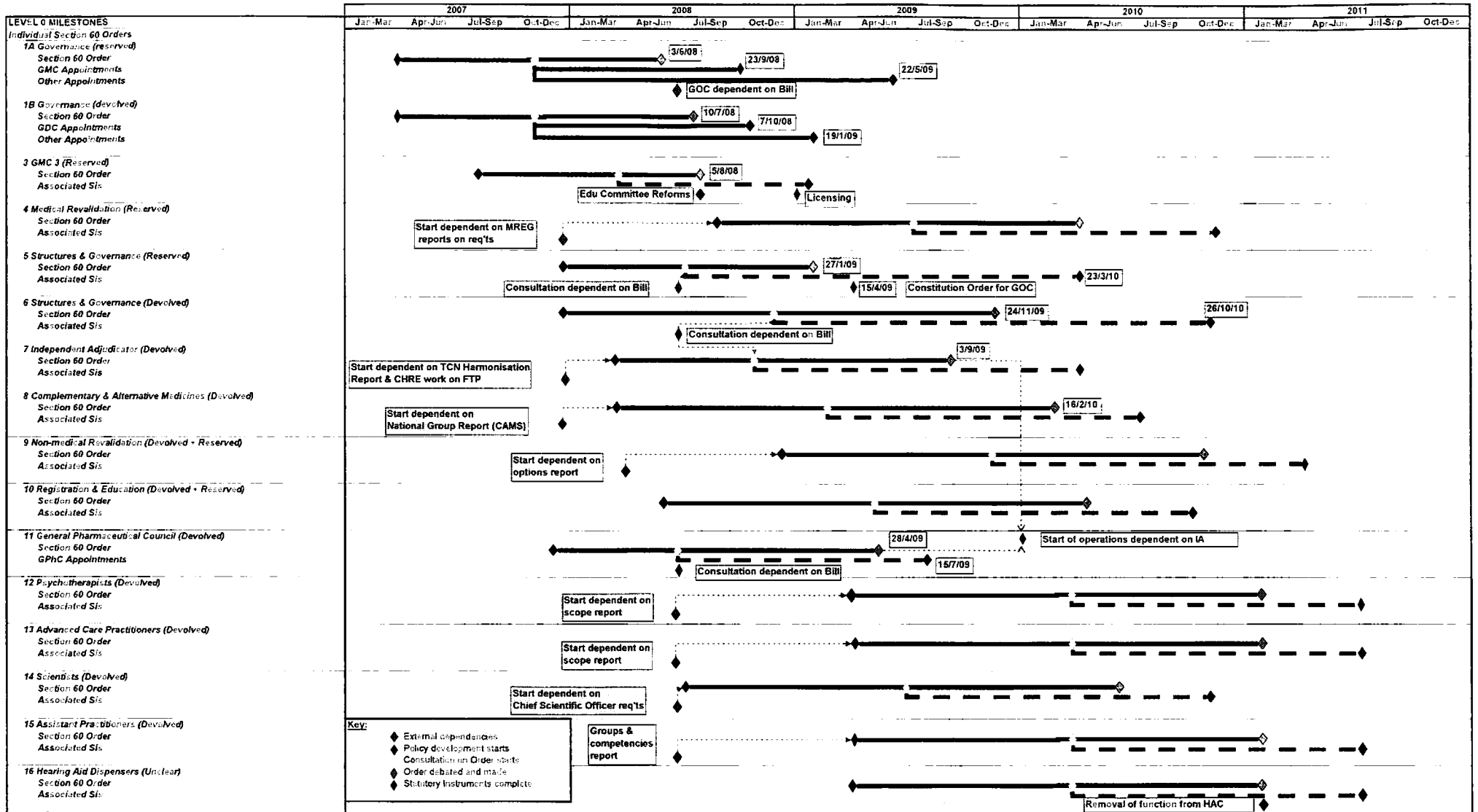
The Section 60 timetable indicates that the legislation will be in force by 2010.

16 Hearing Aid Dispensers

The Hearing Aid Council (HAC) is a statutory regulator established in 1968. It regulates approximately 1,500 Hearing Aid Dispensers. Following the publication of the Hampton Review in 2005, the then Department of Trade and Industry (DTI) decided to close the HAC and transfer its responsibilities to various other organisations. The task of professional regulation would be transferred to the HPC.

The renamed Department of Business, Enterprise and Regulatory Reform (BERR) has to date made no progress in drafting legislation to enable the HAC to be wound-up. The DH has not included any provision in the new Health and Social Care Bill to transfer the statutory regulatory responsibilities from the HAC to the HPC. The Executive of the HAC has been planning to cease operations by April 2009 but this is not reflected in the draft Section 60 programme plan.

Professional Regulation and Patient Safety Programme
Proposed S60 Programme plan



TRUST, ASSURANCE AND SAFETY - LEGISLATION

HEALTH AND SOCIAL CARE BILL

Introduction of Bill

1. The UK Health and Social Care Bill, introduced at Westminster on 15 November, is a wide-ranging Bill which includes at Part 2 provisions relating to the regulation of the healthcare professions across the UK. The Bill and its Explanatory Notes can be viewed, and the Bill's progress tracked, through the following link:

<http://services.parliament.uk/bills/2007-08/healthandsocialcare.html>.

2. The Bill completed Committee stage in the House of Commons on 24 January. A date in February seems likely for Report Stage.

Areas of the Bill related to the Regulation of the Healthcare Professions

3. The healthcare profession regulation provisions in the Bill include the following:

Office of the Health Professions Adjudicator

- Creating the Office of the Health Professions Adjudicator (OHPA) to take on the existing adjudication functions of the General Medical Council (GMC) and the General Optical Council (GOC).

Amendments to Part 3 of the Health Act 1999

- Amending/ extending section 60 of the Health Act 1999 to:
 - Enable amendment of Acts of the Scottish Parliament.
 - Bring the OHPA within its scope and enable future changes to be made by an Order in Council.
 - Facilitate the setting up of a General Pharmaceutical Council.
 - Enable regulators to have either equal numbers of lay and professional members or a lay majority.
 - Require all regulatory bodies and the new OHPA to use the civil standard of proof in fitness to practise proceedings.

Council for the Regulation of Health Care Professionals

- Renaming this body as the Council for Healthcare Regulatory Excellence (CHRE) as it has already become known through custom and practice.
- Making its main objective to promote the health, safety and well-being of patients and members of the public.
- Reducing the current Council to 9 members – a chair appointed by the Privy Council, 6 non-executives (three appointed by the Secretary of State and one each by Scotland, Wales and Northern Ireland), and two executives appointed by the Council itself.

- Providing for the CHRE to include in its annual report a statement on how it and each regulatory body have, in its opinion, promoted the health, safety and well-being of patients and other members of the public.
- Enabling Scottish Ministers (and the Secretary of State, the Welsh Minister and the relevant Northern Ireland department) to require it to provide advice, investigate and report on health profession regulation matters.
- Enabling the Secretary of State, after consulting with Scottish Ministers, Welsh Ministers and the relevant Northern Ireland department and Council, to make directions as to the manner in which it carries out its functions.
- Specifying that the CHRE must publish, or provide in a suitable manner, information about it and the carrying out of its functions; and seek the views of members of the public, and bodies which appear to it to represent the interests of patients, on issues relating to its functions.
- Minor amendments to the CHRE's power to refer fitness to practise cases to the High Court or the Court of Session in certain circumstances.

Responsible Officers

- Providing for the Secretary of State to specify organisations in England, Wales, and Scotland (the latter subject to consultation with the Scottish Ministers) employing or contracting with doctors to be required to appoint or nominate a "responsible officer" for regulatory purposes.
- Wider governance functions for Responsible Officers in England, Wales and Northern Ireland (not Scotland).

Devolved elements.

4. The regulation of professions already being regulated at the time of the Scotland Act is reserved to Westminster, while for those regulated later it is devolved to the Scottish Parliament. Inevitably, in making provisions in relation to the regulators and the regulated professions, and in providing powers to the Scottish Ministers, some of the Bill's provisions encroach on devolved areas. The Scottish Parliament has agreed, through a Legislative Consent Motion, to Westminster considering the relevant provisions in the devolved area.

SECTION 60 ORDERS

5. Other policies set out in *Trust Assurance and Safety* will be effected through a series of section 60 Orders. The first two have been drafted and issued for public consultation across the UK.

Health Care and Associated Professions Order 2008.

6. This draft Order rationalises and harmonises the constitution, accountability and rules and order making provisions relating to those regulators operating in reserved areas only – the General Medical Council (GMC), the Nursing and Midwifery Council (NMC), the General Optical Council, the General Osteopathic

Council, and the General Chiropractic Council. It also provides for temporary arrangements for registration with the GMC and NMC during national emergencies. The closing date for responses to the consultation is 22 February. It can be accessed at:

http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_080800.

Health Care and Associated Professions (Miscellaneous Amendments (No. 2) Order 2008

7. This draft Order makes similar rationalisation and harmonisation changes for those regulators operating, or about to operate, in devolved as well as reserved areas – the General Dental Council (GDC), the Health Professions Council (HPC), and the Royal Pharmaceutical Society for Great Britain (RPSG).

8. In addition, it provides for temporary arrangements for registration with the RPSGB during national emergencies; introduces regulation by the HPC for practising psychologists; and extends regulation by the RPSGB to pharmacy technicians in Scotland.

9. This Order will ultimately be laid for approval by resolution of both the Scottish Parliament and Westminster. The closing date for responses to the consultation, which was issued by DH on behalf of the Scottish Ministers as well as Westminster, is 22 March. The consultation can be accessed at:

http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_081518.

Further section 60 Orders

10. Further section 60 Orders will follow, some following the enactment of the Bill and others following progress in UK and Scottish implementation groups.

Regulatory Unit
Chief Nursing Officer Directorate
30 January 2008

SCOTTISH GOVERNMENT HEALTH DIRECTORATES

UK GOVERNMENT WHITE PAPER – TRUST ASSURANCE AND SAFETY – THE REGULATION OF HEALTH PROFESSIONALS IN THE 21ST CENTURY

IMPLEMENTATION IN SCOTLAND

Overarching Implementation Steering Group

UPDATE FROM DH WORKING GROUPS

1. Medical Education & Revalidation

Dr Harry Burns, Chief Medical Officer for Scotland is a member of this working group.

The main points of interest to note from meetings held to date are as follows;

- DH asked KPMG to undertake a study to consider the readiness of existing health care systems to support the functions of re-licensure and re-certification. The report from this exercise, entitled “Readiness of Clinical Governance and Appraisal Systems to Support Re-licensing”, is at a near final draft and should be available soon;
- The GMC presented a paper on “Revalidation: Options for Implementing Re-licensing and Re-certification” and its recommendations were agreed. Discussion focussed on which areas are most likely to be ready for re-licensing/re-certification, using a multi-dimensional approach. Geographical/organisational factors were acknowledged as important, but for re-certification, some specialties will be more ready than others, and different grades of doctors are at different stages of readiness. Continuing concerns were expressed about the position of doctors in non-managed environments and about locum doctors, and the necessity for them to associate with a recognised host organisation;
- There was a presentation from the GMC showing the outcomes from use of patients’ and colleagues’ questionnaires. It was reported that this method appeared to be acceptable to those involved and produced comparable reliability to other international questionnaires. Discussion centred around the logistics of this process – which was considered acceptable in a relatively small sample (n~400) but if all doctors were taking part (minimum samples required are 22 patient and 8 colleague questionnaires for validity) the exercise would be huge. There was a suggestion that this could be done every 5 years but there is also some experience indicating that annual questionnaires are likely to be more sensitive at picking up trends towards decreasing performance.
- There was also a presentation from Dr John Jenkins , Senior Lecturer in Child Health and Consultant Paediatrician, Antrim Hospital, on “Translating Good Medical Practice”. Essentially, this involves the development of a framework that will provide evidence to positively affirm good practice, as well as verifying an absence of concerns.
- Outline proposals for implementation to be worked on by CMO (England) and DH officials for presentation at the fourth meeting. Appraisal/performance review would

be a local process, but the element relating to the principles of Good Medical Practice should be non-negotiable. This would draw on a number of different elements, e.g. patient and colleague questionnaires; available clinical data; complaints/critical incidents; and appraiser assessment.

- There has been a commitment from Sir Liam Donaldson that the Department of Health would produce a draft report for the next meeting, charting the way forward.
- The final meeting of this group will be held on the 28th February. This was originally scheduled for the 28th January, but due to work commitments of DH it was postponed for one month.

2. Non-Medical Revalidation

Audrey Cowie and Paul Martin are the Scottish Government members on this Working Group. Audrey Cowie attended the first two meetings.

- There was much discussion about the need for different models of revalidation for different professional groups, acknowledging that different types and levels of risk apply. There was also discussion on the different levels of practice that may apply to different groups, eg chiropractors have one level of practice whereas other groups may have more than one. It was acknowledged that the Regulatory Bodies were best placed to inform this agenda.
- On advanced and specialist practice and associated levels of risk, Sue Hill, Chief Scientific Officer at DH, had been in touch with Sarah Thewlis at NMC to take forward preliminary “compare and contrast” type work between nursing and healthcare science practice. It is the intention that outcomes from these discussions will be fed back to the group to inform revalidation discussions.
- The issue of whether advanced or primary level practice should be revalidated was discussed but no agreement has been reached as yet.
- There was an opportunity for the DA’s to feed back on developments and there appeared to be genuine interest in both the arrangements for White Paper implementation in Scotland and in wider quality assurance work in Scotland that could support revalidation in the future.
- There was a helpful presentation on the KSF from Lindsay Mitchell (independent consultant). The Regulatory Bodies found this particularly helpful and there appeared to be general acceptance that such a model could be used in non-NHS settings. The Regulatory Bodies also thought it useful for identifying the categories necessary for core cross-professional standards.
- The HPC has set up a professional liaison group to look at revalidation in more detail. HPC remains to be convinced over the value of revalidation and is hoping to secure an evidence base for future decisions.
- Professor Jim Smith (Chair) confirmed that there is to be a completed “emerging findings” report from the group by the end of 2007 / early 2008. He also confirmed that the group is to have revalidation options for consideration by March with a view to piloting by Regulatory Bodies by December 2008.

Members will wish to note that the latest meeting scheduled for the 31 January has been cancelled. The next meeting is due to be held in March.

3. Extending Professional Regulation

Audrey Cowie is the Scottish Government member on this group. The first meeting was held in November and was a productive meeting with a good turnout from a number of well known organisations. The second meeting took place on the 30 January 2008, with Dr Frances Dow representing the Scottish Government.

- Meeting chaired by Moira Livingstone. Attendees varied somewhat from those present on 21 November, so there was an element of 'recapping' of previous discussions. Nick Clarke and Ros Mead were present from DH (England).
- Regarding the minutes of the last meeting, it was agreed that the working group was not yet ready for the exercise of 'taking two or three examples of occupational/workforce roles and applying the proposed criteria in order to test them out'. The criteria have yet to be agreed.
- Remit of group. Several members said that it was important to keep abreast of developments with regard to social care workers. However, Nick Clarke was firm on the need to observe the boundaries around the remit of the EPR group. Members agreed that dialogue with and learning from the social care side was desirable, but social care was separate from, albeit related to, the work of the EPR group. Moira Livingstone said that when the group came to 'test' criteria etc., this could involve social care to an extent, e.g. in respect of those who work across health and social care boundaries. Much of this discussion made reference to 'support workers'. It was clear that in most people's minds this meant 'assistant practitioner' type roles, although interest in, and understanding of the different nature of, the Scottish pilot was evident.
- The main discussion paper led to agreement that the group must focus on high-level detail and principles, and must also be future-looking in the sense of setting the context for future service delivery models. It was accepted by all that the design of roles was not a matter for this group, and that whatever principles the group came up with must be sensitive to the four-country context. It was agreed that the group's work is to 'design the system'. For example, a 'flowchart'-type diagram could be designed which would show why some groups should and others should not be regulated. Thus, starting from the premise that public protection is the aim of regulation, the system would be 'mapped'. DH agreed to take the lead in producing a map of existing types of regulation.
- Risk. The DH mapping exercise would take account of notions of risk. It was agreed that the EPR group should learn from work of other working groups on Risk, but the general opinion was to have a fairly nuanced concept of risk, which acknowledged 'omission' as well as 'action'. (Moira Livingstone observed that causing psychological, not merely physical, harm was relevant to risk). Nick Clarke cautioned that we must bear in mind how the public thinks of risk.
- During Marc Seale's presentation on the HPC's criteria, and with particular reference to regulation of 'assistants', it was said that regulation might be 'competence-based'

rather than 'profession-based' in future. The issue of credentialing, short of statutory regulation, was also mentioned. Ros Mead queried whether employer-led regulation would need something like a national occupational framework; and talked in terms of 'packages of competences'. The KSF representative was much involved in this discussion.

- It was agreed that there would be a 'stakeholder reference' event in late March/early April focused on the first draft of the interim report of the group. **Members were asked to send names of organisations which should be invited within the next ten days.**

4. Tackling Concerns Locally

Dr Mini Mishra is the Scottish Government representative on the overarching Working Group and Scotland has membership of all sub groups.

The overarching Tackling Concerns Locally Working Group, which has now met 3 times, is coordinating a series of reforms which will strengthen local arrangements for identifying poor practice among healthcare workers and taking effective action where poor practice is suspected. The main working group will coordinate the work of six sub-groups.

Sub Groups

1. GMC Affiliates Sub Group
2. Responsible Officer Sub Group
3. Information Sub Group
4. Clinical Governance Sub Group
5. Death Certification Sub Group
6. Performers List Sub Group

To date, the group has held discussions against the 5 strands of work listed below.

1. Identifying possible concerns
2. Investigations of potential concerns
3. Local action/remediation
4. Interface with national regulator (doctors)
5. Interface with national regulator (other professions)

At the first meeting, a presentation of a schematic model was discussed as a basis for thinking about the various steps involved in identifying and handling potential issues of professional performance and conduct. The table below seeks to develop this approach further and to map out the key issues which the working group, and its various subgroups, will need to address.

| | | <i>Project/subgroup</i> |
|---|---|-------------------------|
| 1. Identifying possible concerns | | |
| Complaints | – simplifying complaints system and providing clearer signposting | IVI project |

| | | <i>Project/subgroup</i> |
|--|--|--|
| | – developing capacity in handling individual complaints | IVI project |
| | – developing tools and capacity for detecting patterns and trends in complaints | Information subgroup |
| Concerns | – supporting colleagues wishing to raise concerns | IVI project |
| | – strengthening professional guidance on duty to report concerns | ?IVI project |
| Routine indicators | – use of clinical data eg audit data | Information subgroup/ DH clinical audit project |
| | – use of other data eg patient satisfaction surveys | Information subgroup |
| | – further developments in practice profiling | Information subgroup/ CG subgroup |
| | – use of information from death certification | Death certification subgroup/ information subgroup |
| Information sharing | – whether/when to share information with other healthcare organisations relating to <u>concurrent</u> employment | Information subgroup |
| | – what information to transfer to other healthcare organisations for <u>consecutive</u> employment | Information subgroup, performers list subgroup, medical and non-medical revalidation groups |
| | – particular issues with locum doctors | As above |
| | – transfer of relevant data to a national repository (eg the registers of the national regulators) and safeguards on access | Information subgroup |
| 2. Investigations of potential concerns | | |
| Investigations | – good practice in investigating serious or complex allegations (especially those which might result in referral to national regulators) | Clinical governance subgroup; CHRE project on protocols for investigations |
| | – alternative models eg multi-PCT teams, teams based in postgraduate deaneries | Clinical governance subgroup |
| Information sharing | – what information can be requested from/shared with other healthcare | Information subgroup |

| | | <i>Project/subgroup</i> |
|---|--|---------------------------------------|
| | organisations | |
| 3. Local action/remediation | | |
| Clinical assessment | – possible extension of remit of NCAS to other professions | Pilot study in pharmacy |
| Decision making process – employed staff | – best practice guidance – any update needed eg to reflect new emphasis on remediation? | Clinical governance subgroup |
| Performers list arrangements | – update of existing guidance and other means of improving skills/capacity | Performers list subgroup |
| | – recording information from local lists on national registers | Performers list/information subgroups |
| 4. Interface with national regulator (doctors) | | |
| Criteria for referral | – update/harmonise existing guidance | CHRE project |
| Recorded concerns | – criteria for decision to propose a recorded concern | ?Affiliates subgroup |
| | – details of process for recorded concerns (involvement of lay affiliate, right to make representations etc) | ?Affiliates subgroup |
| Relicensing | – criteria and process for decision not to relicense or to impose conditions | Medical revalidation group |
| Responsible officer | – roles and functions of responsible officer | Responsible officer subgroup |
| | – criteria and required competencies for appointing responsible officers | Responsible officer subgroup |
| GMC affiliates | – competencies | Affiliates subgroup |
| | – support needed | Affiliates subgroup |
| | – design and evaluation of pilots | Affiliates subgroup |
| 5. Interface with national regulator (other professions) | | |
| Criteria for referral | – update/harmonise existing guidance | CHRE project |
| Role of employer in revalidation | – develop arrangements and guidance | Non-medical revalidation group |

5. **Enhancing Confidence in Healthcare Professional Regulators**

- The third and final meeting of this Group took place on 6 November 2007.
- The Group's discussions were informed by a paper from the Council for Healthcare Regulatory Excellence (CHRE) which identified the characteristics of an effective board and provided information on the boards of organisations regulating professional groups outside health. The 12 key principles the paper suggested for an effective board were discussed at some length. Discussion then moved on to the role of Council members, defining the skills required, ensuring equity and diversity, terms of office and the appointments process. While opinion was divided on some issues, there was agreement on most.
- The Chair of the Group, Niall Dickson, has since submitted his report to Ministers. He has done so on the basis that he has sought to take account of the views expressed and indicated where consensus was reached, however the recommendations it contains are his, based on the evidence he heard. This report will ultimately be considered by all 4 UK countries along with the responses to the current public consultations on two section 60 Orders which will put in place some of the policies aimed at harmonisation and rationalisation, including in the areas of the constitution and accountability of the healthcare regulators.

Regulatory Unit
SGHD

28 January 2008



Enhancing confidence in healthcare professional regulators

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Enhancing Confidence in Healthcare Professional Regulators



This working group is chaired by Niall Dickson, Chief Executive of the King's Fund. He has also been editor of the Nursing Times and the Health Correspondent and Social Affairs Editor of the BBC.

In addition to his role at the King's Fund he is also Chairman of the Department of Health's Individual Budgets Reference Group, a member of the NHS National Stakeholder Forum, and a Trustee of the Consumers Association (Which?).

Summary

The Enhancing Confidence working group, is considering a range of measures to enhance the confidence of both the public and healthcare workers in the health regulatory bodies. The primary product from this group will be a report to Ministers making recommendations about:

- the function and make up of the Board's of regulatory bodies;
- accountability of regulatory bodies and engagement with stakeholders; and
- ensuring the continuing independence of regulators.

This group has met twice and a final report will be submitted to Ministers by November 2007.

Terms of Reference

[Download Terms of reference for the working group \(PDF, 19K\)](#)

Members

[Download List of working group members \(PDF, 21K\)](#)

Meetings

A background paper and agreed minutes from the first working group meeting on 21 September 2007

[Download Background paper \(PDF, 32K\)](#)

[Download Minutes \(PDF, 47K\)](#)

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below

EnhancingConfidence@dh.gsi.gov.uk ([opens new window](#))



Extending professional regulation

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Extending Professional Regulation

This working group is chaired by Professor Norma Brook CBE, a self-employed consultant in physiotherapy and also a physiotherapy education advisor to the Royal College of Surgeons in Ireland. She was President of the Health Professions Council (HPC) from April 2002 to July 2006. She is a member of the Hearing Aid Council and has made a major contribution in developing the new regulatory framework for hearing aid dispensers.

Summary

The Extending Professional Regulation Working Group will make recommendations about the criteria by which emerging health and social care roles will be judged to determine whether they should be regulated and to make recommendations about existing non-regulated healthcare roles.

The group is expected to meet for the first time on 21 November 2007 and will continue to meet on a regular basis until December 2008. Recommendations will be made to Ministers by December 2008.

Terms of Reference

Terms of reference will be available here once agreed.

Members

A list of working group members will be available here once agreed.

Meetings

Agreed minutes from meetings of the working group will be published here.

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below.

ExtendingProfessionalRegulation@dh.gsi.gov.uk (opens new window)



Health for health professionals

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Health for Health Professionals



This working group is chaired by Professor Alastair Scotland, Director of the National Clinical Assessment Service (NCAS). Following training in surgery, he entered public health working at local, regional and national levels. His particular focus has been on hospital and community services, and on medical education, training, staffing and professional performance.

Summary

The Health for Health Professionals Working group has been established in response to concerns that a high proportion of fitness to practice cases brought before the regulatory bodies involve healthcare workers with long-term health needs.

The group will make a series of recommendations about the assessment of the health of healthcare workers as part of appraisal/revalidation processes and about ongoing management and fitness to practice where a healthcare practitioner is assessed as having a physical or mental health need. The main product from this group will be a national strategy for health covering all health professionals by 2009.

This group has met twice and will continue to meet until March 2009.

Terms of Reference

[Download Terms of reference for the working group \(PDF, 21K\)](#)

Members

[Download List of reference group members \(PDF, 32K\)](#)

Meetings

A background paper is available here:

[Download Health for Health Professionals proposal paper \(PDF, 71K\)](#)

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below

HealthforHealthProfessionals@dh.gsi.gov.uk (opens new window)



Medical education and revalidation

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Medical revalidation and education



This working group is chaired by the Chief Medical Officer, Professor Sir Liam Donaldson, the United Kingdom Government's principal medical adviser and the professional head of all medical staff in England.

Summary

The Medical Revalidation Working Group will support the development of a system of a strengthened appraisal system for doctors and a new relicensing system for doctors.

A new revalidation system is being established in response to concerns raised by the Shipman inquiry and the inquiries into the conduct of a number of other doctors. In future doctors will be required to demonstrate to the General Medical Council that they are up-to-date, and fit to practise medicine. Doctors who take part in revalidation will be granted a licence to practise, will be reassessed every 5 years.

This group has met four times, with the final meeting planned for 28 January 2008. Minutes of all the meetings will be put on the website in due course.

Terms of Reference

Agreed terms of reference for the working group will be published here.

Members

Download [List of reference group members \(PDF, 22K\)](#)

Meetings

Download [minutes of the third meeting - November 2007 \(PDF, 24K\)](#)

Download [minutes of the second meeting - October 2007 \(PDF, 28K\)](#)

Download [minutes of the first meeting - July 2007 \(PDF, 55K\)](#)

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below

MedicalRevalidation&Education@dh.gsi.gov.uk ([opens new window](#))



Non-medical revalidation

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Non-medical Revalidation



This working group is chaired by Professor Jim Smith who has been Professor of Pharmacy Practice and Policy at the University of Sunderland, since September 2005. Prior to that he was the Chief Pharmaceutical Officer for England in the Department of Health from 2000-2005.

His professional interests include patient safety (the detection and prevention of adverse drug reactions and medication errors), improving public understanding of the benefits of medicines in relation to the risks, and expanding the contribution of pharmacists to health care and health improvement.

Summary

The Non-Medical Revalidation Working Group has been established in response to concerns about the variability of arrangements for monitoring the ongoing practice of a range of different healthcare workers. The group will make recommendations about a new system of appraisal and revalidation for healthcare workers other than doctors.

The group has met once and will continue to meet on a regular basis throughout 2008/09.

Terms of Reference

[Download Agreed terms of reference for the working group \(PDF, 15K\)](#)

Members

[Download List of reference group members \(PDF, 32K\)](#)

Meetings

Papers from the working group meetings are available below.

[Download papers, 11 December 2007 \(PDF, 3260K\)](#)

[Download Agenda, 1 November 2007 \(PDF, 15K\)](#)

[Download Minutes 1 November 2007 \(PDF, 22K\)](#)

[Download Agenda, 23 July 2007 \(PDF, 11K\)](#)

[Download Minutes, 23 July 2007 \(PDF, 31K\)](#)

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address

<http://www.dh.gov.uk/en/Managingyourorganisation/Humanresourcesandtraining/Mo...> 11/02/2008



Tackling concerns locally

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Tackling Concerns Locally

This working group is chaired by Professor Jenny Simpson OBE, Chief Executive of the British Association of Medical Managers (BAMM). Through her work as a paediatrician, Jenny became determined to improve the quality of management in health care by developing the management and leadership skills of doctors. Jenny created BAMM in 1991 with a group of like minded doctors. The organisation has developed through a series of successful conferences, seminars and study tours and has over 1200 members.

With the support of BAMM, doctors in management roles are now seen as key strategic players in the NHS. They are increasingly recognised as having an intimate knowledge of clinical operational processes and a command of high level managerial perspective and skills. This combination gives them an excellent base for advising on strategic matters.

Summary

The Tackling Concerns Locally Working Group is coordinating a series of reforms which will strengthen local arrangements for identifying poor practice among healthcare workers and taking effective action where poor practice is suspected. The main working group will coordinate the work of six sub-groups (see below).

The main working group met on 19 July 2007 and on 27 September 2007. The third meeting is scheduled for 18 December 2007.

Terms of Reference

[Download Terms of reference for the Tackling Concerns Locally Working Group \(PDF, 55K\)](#)

Members

[Download List of working group members \(PDF, 22K\)](#)

Meetings

Agreed minutes from the first meeting of the working group.

[Download Minutes 19 July 2007 \(PDF, 53K\)](#)

Sub-groups

The Tackling Concerns Locally workstream includes six sub-groups:

(i) GMC affiliates subgroup

Develop and pilot a new system of GMC affiliates at local level. These bodies will provide the General Medical Council with a regional presence in order to support arrangements for joint working between local employers and the GMC;

[Download Terms of reference for the GMC Affiliates sub-group \(PDF, 53K\)](#)

(ii) Responsible officer subgroup

Develop a new role of Responsible Officer so that in future all practicing doctors in England will relate to a Responsible Officer who will be a senior doctor with local responsibility for overseeing the revalidation process and handling complaints

against doctors;

[Download Terms of reference for the Responsible Officer sub-group \(PDF, 48K\)](#)

(iii) Information subgroup

Design and implement systems for sharing information that could lead to early identification of poor practice in order to better protect the public;

[Download Terms of reference for the Information sub-group \(PDF, 50K\)](#)

(iv) Clinical governance subgroup

Improve systems for local investigation and local decision making to ensure patient safety and quality assurance through revitalisation of clinical governance processes;

[Download Terms of reference for the Clinical Governance sub-group \(PDF, 44K\)](#)

(v) Death certification subgroup

Develop an improved system for death certification to ensure greater scrutiny of the Medical Certification of Cause of Death Process;

[Download Terms of reference for the Death Certification sub-group \(PDF, 46K\)](#)

[Details of a recent Consultation on Improving the Process of Death Certification](#)

(vi) Performers list subgroup

Review the current Performers List arrangements (under which GPs and other primary care contractors must be registered with a Primary Care Trust in order to practice locally), with a view to ensuring that they continue to provide necessary and appropriate safeguards.

[Download Terms of reference for the Performers List sub-group \(PDF, 38K\)](#)

[Further details of the Performers List Review work](#)

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below

TacklingConcernsLocally@dh.gsi.gov.uk (opens new window)



Tackling concerns nationally

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Tackling Concerns Nationally

This working group is chaired by Professor Sir Ian Kennedy, the Chair of the Healthcare Commission and Emeritus Professor of Health Law, Ethics and Policy at University College London. He chaired the Public Inquiry into children's heart surgery at the Bristol Royal Infirmary (1998-2001).

Summary

The Tackling Concerns Nationally Working Group will support the establishment of an independent body to adjudicate (i.e. to judge and make final decisions) on medical fitness to practice cases brought before the General Medical Council (GMC). An independent adjudicator is being established because the Government believes that the final decision making body in medical fitness to practice cases should be independent of both the GMC and of the doctor in question to ensure absolute fairness.

The working group is currently being established and has yet to meet.

Terms of Reference

Terms of reference will be available here once agreed.

Members

A list of working group members is now available.

[Download Group Members \(PDF, 19K\)](#)

Meetings

Agreed minutes from meetings of the working group will be published here.

Feedback

If you would like to comment on any of the papers or the work of this group then please send them to the email address below

TacklingConcernsNationally@dh.gsi.gov.uk ([opens new window](#))