

Health Professions Council – 1 October 2008

Recommendations to Secretary of State on the statutory regulation of new professions

Executive summary and recommendations

Introduction

The paper proposes that the responsibilities of the various tasks that have to be completed before a healthcare profession is statutorily regulated by the Health Professions Council (HPC) are either undertaken in a revised sequence and/or re-assigned between the HPC and the Department of Health (DH).

The key changes to the existing process are that the HPC will consult on the draft Standards of Proficiency, the draft Standards of Education and Training and propose the protected title(s) before making a recommendation to the Secretary of State.

The changes would have no significant impact on the cost of the process. The benefits of the proposed changes include:

- Clarity of responsibilities
- A better matching of tasks to organisational expertise
- A faster process

Of the nine UK regulators of health professionals the Health Professions Council (HPC) has a unique responsibility which enables it to make recommendations to the Secretary of State about the regulation of new professions.

Article 3 (17) of the Health Professions Order 2001 states:

“(17) The Council may-

- (a) make recommendations to the Secretary of State concerning any profession which in its opinion should be regulated pursuant to section 60 (1) (b) of the Health Act; and
- (b) give such guidance as it sees fit, to such persons as seems to it to have an interest in such regulation, on the criteria to be taken into account in determining whether a profession should be regulated.”

The process to regulate a new profession, or Aspirant Group, requires both the HPC and the DH to undertake specific tasks. The existing processes are detailed in Appendix One.

It should be noted that to date the HPC has only made recommendations about Aspirants Groups who have actively sought statutory regulation. However, the HPC may make a recommendation without the Aspirant Group seeking regulation.

Responsibilities

The allocation of the tasks between the HPC and the DH have evolved since the HPC was established in 2001 and have not been systematically revised since their adoption. The existing arrangements are detailed in Appendix One. Recent informal discussions with the DH Regulatory Team have concluded that it would be advantageous if the HPC were to undertake more of the tasks before making recommendations to the Secretary of State.

Proposed Changes

It can be strongly argued that the expertise of the HPC lies in the practical delivery of statutory regulation of healthcare professionals based on a thorough understanding of issues such as Standards of Proficiency and Rules. Whereas the DH Regulatory Team expertise lies in the formulation of policy and the subsequent amendments to primary and secondary legislation.

It is therefore proposed that the existing process is revised and that more work is undertaken by the HPC before a recommendation is made to the Secretary of State. The revised process is detailed in Appendix Two. In essence the HPC would only make a recommendation to regulate a new profession once a complete package of research, standards, processes and legislative Rules had been completed. This will free up the DH Regulatory Team to concentrate on Policy and amendments to relevant legislation.

Devolution

The regulation of new professions is a devolved responsibility and references in this paper to the Department of Health embrace the Departments of Health in Belfast, Edinburgh and London.

Guidance

The 10 criteria used by the HPC are attached in Appendix Three. They were reviewed in 2007 and the Policy and Standards Department will be reviewing them in 2009/10.

Decision

- 1 The Council is requested to approve the revised process as detailed in Appendix Two.

- 2 The Council is requested to instruct the Executive to seek the agreement of the Department(s) of Health to the proposed changes detailed above.

Background information

None

Resource implications

Increased workload for Policy and Standards Department.

Financial implications

- The revised process should not affect the overall costs
- HPC will continue the existing policy of seeking grant funding from the Department of Health for our external costs of regulating a new profession

Appendices

Appendix One – existing process

Appendix Two – revised process

Appendix Three – summary of ten criteria

Date of paper

16 September 2008

Appendix One - Existing Process

[HPC = Black DH = Blue]

- Initial discussions with Aspirant Group including risk review
- Reviews application using the 10 HPC criteria
- Estimates the number of Grandparenting applications, the number of registrants on the day the register is opened and identifies existing education establishments and qualifications awarded
- Makes recommendation to Secretary of State
- Proposes the Protected title(s)
- Proposes the Structure of the Register
- Proposes the organisations whose members will transfer to the new HPC register
- Proposes the duration of the Transitional Provisions (the length in years of the Grandparenting window)
- Drafts a Regulatory Impact Assessment
- Drafts a Consultation document
- Consults and publishes a report on the response to the consultation and the final recommendations
- Organises Parliamentary approval of amended Section 60
- Drafts the Standard of Proficiency for the Aspirant Group
- Drafts the Standard of Education and Training for the Aspirant Group
- Undertakes a consultation on the above two standards and publishes a report on the response to the consultation
- Drafts the Rules
- Undertakes a consultation on the draft Rules and publishes a report on the response to the consultation
- Organises Parliamentary approval of Rules
- Opens the register

Appendix Two - Revised Process

[HPC = Black DH = Blue]

First:

- Initial discussions with Aspirant Group including risk review
- Either reviews an application from an Aspirant Group or instigates a review, using the 10 HPC criteria
- Council approves Aspirant Group application in principle and agrees outline timetable

Second:

- Undertakes research including if appropriate, establishing a Professional Liaison Group (PLG).
- Estimates the number of Grandparenting applications, the number of registrants on the day the register is opened and identifies existing education establishments and qualifications awarded
- Identifies those organisations whose members will transfer to the HPC register
- Investigates the duration of the Transitional Provisions (the length in years of the Grandparenting window)

Third:

Seeks the approval of the Council and appropriate Committee(s) on the following:

- The draft Standard of Proficiency for the Aspirant Group
- The draft Standard of Education and Training for the Aspirant Group
- The proposed Protected title(s)
- The structure of the Register
- Draft outline of the probable changes to the Health Professions Order 2001 by a Section 60
- The Grandparenting arrangements
- The draft Rules
- The draft consultation document and timetable on standards, Grandparenting and Rules
- Consults and publishes the report on the response to the consultation and the final recommendations

Fourth:

- Makes a recommendation to the Secretary of State

Fifth:

- DH decides policy informed in part by HPC's recommendations
- DH consults on changes to legislation
- Organises Parliamentary approval
- Opens the register

Appendix Three - Summary of 10 Criteria

Aspirant Groups must:

- Cover a discrete area of activity displaying some homogeneity
- Apply a defined body of knowledge
- Practise based on evidence of efficacy
- Have at least one established professional body which accounts for a significant proportion of that occupational group
- Operate a voluntary register
- Have defined routes of entry to the profession
- Have independently assessed entry qualifications
- Have standards in relation to conduct, performance and ethics
- Have fitness to practise procedures to enforce those standards
- Be committed to continuous professional development (CPD)