# Regulating healthcare professionals, protecting the public Consultation questions

1. Do you agree or disagree that regulators should be under a duty to co-operate with the organisations set out above? Please give a reason for your answer.

Agree, but as the document provides umbrella terms, such as organisations that are concerned with ‘the employment, education and training of healthcare professionals’, more details are needed regarding this proposal. This is because this could potentially encompass a wide range of organisations, for example from higher education institutions that offer the education required for registration, through to private providers of continuing professional development courses.

2. Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and these related duties? Please give a reason for your answer.

Agree, but still need clarification regarding when this may not be in the public interest, and issues relating to data protection, safeguarding and confidentiality.

3. Do you agree or disagree that regulators should be required to assess the impact of proposed changes to their rules, processes and systems before they are introduced? Please give a reason for your answer

Agree; both the public and regulated professionals’ wellbeing must be taken into account.

4. Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators? Please give a reason for your answer.

Agree; helps to ensure clarity.

5. Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval? Please give a reason for your answer

Disagree. It is suggested that regulators would be ‘directly accountable to registrants for the fees that they charge’. There is, however, a risk that there would not be sufficient oversight/safeguards to ensure that registrants would not be faced with extreme rises in fees with no alternative but to pay this if wish to remain on the register and continue working.

6. Do you agree or disagree that regulators should be able to set a longer-term approach to fees? Please give a reason for your answer.

Agree, as long as the process is clear for all and can be challenged.

7. Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation? Please give a reason for your answer.

Disagree; this should be an independent and objective process.

8. Do you agree or disagree that regulators should be able to charge for services undertaken on a cost recovery basis, and that this should extend to services undertaken outside of the geographical region in which they normally operate? Please give a reason for your answers.

N/A

9. Do you agree or disagree that regulators should have the power to delegate the performance of a function to a third party including another regulator? Please give a reason for your answer.

Disagree; 'third party providers' needs clarification.

10. Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above? Please give a reason for your answer.

Agree as long as GDPR principles are adhered to.

11. Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which it operates? Please give a reason for your answer.

Agree; this is a vital requirement to ensure transparency for both the public and regulated professionals.

12. Do you agree or disagree that the Privy Council’s default powers should apply to the GDC and GPhC? Please give a reason for your answer.

N/A

13. Do you agree or disagree that all regulators should have the power to set:

• standards for the outcomes of education and training which leads to registration or annotation of the register for individual learners;

• standards for providers who deliver courses or programmes of training which lead to registration;

• standards for specific courses or programmes of training which lead to registration;

• additional standards for providers who deliver post-registration courses of programmes of training which lead to annotation of the register; and

• additional standards for specific courses or programmes of training which lead to annotation of the register?

Please give a reason for your answer.

Agree; a commitment to ensuring the standards are met by all registrants is important.

14. Do you agree or disagree that all regulators should have the power to approve, refuse, re-approve and withdraw approval of education and training providers, qualifications, courses or programmes of training which lead to registration or annotation of the register? Please give a reason for your answer.

Agree; it is important that the standards are maintained and upheld and all stakeholders have confidence in the graduates they produce.

15. Do you agree that all regulators should have the power to issue warnings and impose conditions? Please give a reason for your answer.

Agree; it is important that providers have an opportunity to be supported in improving, while being transparent about their current ability to meet the standards

16. Do you agree or disagree with the proposal that education and training providers have a right to submit observations and that this should be taken into account in the decision-making process? Please provide a reason for your answer.

Agree; this allows triangulation of data

17. Do you agree that:

• education and training providers should have the right to appeal approval decisions;

• that this appeal right should not apply when conditions are attached to an approval;

• that regulators should be required to set out the grounds for appeals and appeals processes in rules?

Please provide a reason for your answer.

Agree; the appeal process needs to be clearly defined and timely

18. Do you agree or disagree that regulators should retain all existing approval and standard setting powers? Please provide a reason for your answer.

Agree; the appeal process needs to be clearly defined and timely

19. Do you agree or disagree that all regulators should have the power to set and administer exams or other assessments for applications to join the register or to have annotations on the register? Please provide a reason for your answer.

Agree.

20. Do you agree or disagree that this power to set and administer exams or other assessments should not apply to approved courses or programmes of training which lead to registration or annotation of the register? Please provide a reason for your answer.

Agree; in terms of ensuring those joining the register having completed non-HCPC or WFOT studies are able to demonstrate they meet the standards

21. Do you agree or disagree that regulators should be able to assess education and training providers, courses or programmes of training conducted in a range of ways? Please provide a reason for your answer.

Agree; this allows all stakeholders to engage (as appropriate) and the right level of review/assessment on the basis of current data already known to the regulator.

22. Do you agree or disagree that the GMC’s duty to award CCTs should be replaced with a power to make rules setting out the procedure in relation to, and evidence required in support of, CCTs? Please give a reason for your answer.

N/A

23. Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements? Please give a reason for your answer.

Agree.

24. Do you agree or disagree that the regulators should hold a single register which can be divided into parts for each profession they regulate? Please give a reason for your answer.

Agree.

25. Do you agree or disagree that all regulators should be required to publish the following information about their registrants:

• Name

• Profession

• Qualification (this will only be published if the regulator holds this information. For historical reasons not all regulators hold this information about all of their registrants)

• Registration number or personal identification number (PIN)

• Registration status (any measures in relation to fitness to practise on a registrant’s registration should be published in accordance with the rules/policy made by a regulator)

• Registration history

Please provide a reason for your answer.

Agree; this ensures a transparent process. Historic fitness to practice issues should only be included if relevant.

26. Do you agree or disagree that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data? Please give a reason for your answer.

Agree; this is vital to their role.

27. Should they be given a discretionary power allowing them to publish specific data about their registrants? Please give a reason for your answer.

N/A

28. Do you agree or disagree that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection? Please give a reason for your answer.

Agree; this ensures information is up-to-date. It should be updated in ‘real time’ if possible.

29. Do you agree or disagree that all of the regulators should be given a permanent emergency registration power as set out above? Please give a reason for your answer.

Agree; e.g. in response to a pandemic.

30. Do you agree or disagree that all regulators should have the same offences in relation to protection of title and registration within their governing legislation?

Agree.

31. Do you agree or disagree that the protection of title offences should be intent offences or do you think some offences should be non-intent offences (these are offences where an intent to commit the offence does not have to be proven or demonstrated)? Please give a reason for your answer.

Disagree; there should be a requirement to show intent to mislead.

32. Do you agree or disagree with our proposal that regulators should be able to appoint a deputy registrar and/or assistant registrar, where this power does not already exist? Please give a reason for your answer.

Agree; this unifies the process amongst all regulators.

33. Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance? Please give a reason for your answer.

Agree; this should be profession-specific.

34. Should all registrars be given a discretion to turn down an applicant for registration or should applicants be only turned down because they have failed to meet the new criteria for registration? Please give a reason for your answer.

Disagree.

35. Do you agree or disagree that the GMC’s provisions relating to the licence to practise should be removed from primary legislation and that any requirements to hold a licence to practise and the procedure for granting or refusing a licence to practise should instead be set out in rules and guidance? Please give a reason for your answer.

N/A

36. Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them? Please give a reason for your answer.

Agree; suspension may be more appropriate than removal in some cases.

37. Do you agree or disagree that the regulators should be able to set out their removal and readmittance processes to the register for administrative reasons in rules, rather than having these set out in primary legislation? Please give a reason for your answer.

Disagree.

38. Do you think any additional appealable decisions should be included within legislation? Please give a reason for your answer.

Agree; makes process clearer.

39. Do you agree or disagree that regulators should set out their registration appeals procedures in rules or should these be set out in their governing legislation? Please give a reason for your answer.

Disagree; If the appeals procedures were not set out in governing legislation would there be any oversight/safeguards to ensure conditions were fair? For example, it is proposed (at point 216) that if a ‘registrant failed to pay any fee payable in accordance with rules’ this would not be subject to appeal. This potentially does not allow the registrant to appeal if, for instance, they think there has been an administrative error or if they have concerns about the fees charged.

40. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers? Please give a reason for your answer.

Agree; additional registers would be confusing for the public.

41. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish non-practising registers? Please give a reason for your answer.

Agree; additional registers would be confusing for the public.

42. Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation? Please give a reason for your answer.

Agree; this should be on a case-by-case basis.

43. Do you agree or disagree with our proposal that regulators should be given powers to operate a three-step fitness to practise process, covering:

• 1: initial assessment

• 2: case examiner stage

• 3: fitness to practise panel stage?

Please give a reason for your answer.

Agree; brings all regulators in line.

44. Do you agree or disagree that:

• All regulators should be provided with two grounds for action – lack of competence, and misconduct?

• Lack of competence and misconduct are the most appropriate terminology for these grounds for action?

• Any separate grounds for action relating to health and English language should be removed from the legislation, and concerns of this kind investigated under the ground of lack of competence?

• This proposal provides sufficient scope for regulators to investigate concerns about registrants and ensure public protection?

Please give a reason for your answers.

Disagree; the fitness to practice process must be fairer and less discriminatory.

45. Do you agree or disagree that:

• all measures (warnings, conditions, suspension orders and removal orders) should be made available to both Case Examiners and Fitness to Practise panels; and

• automatic removal orders should be made available to a regulator following conviction for a listed offence?

Agree; clarifies process and helps to protect the public more efficiently.

Please give a reason for your answers.

46. Do you agree or disagree with the proposed powers for reviewing measures? Please give a reason for your answer.

Agree.

47. Do you agree or disagree with our proposal on notification provisions, including the duty to keep the person(s) who raised the concern informed at key points during the fitness to practise process? Please give a reason for your answer.

Agree; helps to reduce frustrations of person who raised concern, but the registrants needs and rights must be considered at all times.

48. Do you agree or disagree with our proposal that regulators should have discretion to decide whether to investigate, and if so, how best to investigate a fitness to practise concern? Please give a reason for your answer.

Agree; as long as the process is transparent.

49. Do you agree or disagree that the current restrictions on regulators being able to consider concerns more than five years after they came to light should be removed? Please give a reason for your answer.

Agree; but only if it related to a serious offence.

50. Do you think that regulators should be provided with a separate power to address non-compliance, or should non-compliance be managed using existing powers such as “adverse inferences”? Please give a reason for your answer.

Agree; this ensures that registrants understand the requirements of regulation.

51. Do you agree or disagree with our proposed approach for onward referral of a case at the end of the initial assessment stage? Please give a reason for your answer.

Agree; this would make the process more efficient.

52. Do you agree or disagree with our proposal that regulators should be given a new power to automatically remove a registrant from the Register, if they have been convicted of a listed offence, in line with the powers set out in the Social Workers Regulations? Please give a reason for your answer.

53. Do you agree or disagree with our proposals that case examiners should:

• have the full suite of measures available to them, including removal from the register?

• make final decisions on impairment if they have sufficient written evidence and the registrant has had the opportunity to make representations?

• be able to conclude such a case through an accepted outcome, where the registrant must accept both the finding of impairment and the proposed measure?

• be able to impose a decision if a registrant does not respond to an accepted outcomes proposal within 28 days?

Please give a reason for your answers.

Agree; whilst generally reasonable, there may be exceptional circumstances when a registrant is not able to respond (e.g. hospitalisation).

54. Do you agree or disagree with our proposed powers for Interim Measures, set out above? Please give a reason for your answer.

Agree; clarifies and unifies process.

55. Do you agree or disagree that regulators should be able to determine in rules the details of how the Fitness to Practise panel stage operates? Please give a reason for your answer.

Agree, but must be transparent.

56. Do you agree or disagree that a registrant should have a right of appeal against a decision by a case examiner, Fitness to Practise panel or Interim Measures panel? Please give a reason for your answer.

Agree; right of appeal is essential.

57. Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland? Please give a reason for your answer.

Agree; as this recognises the importance of regulation.

58. Do you agree or disagree that regulators should be able to set out in Rules their own restoration to the register processes in relation to fitness to practise cases? Please give a reason for your answer.

Agree; this would provide more clarity.

59. Do you agree or disagree that a registrant should have a further onward right of appeal against a decision not to permit restoration to the register? Please give a reason for your answer.

Agree.

60. Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland? Please give a reason for your answer.

Agree; as this recognises the importance of regulation.

61. Do you agree or disagree that the proposed Registrar Review power provides sufficient oversight of decisions made by case examiners (including accepted outcome decisions) to protect the public? Please provide any reasons for your answer.

Agree.

62. Under our proposals, the PSA will not have a right to refer decisions made by case examiners (including accepted outcome decisions) to court, but they will have the right to request a registrar review as detailed above. Do you agree or disagree with this proposed mechanism? Please provide any reasons for your answer.

N/A

63. Do you have any further comments on our proposed model for fitness to practise?

Having a fitness to practice concern raised against a registrant and the subsequent investigation and hearings is immensely stressful for them. This must be considered, acknowledged and acted upon.

64. Do you agree or disagree with the proposed approach to the regulation of PAs and AAs? Please give a reason for your answer.

Agree; further consideration should be given to extending medicines responsibilities for certain Allied Health Professional who work at advanced levels of practice, such as occupational therapists. RCOT is supportive of extending occupational therapists medicines responsibilities across a variety clinical practice areas. RCOT believes that with extended medicines mechanisms responsibilities, occupational therapists would be able to simplify patient pathways, improve patient experience, whilst maintain safe and effective service delivery. Including Occupational therapists as part of a wider AHP cohort, alongside a review of PA and AA medicines responsibilities, could deliver more sustainable services longer term. RCOT is committed to developing a case of need for extending occupational therapist medicines responsibilities and is open to discuss this further with regulators.

65. In relation to PAs and AAs, do you agree or disagree that the GMC should be given a power to approve high level curricula and set and administer exams? Please give a reason for your answer.

N/A

66. Do you agree or disagree with the transitional arrangements for PAs and AAs set out above? Please give a reason for your answer

N/A

67. Do you agree or disagree that PAs and AAs should be required to demonstrate that they remain fit to practise to maintain their registration? Please give a reason for your answer.

Agree; this is a vital component of protecting the public.

68. Do you agree or disagree with the benefits identified in the table above? Please set out why you've selected your answer and any alternative benefits you consider to be relevant and any evidence to support your views.

N/A

69. Do you agree or disagree with the costs identified in the table above? Please set out why you've chosen your answer and any alternative impacts you consider to be relevant and any evidence to support your views.

N/A

70. Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the general equality duty that is set out in the Equality Act 2010, or by Section 75 of the Northern Ireland Act 1998?

• Yes – positively

• Yes - negatively

• No

• Don’t know

Please provide further information to support your answer.

Don't know.