

Council, 16 October 2014

HCPC response to Department of Health consultation on the regulation of public health specialists from 'non-medical' backgrounds

Executive summary and recommendations

Introduction

On 5 September 2014 the Department of Health published its consultation on a draft Section 60 Order under the Health Act 1999 to bring public health specialists from 'non-medical' backgrounds into regulation by the HCPC.

The consultation also seeks views on proposals to remove the requirement for Council members to chair registration appeal panels and to clarify the existing law on the ability of fitness to practise panels to strike off in lack of competence and health cases.

The Executive has drafted the attached response to the consultation.

Decision

The Council is invited to discuss and approve the attached response to the consultation.

Background information

- As it currently stands, the Department of Health plans to lay the required legislation and receive parliamentary approval in Westminster and Holyrood prior to the UK general election in May 2015. The HCPC Register would then open to public health specialists at a date yet to be agreed before the end of 2015. However, this timetable is subject to change.
- For further background and context, please see: Council meeting, 4 July 2013. 'Regulation of public health specialists'.
<http://www.hcpc-uk.org/assets/documents/100040D5Enc27-Regulationofpublichealthspecialists.pdf>

Resource implications

- Work to bring public health specialists into regulation by the HCPC is included or will be included within project planning and departmental work plans for 2014-2015 and 2015-2016.

Financial implications

- None as a result of this paper. The costs of opening the new Register will be paid via a grant from Government.

Appendices

- Department of Health (September 2014). The Health and Care Professions (Public Health specialists and Miscellaneous Amendments) Order 2015. A consultation.

Date of paper

3 October 2014

17 October 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.

Regulation of public health specialists from non-medical backgrounds

1.2 We are committed (subject, of course, 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 with the HCPC in a timely manner.

Consultations

1.3 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.
- 1.4 The consultation document 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. 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

- 1.5 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.
- 1.6 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.
- 1.7 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

Transitional arrangements – outstanding cases

Q1. 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

Q2. 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

Q3. Is the impact of these public health specialists being required to register with the HCPC of significant consequence?

No. We do not consider that this is of any significant consequence.

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

Q4. 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.5. 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.6. 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.7. 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.8. 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.

DRAFT - DISCUSSION/APPROVAL HCPC COUNCIL 16/10/2014



Department
of Health

The Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015

A consultation

September 2014

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The Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015

A Consultation

Prepared by the Public Health Policy and Strategy Unit, Department of Health, England

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Executive summary

In January 2012, following the agreement of Health Ministers in the Devolved Administrations, the UK Government announced that public health specialists from backgrounds other than medicine and dentistry should be regulated by the Health and Care Professions Council (HCPC). Public health specialists can currently register on a voluntary basis with the UK Public Health Register (UKPHR)¹. Those who are medical practitioners or dentists with a specialty in public health medicine and public dental health are already required to register with the General Medical Council (GMC) or the General Dental Council (GDC) but can also register voluntarily with the UKPHR as public health specialists.

The HCPC currently regulates 15 different health professions across the UK and in England only, it also regulates social workers. It sets standards of education, performance and conduct, and can initiate as appropriate fitness to practise proceedings against registrants.

The draft Order attached sets out proposals for the statutory regulation of public health specialists. It is made under powers in Section 60 of, and Schedule 3 to, the Health Act 1999, as amended. Under these provisions, legislation by means of an Order in Council, can be made in relation to the regulation of new healthcare professions.

In addition, in light of a recent decision of the High Court, we are seeking to clarify the existing legal position in relation to striking-off orders in health or lack of competence cases, to align the HCPC's position on this issue with that of the Nursing and Midwifery Council (NMC).

We are also seeking to end the practice of Health & Care Professions Council members sitting on registration appeal panels, thereby removing any conflicts of interest.

The draft Order:

- designates public health specialists as one of the professions regulated under the Health and Social Work Professions Order 2001 (S.I. 2002/254)
- makes arrangements for the transfer of entries in the UKPHR register which relate to public health specialists, to the relevant part of the register of kept by the HCPC
- includes transitional arrangements in respect of outstanding matters, such as the registration of (including suspension and removal from the register) a person at the point of transfer
- amends the Health and Social Work Order 2001 (S.I. 2002/254) to make transitional provision relating to admissions to its register for those persons who apply within a two

¹ A private company limited by guarantee. Company No.4776439

year period and satisfy other conditions, to be admitted to the HCPC register (“grandparenting” provision)

- other consequential amendments to the Health and Social Work Order 2001 (S.I. 2002/254) and related legislation.
- Amends article 30 of the Order to allow the HCPC to review a Suspension Order or Conditions of Practice Order in certain circumstances, subject to certain conditions. This amendment is necessary to ensure that the Health Committee and the Conduct and Competence Committee can make a striking-off order in certain circumstances.
- amends article 37 of the Order to remove the requirement for a Council member to chair the Registration Appeals Panel.
- amends the HPC (Registration Appeals) Rules Order of Council 2003 to remove the requirement for a member of the Council to be appointed chair of the appeals committee. It also makes a number of technical amendments following the renaming of the HPC as the HCPC.

In this consultation we are seeking views on the draft Order itself, and in particular on:

- outstanding UKPHR fitness to practise cases at the time of transfer should be investigated and determined by the HCPC under the HCPC’s rules (para 3.6)
- a grandparenting period of two years to allow non-medical public health specialists who are not registered or eligible to be registered with the UKPHR to apply for registration. (para 3.8)
- protection of the title “public health specialist” for those registered by the HCPC (para 3.19)
- whether the defined specialist category should be retained (para 3.22)
- the impact of public health specialists from a non-medical or dental background being required to register with the HCPC and the consequences this might have for those registered with a professional body other than the HCPC

Chapter 1: Introduction

- 1.1 This consultation on the draft Order is made on behalf of all four UK Health Departments. Consultation is required by virtue of paragraphs 9(1) and (3) of Schedule 3 to the Health Act 1999. Section 60 Orders are subject to Parliamentary scrutiny through the affirmative resolution procedure, which means that it will be debated in both Houses. As the regulation of new groups of healthcare professionals since the Scotland Act 1998 is a devolved matter for Scotland, the draft Order must be laid in the Scottish Parliament. Regulation of healthcare professionals is also devolved in Northern Ireland but in practise there has been an agreement that such regulation is best done on a UK wide basis (except for pharmacy). While there is no legislative requirement for the draft Order to be laid before either the Northern Ireland Assembly, or the National Assembly for Wales, the policy proposals in this document have the support of Ministers in Northern Ireland and Wales and the outcome of the consultation will be reported to all UK Ministers.
- 1.2 This consultation document summarises the outstanding policy issues on which we seek views. These issues are set out in Chapter 3.
- 1.3 An economic assessment of the impact of the proposed policy has not been prepared as it is thought that the proposal will have no impact on business.
- 1.4 Questions for consultation are included throughout the document and are summarised in Annex B. We welcome general comments as well as specific responses to the questions.
- 1.5 This consultation closes on 17 October 2014. You can contribute to the consultation by responding in three ways:
 - email: consultationregulationnonmedicalphspecialists@dh.gsi.gov.uk
 - post: Department of Health
Room 165
Richmond House
79 Whitehall
London
SW1A 2NS
 - online: <http://consultations.dh.gov.uk>

Chapter 2: Background

- 2.1 Historically, the majority of public health specialists in the UK have come from medical or dental backgrounds and are regulated by the General Medical Council (GMC) or the General Dental Council (GDC). Over recent years, however, there has been a move towards encouraging people from a wide range of backgrounds to become public health specialists. These individuals, known as non-medical public health specialists, are not currently subject to statutory regulation in their role as public health specialists, although there is a system of voluntary registration through the UK Public Health Register (UKPHR).
- 2.2 Non-medical public health specialists can be from a range of backgrounds, such as microbiology, nursing, environmental health but all will have either completed the national specialty training programme, with a curricula approved by the GMC, or will have been approved at consultant level via submission of a portfolio of evidence through the UKPHR.
- 2.3 Doctors who are registered as having a specialty in public health medicine are regulated by the GMC; and dentists who are included in the specialist lists held by the GDC as having a specialty in dental public health are regulated by the GDC. These bodies are UK wide. Public health specialists who are not also dentists or doctors do not have a statutory regulator for their public health function (for example some public health specialists might have a nursing background and are regulated to protect the public by the Nursing and Midwifery Council as nurses but not as public health specialists). These public health specialists have the option of registering as such with the UKPHR but this is not a statutory regulator. In summary, there are three UK- wide regulatory bodies (two of which are statutory regulators) for public health specialists
- the General Dental Council (GDC) - a statutory regulator, which regulates dentists and professions complimentary to dentistry such as dental nurses, dental technicians, dental hygienists, dental therapists, clinical dental technicians and orthodontic therapists;
 - the General Medical Council (GMC) – a statutory regulatory body, which regulates doctors; and
 - UKPHR – a private limited company which holds a voluntary register for public health specialists from a non-medical background. Voluntary registration is also open to doctors or dentists.
- 2.4 In 2009, DH commissioned Dr Gabriel Scally to undertake a review of the regulation of non-medical public health specialists. In November 2010, the Scally Review made a number of recommendations in *Review of the Regulation of Public Health Professionals* (Nov 2010)². The review recommended that the then Health Professions Council should regulate public health specialists as an additional profession. The Scally Review was published alongside the DH consultation document *Healthy Lives, Healthy People: Our*

² Review of the Regulation of Public Health Professionals November 2010
<https://www.gov.uk/.../publications/review-of-the-regulations-of-public-health-professionals>

strategy for public Health in England 2010³, which asked for further views on Dr Scally's report.

- 2.5 In July 2011, in response to consultation DH published *Healthy Lives Healthy People – Update and way forward*⁴. The summary of responses to the consultation stated:

“Of those respondents who expressed a view on regulation, there was more support for some form of statutory regulation than for a voluntary system, but across all respondents there was no dominant view about who should operate such a register, whether voluntary or statutory. The most commonly suggested organisations were the Faculty of Public Health, the UK Public Health Register and the Health Professions Council.”

- 2.6 Noting that the public health profession strongly supported regulation, and after inviting further evidence from the profession and listening to the debates during the passage of the Health and Social Care Bill, Ministers decided to accept the recommendations from the Scally Review to regulate public health specialists through the HCPC.

- 2.7 In February 2012, DH published *Government Response to the House of Commons Health Committee Report on Public Health (Twelfth Report of Session 2010 -12)*. The Committee had made the following recommendation in relation to Directors of Public Health:

“The Government argues that the involvement of Public Health England in the appointment of Directors of Public Health will be sufficient to ensure that those appointed are appropriately qualified and trained. The Committee does not agree; it believes that there should be a statutory requirement for Directors of Public Health to be a member of an appropriate professional register.” (HC 1048, paragraph 96) 22.

- 2.8 In response, DH said:

“The Government agrees, given the critical leadership role that public health consultants play in protecting the public from harm, that it is essential that all public health consultants have in place an appropriate system to ensure the highest quality of decision making. On 23 January 2012, the Secretary of State announced that the Government would legislate to rectify the anomaly which means that non- medical public health consultants fall outside the statutory regulatory system. The Health Professions Council will regulate this group to ensure consistent standards across the whole profession. We will bring forward legislation under section 60 of 1999 Health Act, following appropriate periods of consultation and consideration by both the Scottish and the UK Parliaments”

- 2.9 The decision was confirmed in the House of Lords by Baroness Northover during debate on the Health and Social Care Bill on 29 February 2012. She said:

“The Government have announced their intention to require non-medical public health specialists to be subject to regulation by the Health and Care Profession Council. We will discuss the implementation timetable with interested parties and

³ Healthy Lives Healthy People: Our Strategy for Public Health in England <https://www.gov.uk/.../healthy-lives-healthy -people-our-strategy-for-public-health-in-england>

⁴ <https://www.gov.uk/government/publications/healthy-lives-healthy-people-update-and-way-forward>

expect the necessary changes to be made under the powers in Section 60 of the Health Act 1999.”

- 2.10 The Health and Care Professions Council (HCPC) regulates the following professions: arts therapists, biomedical scientists, chiropodists / podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists / orthotists, radiographers, social workers in England and speech and language therapists. It has developed systems and processes to handle the complexities that this brings to statutory regulation. It sets standards of education, training, performance and conduct.
- 2.11 This consultation does not cover routes for registration, standards of proficiency, standards of education and training, the registration cycle for specialists or grandparenting criteria as these will be subject to separate consultations by the HCPC. These are consultations the HCPC normally undertake when regulating a new group of healthcare professionals. They relate to the existing legal provisions in their legislation which in the past have simply applied to a new group when it joins the register. This consultation does, however, include the proposed length of the grandparenting period.

Chapter 3. Proposed reforms by the draft Section 60 Order

- 3.1 The Government proposes to extend statutory regulation, through the Health and Care Professions Council (HCPC), to non-medically qualified public health specialists under powers in Section 60 of the Health Act 1999.
- 3.2 There are a small number of policy and implementation questions on which we seek views in this consultation:
- Outstanding UKPHR fitness to practise cases at the time of transfer to be investigated and determined by the HCPC in accordance with the Health and Social Work Order 2001 (S.I. 2002/254) (para 3.6)
 - A grandparenting period of two years to allow non-medical public health specialists who are not registered or eligible to be registered with the UKPHR to apply for registration (para 3.8)
 - Protection of the title "public health specialist" for those registered by the HCPC (para 3.19)
 - Whether or not to retain the defined specialist category (para 3.22).
- 3.3 It is anticipated, subject to consultation and the legislative process, that the HCPC will open its register by the end of 2015.

Citation and commencement

- 3.4 Article 1 of the draft Order allows for certain provisions of the Order to come into force when the order is made and for the others to come into force on a day appointed by the Privy Council by order.

Interpretation

- 3.5 Article 2 of the draft Order defines certain terms used in the Order.

Transitional arrangements – Outstanding cases

- 3.6 We propose that any outstanding matters, including cases that are under investigation before UKPHR's Investigation Panel are to be referred to the Investigation Committee of the HCPC to determine; and that any outstanding cases before the UKPHR's Fitness to Practise Panel should also be determined by the HCPC.
- 3.7 In both instances, the HCPC will consider and make its final determination in accordance with the Health and Social Work Order 2001 (S.I. 2002/254). The HCPC will also determine applications made to UKPHR by public health specialists for restoration to

UKPHR's register received prior to the transfer of non-medical public health specialists to HCPC, but not determined by that time.

Question 1: Do you agree that outstanding UKPHR fitness to practise cases at the time of transfer should be investigated and determined by the Health and Care Professions Council in accordance with the Health and Social Work Order 2001 (S.I. 2002/254)? If not, why not?

Transitionals – Grandparenting

- 3.8 Where a profession is statutorily regulated for the first time, it is usual practise to permit practitioners outside of voluntary regulation a period in which they could apply to join a statutory register, and this period is referred to as “grandparenting”. During the period of “grandparenting” the legal restrictions on who is able to practise the profession do not exist. In summary, people who do not hold an approved qualification, or who were not already voluntarily registered or eligible to be voluntarily registered but who were practising as a non-medical public health specialist before the HCPC Register opens, may be eligible to apply for registration with the HCPC.
- 3.9 Article 13 of the Health and Social Work Order 2001 (S.I. 2002/254) contains the transitional provisions relating to admission to the register in respect of “grandparenting”. An application can be made by a person for admission to the relevant part of the register under article 9. The time limits for making the application are specified in relation to each of the relevant profession. This period is usually two years. The Education and Training Committee of the HCPC have to be satisfied (with or without requiring a test of competence) that:
- an individual can demonstrate that they have been in practice for three out of the five years prior to the opening of the Register (or its equivalent on a part time basis), during which they have been engaged in the ‘lawful, safe and effective practice of the profession in respect of the profession for which registration is required’; or
 - where an individual has not met the time in practice requirement above but satisfies the HCPC that through additional training and experience acquired in the United Kingdom or elsewhere, the individual meets the full range of standards of proficiency required for registration in respect of the profession for which registration is required.
- 3.10 Grandparenting applications are assessed on a case-by-case basis by professional assessors against the relevant criteria and a decision made about whether an applicant can be registered. As the UKPHR have routes to registration which have recognised the competencies of those already in the workforce who have not undertaken the ‘standard route’, we anticipate that the extent of grandparenting is likely to be limited. We are

proposing a period of two years from the opening of the HCPC register in which grandparenting applications can be made.

- 3.11 The recognition of specialist status route and assessment of defined specialists (both of which are retrospective routes which recognise individuals already in specialist roles) would not be necessary after grandparenting has closed. Once the title is protected, those already in practise should already be registered.

Q2: Do you agree that the grandparenting period for registration as a public health specialist should be two years?

Transitional, transitory and savings provisions – Privy Council powers

- 3.12 Article 3 of, and Schedule 1 to, the draft Order makes provision in respect of the regulation of public health specialists by the HCPC. Article 5 allows the Privy Council to make appropriate supplementary transitional, transitory and savings provisions by order as are considered necessary in connection with the commencement of the Order. Article 6 deals with the powers of the Privy Council to make subordinate legislation under the Order (including orders under article 1) and the procedures the Privy Council is required to follow when making such legislation. It stipulates that those powers are exercisable only by Statutory Instrument.

The transferred register

- 3.13 Article 4 of the draft Order makes provision for the HCPC and United Kingdom Public Health Register (UKPHR) to enter into arrangements (which may include financial arrangements) to transfer the UKPHR's register of public health specialists to the HCPC. It also provides for the transfer of the register from the UKPHR to the HCPC so that all those people on the UKPHR register, other than practitioners and dual registrants with the General Medical Council (GMC) or General Dental Council (GDC), on the day before the date of transfer would be automatically transferred to the register held by the HCPC. It also allows for applications made to the UKPHR for admission to its register of public health professionals but not determined by the time of transfer to be determined by the HCPC.
- 3.14 Provision is also made for individuals to have their names removed from the register if they write to the HCPC within 40 days of the date of transfer and preventing the HCPC from publishing any registrant public health specialists' home address without the consent of that person.

3.15 Entries on the UKPHR public health practitioner register will not transfer to the HCPC.

Dual registration

3.16 Once statutory registration is introduced, non-medical public health specialists will be required to register with the HCPC in order to practise. Specialists who are doctors and dentists (and who are already in the relevant specialist register or list) will remain regulated by their respective regulators and will not need to register with the HCPC.

3.17 Registrants who are dual qualified and also registered by the Nursing and Midwifery Council, General Pharmaceutical Council or Chartered Institute of Environmental Health, for example, will be able to continue their initial registration should they wish but, in order to be registered as public health specialists, must be registered with the HCPC. Whether they need or want to be dual registered will be an individual decision for them. HCPC's only concern would be that if someone is practising as a non-medical public health specialist they should have HCPC registration (but this would in no way prevent them from being registered elsewhere as well).

Q3: Is the impact of these public health specialists being required to register with the HCPC of significant consequence?

3.18 There is nothing to preclude a doctor or dentist being registered with more than one regulator. If, for example, the GDC investigates and then makes a finding against a doctor, the GMC would not be precluded from considering the findings of the GDC to decide whether the GMC should take its own action. The expectation would be that whichever regulator investigates the matters, they would ensure that the other regulator is kept up to date, and, when a decision is made, then take such action as they would think appropriate. The same would apply to the HCPC with a doctor who may be registered with them and also the GMC.

Offence – public health specialists

3.19 Each of the professions regulated by the HCPC has at least one title which is protected in law. This means that only someone who is registered in the part of the HCPC register which relates to their profession can use that protected title. The HCPC has powers to prosecute those who use a protected title without being appropriately registered. The *Review of the Regulation of Public Health Professionals* (November 2010) recommended that the titles 'consultant in public health' and 'director of public health' should be protected. We do not propose to protect these titles as they are occupational titles rather than professional titles, so would not be suitable for protection. We have decided to

recommend the protected title of public health specialist. Protecting the adjectival title ‘non-medical public health specialist’ for instance would mean that individuals could potentially use the ‘stem’ title of ‘public health specialist’ without registration with any of the regulators, as long as they did not use ‘non-medical’ in front of it. Given that public health specialists registered with the HCPC will be equivalent to those registered with the GMC or GDC, we do not see any benefit in distinguishing between public health specialists from medical or other backgrounds.

- 3.20 We propose to make an exception in relation to those medical practitioners who can register with the GMC in the specialists register as having a speciality in public health medicine or dentists who can be included in the specialist list held by the GDC as having a speciality in dental public health. In these cases, no offence is committed if they use the protected title “public health specialist”.
- 3.21 PHE, acting on behalf of the Secretary of State, has a statutory duty⁵ for joint appointments of Directors of Public Health (DPH). PHE will not currently regard an applicant for a DPH post as suitable unless s/he has the appropriate registration with the GMC, the GDC or the UKPHR. In future, a public health specialist will need to be registered with the GMC, GDC or HCPC to be considered eligible for these posts. Doctors who have a specialty in public health medicine will remain registered with the GMC and dentists who have a specialty in dental public health will remain registered with the GDC, although they can also register as a public health specialist with the HCPC if they so wish.

Q4. Do you agree that “public health specialist” should become a protected title?

Defined specialists

- 3.22 People who currently register with the UKPHR as defined specialists are public health specialists who have chosen to specialise in a narrower area of public health practice at some stage during their career. Defined specialists are required to show evidence of knowledge across the full breadth of public health to the same standard as generalists. In addition, defined specialists will demonstrate current competencies in some particular areas of practice at a higher level than that required to be demonstrated by generalists, usually reflecting their highly specialised professional experience in service or academic environments. If defined specialists have previously registered via these routes, under the provisions in the draft Order, they will transfer to that part of the HCPC register that relates to public health specialists.

⁵ Section 30, Health and Social Care Act 2012

3.23 There has been some debate about whether defined specialists should be separately distinguished in the HCPC register from those who have completed 'generalist' training (or been assessed as equivalent) and 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.

3.24 We have identified two options:

- a. Defined specialists transfer to the HCPC Register and are registered with other specialists, with access to the same protected title. At the end of the grandparenting period the only way for someone to become registered is via completing an approved programme which meets the standards of a 'generalist specialist'.
- b. Defined specialists transfer to the HCPC and are separately distinguished. A separate title is protected for defined specialists with standards of proficiency relating to defined specialists. The routes to registration for defined specialists remain open after grandparenting (subject to remaining approved).

Question 5: Which of these options, if either, do you think is appropriate?

Changes to the composition of a panel considering registration appeals

3.25 Under the HCPC's legislation, a decision to refuse an application for registration or readmission to the register, or to refuse the renewal of an existing registration, may be appealed - 'an appeal against decision of an Education and Training Committee' (article 37 of the Health and Social Work Professions Order 2001).

3.26 A registration appeal will be considered, either at a meeting or a hearing, by a panel appointed by the Council (a registration appeal panel). Legislation requires each registration appeal panel to include a serving Council member as the Chair.

3.27 The Council has a formal and defined role within the governance structure of the HCPC. It is essential that the independence of the Council is maintained by ensuring that there is a clear separation between the Council's oversight functions and the operational functions of the Registrar and executive.

3.28 It is proposed that that the requirement for Council member to chair an appeal panel should be removed (see Schedules 1 and 2 to the draft Order).

- 3.29 This would maintain a clear separation of duties between the operational and governance functions of the HCPC to ensure impartiality and avoid any suggestion of a perceived or actual bias. It is also expected that registration appeal panel hearings would be dealt with more swiftly by not having to rely on the availability of a limited number of trained Council members.
- 3.30 The overall aim of this proposed change is to reinforce the impartiality of the panels, ensure consistency in approach and ensure decision-making is more transparent.

Question 6: Do you agree that the requirement for a Council member to chair the Registration Appeal Panel should be removed?

Clarification on powers of panels to make striking-off orders in health and lack of competence Fitness-to-Practise cases

- 3.31 Where a panel has considered a case and determines that a registrant's Fitness-to-Practise is impaired, it may impose one of a number of sanctions. These include, in the most serious cases, making an order striking the registrant's name from the register (a striking-off order) where it is considered that such a step is the only proportionate means of adequately protecting the public or acting in the public interest.
- 3.32 Where the sanction is an order for a period of suspension or for the registrant to be the subject of conditions of practice, it will be reviewed prior to its expiry date and, amongst other options, could be extended or varied.
- 3.33 Where a panel determines that a registrant's Fitness-to-Practise is impaired due to their health or lack of competence, until recently it was considered that the current legislation did allow the panel to impose a striking-off order, but only after the registrant had been the subject of continuous suspension or conditions of practice for a period of two years.
- 3.34 A recent decision of the High Court interpreted the legislation to suggest that a panel cannot make a striking-off order in a health or lack of competence case (at the first hearing or on any subsequent review) unless, at the time of the original decision to impose a sanction, the registrant has been the subject of a continuous substantive suspension or conditions of practice order for at least two years. The effect of the drafting in article 30(1)(b) was commented on in the case of *Okeke v NMC* 2013 EWHC which threw doubt on the existing law.

- 3.35 Consequently, the HCPC, which has parallel provisions to those of the NMC, wishes to clarify the existing legal position by amending the provision and aligning its position on this issue with the NMC.
- 3.36 The proposed amendment (at paragraph 7 of Schedule 1 to the draft Order) is a clarification of the existing legal position. It would make it clear that the sanction of a striking-off order is an option for consideration by a panel reviewing a suspension order or a conditions of practice order in a health or lack of competence Fitness-to-Practise case, provided the registrant has been the subject of a continuous substantive suspension order or conditions of practice order for a period of at least two years.

Question 7: 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?

Chapter 4. The costs and benefits of the proposed order

- 4.1 An economic assessment of the impact of the proposed policy has not been prepared as the order regulates the title 'public health specialist' (or whatever title is decided upon), rather than the activities that public health specialists engage in. In creating a protected title, the order would only affect those who currently call themselves 'public health specialists'. Therefore, the impact on business only applies if there was a self-employed contractor who was called 'Public Health Specialist'.
- 4.2 A survey by the Centre for Workforce Intelligence⁶ of public health specialists found that of the 574 respondents, 21 (3.7%) worked in either the private sector or the independent (self-employed) sector. Further, 5 of these 21 respondents were registered solely with UKPHR, that is, only 5 out of 21 respondents that stated they work independently or in the private sector were non-medical public health specialists. The remaining 16 were registered with the General Medical Council and therefore out of scope.
- 4.3 Applying these proportions we believe there are potentially 10 non-medical public health specialists working in the private sector (including independent, self-employed persons.) The impact on business is sufficiently small that an economic assessment is not necessary. This position has been discussed and agreed with the Regulatory Policy Committee.

Q8. Is our estimate of the numbers of non-medical public health specialists working in the independent or private sector reasonable?

⁶ <http://www.cfwi.org.uk/publications/the-cfwi-public-health-consultant-and-specialist-staff-survey-2013>

Annex A: The consultation process

Criteria for consultation

This consultation aims to:

- formally consult at a stage where there is scope to influence the outcome;
- consult for a proportionate period
- be clear about the process in the consultation documents, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals;
- ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach;
- keep the burden of consultation to a minimum to ensure effectiveness and to obtain consultees' 'buy-in' to the process;
- analyse responses carefully and give clear feedback to participants following the consultation;
- ensure officials are guided on how to run an effective consultation exercise and share what they learn from the experience.

Comments on the consultation process itself

If you have concerns or comments that you would like to make relating specifically to the consultation process itself please:

contact Consultations Coordinator

Department of Health
3E48, Quarry House
Leeds
LS2 7UE

e-mail consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

Confidentiality of information

We manage the information you provide in response to this consultation in accordance with the Department of Health's [Information Charter](#).

Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and, in most circumstances, this will mean that your personal data will not be disclosed to third parties.

Summary of responses to the consultation

A summary of the response to this consultation will be made available before or alongside any further action, such as laying legislation before Parliament, and will be placed on the Consultations website at

<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>

Consultation response

The response will outline how the responses to the consultation have been addressed in the production of the final regulations to be laid before Parliament. Parliament will have the opportunity to debate the regulations within 40 days if it chooses, and may vote to annul them as a result. If they are not annulled, they will come into force on a date specified in the regulations.

Subject to the regulations proceeding, guidance will be developed in collaboration with stakeholders to help local authorities, and others to implement them. This will be made available before the regulations come into force.

Annex B: Consultation questions and response form

Question 1: Do you agree that outstanding UKPHR fitness to practise cases at the time of transfer should be investigated and determined by the Health and Care Professions Council in accordance with the Health and Social Work Order 2001 (S.I. 2002/254)? If not, why not?

Question 2: Do you agree that the grandparenting period for registration as a public health specialist should be two years?

Q3: Is the impact of these public health specialists being required to register with the HCPC of significant consequence?

Question 4: Do you agree that “public health specialist” should become a protected title?

Question 5: Which of these options for defined specialists, if either, do you think is appropriate?

Question 6: Do you agree that the requirement for a Council member to chair Registration Appeal Panels should be removed?

Question 7: 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?

Question 8: Is our estimate of the numbers of non-medical public health specialists working in the independent or private sector reasonable?

Draft Order in Council laid before Parliament and the Scottish Parliament under section 62(10) of the Health Act 1999, for approval by resolution of each House of Parliament and the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

HEALTH CARE AND ASSOCIATED PROFESIONS

**The Health and Care Professions (Public Health Specialists and
Miscellaneous Amendments) Order 2015**

Made - - - - 2015

Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the xx day of xx 2015

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) and (4A) of, and Schedule 3 to, the Health Act 1999(a).

The Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament and the Scottish Parliament, in accordance with section 62(10) of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order in Council.

(a) 1999 c. 8. Section 60 has been amended by: the National Health Service Reform and Health Care Professions Act 2002 (c. 17) ("the 2002 Act"), section 26(9); the Health and Social Care Act 2008 (c. 14) ("the 2008 Act"), Schedule 8, paragraph 1, and Schedule 10, paragraph 10; sections 209 and 210 of the Health and Social Care Act 2012 (c. 7) ("the 2012 Act"); and S.I. 2002/253 and 254. Section 62 has been amended by: the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 194 and 197, and Schedule 4; and the 2008 Act, Schedule 8, paragraph 2, and Schedule 10, paragraph 11. Schedule 3 has been amended by: the 2002 Act, section 26(10); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 11, paragraph 67, and Schedule 14, Part 4; the Health Act 2006 (c. 28), section 33 and Schedule 9; the 2008 Act, Schedule 8, paragraphs 3 to 10 (although paragraph 10 is not yet in force); the 2012 Act, section 211 and S.I. 2002/254.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015.

(2) This article and articles [insert] come into force on the day after the day on which this Order is made.

(3) Articles [insert] to [insert] come into force on [insert].

(4) The extent of any amendment of any enactment or instrument contained in this Order is the same as that of the enactment or instrument amended.

Interpretation

2. In this Order—

“the 2001 Order” means the Health and Social Work Professions Order 2001(a);

“dual registrant” means a person who is—

(a) registered with the PHR; and

(b) where that person is —

(i) a medical practitioner recognised as having a specialty in public health medicine, that person is also registered in the specialist register maintained by the General Medical Council pursuant to section 34D(b) (specialist registers) of the Medical Act 1983(c); or

(ii) a dentist recognised as having a specialty in dental public health, that person is also included in the specialist list maintained by the General Dental Council in accordance with regulations made by the General dental Council pursuant to section 26(3) and (4)(d) of the Dentists Act 1984(e);

“HCPC” means the Health and Care Professions Council established under article 3 of the 2001 Order(f);

“HCPC register” means the register maintained under article 5 of the 2001 Order;

“PHR” means the United Kingdom Public Health Register, a private company limited by guarantee, which was incorporated on 23 May 2003(g);

“PHR register” means the aggregate of entries in the register maintained by the PHR that relate to persons other than public health practitioners and dual registrants;

“public health practitioner” means a person who—

(a) is not registered in any register as a public health specialist;

(b) has not completed a national public health speciality training programme approved by the General Medical Council;

(c) has not reached the requisite level of competence for such registration as determined by the PHR.

(a) S.I. 2002/254. The title to this statutory instrument was amended by section 213(6) of the Health and Social Care Act 2012 (c. 7).

(b) Inserted by S.I. 2010/234.

(c) 1983 c. 54.

(d) Section 26 has been amended by S.I. 2005/2011.

(e) 1984 c. 24.

(f) The name of body corporate previously known as the Health Profession Council was amended by section 214 (1)(b) of the Health and Social Care Act 2012 to the Health and Care Profession Council.

(g) The United Kingdom Public Health Register (UKPHR) has its registered office at Chadwick Court, 15 Hatfields, London, SE1 8DJ.

Regulation of public health specialists

3.—(1) Part 1 of the Schedule 1 to this Order makes amendments to the 2001 Order relating to the regulation of the profession of public health specialist by the HCPC.

(2) Part 2 of the Schedule 1 to this Order makes further miscellaneous amendments to the 2001 Order.

(3) Schedule 2 to this Order makes amendments to other subordinate legislation.

Transitory and transitional provisions relating to the introduction of the registration of public health specialists by the Health and Care Professions Council

4.—(1) The HCPC and the PHR shall enter into arrangements (which may include financial arrangements) to facilitate the introduction of arrangements for the regulation of public health specialists by the HCPC arising out of this Order.

(2) The arrangements entered into under paragraph (1) shall include arrangements to ensure that all the relevant names in the PHR register which are to be entered in the HCPC register with effect from the appointed day are so entered.

(3) If on [insert date], a person's name is included in the PHR register, the person shall be registered in the part of the HCPC register which relates to public health specialists with effect from the appointed day.

(4) If on [insert date], there is an outstanding application for a person's name to be entered in the PHR register (including an application for restoration to that register), the HCPC—

- (a) may determine that the person's name is to be entered in the part of the HCPC register which relates to public health specialists; and
- (b) shall dispose of the matter in such manner as it considers just.

(5) Where a person who is registered in the HCPC register pursuant to paragraph (3), notifies the HCPC in writing no later than [insert] that they do not wish to be registered in the HCPC register, the HCPC must—

- (a) remove that person's name from the HCPC register; and
- (b) treat that person as not having been so registered.

(6) Where a person is registered in the HCPC register pursuant to paragraph (3) or (4), the person's home address shall not be published in the HCPC register without the person's consent.

(7) Paragraph (8) applies if, on [insert], a person's name is included in the PHR register but—

- (a) the person's registration is suspended (whether temporarily or permanently); or
- (b) the person is the subject of proceedings which could lead to the person's removal or suspension from the PHR register.

(8) In the circumstances described in paragraph (7), the HCPC—

- (a) may determine that the person's name is not to be entered in the part of the HCPC register which relates to public health specialists; and
- (b) shall dispose of the matter (including any proceedings) in such manner as it considers just.

(9) In this article “the appointed day” means the day on which this Order comes into force.

Transitional, transitory and saving provisions

5.—(1) In connection with the commencement of any provision of this Order, the Privy Council may by order make such transitional, transitory or saving provisions as it considers appropriate.

(2) The power to make an order under paragraph (1) may be exercised—

- (a) so as to make different provision—
 - (i) with respect to different cases or different classes of cases, or

- (ii) in respect of the same case or class of case for different purposes;
- (b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exemptions; or
- (c) so as to make any supplementary, incidental or consequential provision which the Privy Council considers necessary or expedient.

Privy Council procedure etc.

6.—(1) The power of the Privy Council to make an order under article 5(1) may be exercised by any two or more members of the Privy Council.

(2) The making of an order under article 5(1) shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(3) The power to make an order under article 5(1) shall be exercisable by statutory instrument.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), the power in article 5(1) is to be taken to be conferred by an Act of Parliament.

(5) Where an order of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that shall be evidence, and in Scotland sufficient evidence, of—

- (a) the fact that the order was duly made; and
- (b) the order’s terms.

Further Miscellaneous Amendments

7. Schedule 2 (which deals with amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003(a)) has effect.

Name
Clerk of the Privy Council

SCHEDULE 1

Article 3

Amendments to the Health and Social Work Profession Order 2001 and related matters

PART 1

Amendments relating to the regulation of public health specialists

Amendment of article 13

1. In article 13(b) (transitional provisions relating to admission to the register), in paragraph (1), for sub-paragraph (c) substitute—

- “(c) who has never been registered in respect of that profession—
- (i) under the 1960 Act or this Order,

(a) S.I. 2003/1579.
(b) Amended by S.I. 2004/2033, 2009/1182 and 2010/233.

- (ii) in the case of an operating department practitioner, in the AODP register,
- (iii) in the case of a practitioner psychologist, in the BPS register or the AEP register, or
- (iv) in the case of a public health specialist, in the PHR register; and”.

Amendment of article 39

2. After sub-paragraph (1A) of article 39(a) (offences), insert—

“(1B) A person who is registered in, the Specialist Register kept by the General Medical Council under section 34D(b) of the Medical Act 1983(c) (specialist register) or included in the specialists list kept by the General Dental Council in accordance with regulations made by the General Dental Council pursuant to section 26(3) and (4) of the Dentists Act 1984(d), is to be regarded for the purposes of paragraph (1)(b) as entitled to use the title of “public health specialist.”.

Amendment of Schedule 1

3. In paragraph 1A of Schedule 1(e) (the Health and Care Professions Council and committees: membership)—

- (a) in sub-paragraph (1)(b)(i), for “or the HAC register”, substitute “, the HAC register or the PHR register”; and
- (b) after sub-paragraph (1A), insert—

“(1B) For the purposes of sub-paragraph (1), “the PHR register” means the register maintained by the PHR.”.

Amendment of Schedule 3

4. In Schedule 3(f) (interpretation), in paragraph 1—

- (a) insert each of the following definitions at the appropriate place in the alphabetical order—
 - ““PHR” means the United Kingdom Public Health Register, a private company limited by guarantee which was incorporated on the 23 May 2003(g);
 - “PHR register” means (except in relation to paragraph 1A(1) of Schedule 1) the aggregate of entries in the register maintained by the PHR that relate to persons other than public health practitioners;
 - “public health practitioner” means a person who—
 - (a) is not a public health specialist;
 - (b) has not completed a national public health speciality training programme approved by the General Medical Council; or
 - (c) has not reached the requisite level of competence for such registration as determined by the PHR.”;
- (b) in the definition of “relevant professions”, after “prosthetists;”, insert “public health specialists;” and
- (c) after paragraph 1A, insert—

(a) Amended by 2009/1182.

(b) Inserted by S.I. 2010/234.

(c) 1983 c. 54.

(d) 1984 c. 24. The regulations made by the General Dental Council are the General Dental Council (Specialist List) Regulations 2008.

(e) Amended by S.I. 2009/1182 and 2010/233.

(f) Amended by S.I. 2009/1182 and 2010/233.

(g) Registered Office is at [].

1B. Subject to paragraph 1A of Schedule 1, this Order does not apply to a person who is registered in the PHR register as a public health practitioner.

1C. Subject to article 39(1B), this Order does not apply where a person is entered in—

- (a) the specialist register maintained by the General Medical Council pursuant to section 34D(a) (specialist registers) of the Medical Act 1983(b) as having a specialty in public health medicine unless that person is also registered with the HCPC in that part of the register which relates to public health specialists; or
- (b) the specialist list maintained by the General Dental Council in accordance with regulations made pursuant to section 26(3) and (4)(c) of the Dentists Act 1984(d) as having a specialty in dental public health unless that person is also registered with the HCPC in that part of the register which relates to public health specialists.

Amendment of the Health and Care Professions (Parts of and Entries in the Register) Order of Council 2003

5. In the Health Care Professions (Parts of and Entries in the Register) Order of Council 2003(e), in Schedule 1(f) (parts of the register)—

- (a) in column 1, after the entry “Part 16 -Social Workers” add the following entry: “Part 17 - Public Health Specialist”;
- (b) in column 2, after the entry “Social Worker” and opposite the entry in column 1 added by paragraph (a), add the following entry: “Public Health Specialist”.

Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 2007

6. In the European Communities (Recognition of Professional Qualifications) Regulations 2007(g)—

- (a) in Schedule 1(h) (regulated professions), in Part 1 (professions regulated by law or public authority) in the column headed “profession” after “Prosthetist and Orthotist” insert “Public Health Specialist”; and
- (b) in Schedule 2(i) (regulated professions having public health or safety implications), after “Prosthetist and Orthotist” insert “Public Health Specialist”.

PART 2

Miscellaneous amendments

Amendment of article 30

7. In article 30 (review of orders by the Health Committee and the Conduct and Competence Committee)—

- (a) for paragraph (1)(b) substitute—

(a) Inserted by S.I. 2010/234.
(b) 1983 c.54.
(c) Section 26 has been amended by S.I. 2005/2011.
(d) 1984 c. 24.
(e) S.I.2003/1571; amended by S.I. 2004/2522, 2009/1182 and 2010/233.
(f) Amended by S.I. 2004/2522, 2009/1182 and 2010/233.
(g) S.I.2007/2781.
(h) Amended by S.I. 2009/1182 and 2010/233.
(i) Amended by S.I. 2009/1182.

- “(b) with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);”;
- (b) for paragraph (4)(d) substitute—
- “(d) subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the order it replaces;”.

Amendment of article 37

- 8.** In article 37(5)(a) (appeals against decisions of the Education and Training Committee)—
- (a) after sub-paragraph (c)(i) insert “and”;
- (b) after sub-paragraph(c)(ii)(c) omit “and”;
- (c) omit sub- paragraphs (5)(c)(iii) and (d).

SCHEDULE 2

Article 3

Amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003

1. The Health Professions Council (Registration Appeals) Rules Order of Council 2003**(b)** is amended as follows.

2. For the title to the Order, substitute “The Health and Care Professions Council (Registration Appeals) Rules Order of Council 2003”.

3. In the citation paragraph, for “the Health Professions Council (Registration Appeals) Rules Order of Council 2003” substitute “the Health and Care Professions Council (Registration Appeals) Rules Order of Council 2003”.

4. For the heading to the Schedule to the Order, for “The Health Professions Council (Registration Appeals) Rules 2003” substitute “The Health and Care Professions Council (Registration Appeals) Rules 2003”.

- 5.** In rule 9 (consideration by Appeal Panel)-
- (a) in paragraph (3), omit sub-paragraph (c);
- (b) in paragraph (4)-
- (i) for “Council” substitute “Panel”, and
- (ii) for “(b)(i) and (ii)” substitute “(a) and (b)”;
- (c) in paragraph (7), omit “other than the Chair”;
- (d) in paragraph (8), omit “the Council or” (twice).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates public health specialists as one of the professions regulated under the Health and Social Work Professions Order 2001(c) (“the principal Order”). A number of

(a) Article 37 was amended by S.I. 2007/3101, regulation 1(2), S.I. 2009/1182, article 3(2).
 (b) S.I. 2003/1579 as amended by S.I. 2009/1355 and S.I. 2012/1479.
 (c) S.I.2002/254.

amendments have been made to the principal Order and related legislation as a result of this. There are also miscellaneous amendments to the principal order contained in Part 2 of the Schedule to this Order.

Article 2 deals with interpretation. Article 3 and Schedule 1 to this Order make amendments to the principal Order.

Article 4 contains transitory and transitional provisions relating to the introduction of the registration of public health specialists by the Health and Care Professions Council (“HCPC”). These provide for arrangements between the United Kingdom Public Health Register (“PHR”), holders of the voluntary register for public health specialists and public health practitioners, and the HCPC, to facilitate the transfer of the PHR’s registrants (other than public health practitioners and public health specialists with a medical and dental background) to the HCPC register.

Public health specialists from a non medical/dental background must be registered in the register maintained under article 5 of the principal Order (HCPC register) in order to use the designated title “public health specialist” (article 6(2) of the principal Order). The only exception is set out in the new article 39(1B) which applies to public health specialists who are also medical practitioners and dentists and are accordingly registered with the General Medical Council (“GMC”) and General Dental Council (“GDC”), respectively. They can use the title public health specialist without having to be registered with the HCPC.

Article 5 allows for the making of transitional provisions and article 6 sets out the procedures for making orders of the Privy Council under the provisions of this Order.

Article 7 and Schedule 2 to this Order make amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003.

Part 1 of Schedule 1 contains amendments to the principal Order in respect of the regulation the profession of public health specialists by the HCPC. Regulation by the HCPC does not extend to public health specialists who are registered with the GMC in the Specialist register which it maintains under section 34D(a) of the Medical Act 1983(b) for public healthy medicine; or the GDC in its Specialist list for dental public health unless such persons also choose to be registered with the HCPC in that part of the register which relates to public health specialists. Public health practitioners, who have neither completed an appropriate course of training to qualify, nor acquired sufficient experience to be accredited, as a public health specialist are not regulated by the HCPC (paragraph 4(c) of the Schedule to this Order).

In paragraph 1 of Schedule 1, article 13(1)(c) (transitional arrangements relating admission to the register) is amended to allow a person who has never been registered with the PHR to apply for admission to the HCPC register within a period of two years of the date of this Order coming into force, provided that the Education Committee is satisfied that the person has acquired relevant practice, training and experience to be registered in the HCPC register (“grand-parenting” provision).

In paragraph 2 of Schedule 1, article 39 (offences) is amended to allow medical practitioners who are registered with the GMC in their specialist register as having a speciality in public health medicine; or dentists who are included in the GDC’s specialist list as having a specialty in dental public health, to use the protected title of public health specialist without committing an offence even though they have opted to be registered with the HCPC.

Paragraph 3 of Schedule amends Schedule 1 to the principal Order (membership: general) to exclude any registrant with the PHR from becoming a lay member.

Paragraph 4 of Schedule 1 amends Schedule 3 to the principal Order (interpretation). The definition of “relevant profession” is expanded to include public health specialist. The “PHR register” is

(a) Inserted by S.I. 2010/234.

(b) 1983 c.54.

defined to exclude public health practitioners who will not be a regulated healthcare professional except in relation to paragraph 1A of Schedule 1 of the principal Order.

As a consequence of public health specialists becoming a regulated profession, paragraphs 5 and 6 of Schedule 1 make other consequential amendments. Under paragraph 5, a new part is added to the HCPC register for public health specialists. Under paragraph 6, the HCPC is designated as the authority responsible for processing applications for entry into Part 17 of the HCPC register from migrants having similar qualifications recognised in the European Economic Area or Switzerland and for authorising those migrants to practise in the United Kingdom in accordance with Council Directive 2005/36/EC on a second general system for the recognition of professional education and training, as amended and extended.

Part 2 of Schedule 1 amends article 30 and 37 of the principal Order. Article 30(1) is amended to clarify that the Health Committee or the Conduct and Competence Committee on review of a suspension order or a conditions of practice order may, subject to articles 29(6) and (7), make any order falling within article 29(5). It also amends paragraph (4) to clarify the position in respect of reviews of such orders which are undertaken on the application of the person concerned or where the Committee, at any time, considers the review is necessary. Article 37 is amended so as to remove the requirement for a Council member to chair the Appeals Panel and to remove the requirement for this Panel to include a registered medical practitioner where the health of a registrant is in issue. Schedule 2 amends article 37 of that Order to remove the requirement for a Council member to chair the Registration Appeals Panel (see paragraph 5). Paragraphs 2 to 4 make technical amendments to the name of that Order and its citation following the renaming of the HPC as the HCPC following the commencement, on 1st August 2012, of section 214 of the Health and Social Care Act 2012 (c. 7).