

PROMOTING PROFESSIONALISM, REFORMING REGULATION:

A REVIEW OF THE ISSUES
AND THE GOVERNMENT RESPONSE
TO THE CONSULTATION

A rethink on healthcare regulation, and the regulators themselves, has been long in the pipeline.

After the Government consultation of early 2018, the Government's response has now been published. IBMS Deputy Chief Executive **Sarah May** responds.

This was a wide-ranging consultation, the outcomes of which could affect both regulated and aspirant professions. Although a large and detailed consultation, in reality the three key, and probably most contentious, issues were: which professions should be regulated, how many regulatory bodies should there be, and how could regulators better ensure public safety.

The Professional Standards Authority (PSA), the body that oversees the work of the regulators, has criteria for assessing groups for voluntary registration and these were

suggested as an option for assessing aspirant groups for statutory regulation. However, although they could provide a starting point, the widely expressed view was that they are too basic and simplistic to adequately assess the actual, or potential, implications for patient safety; more detail is required on assessment levels relating to complexity of activities. It is disappointing to see that the PSA criteria do not include any

requirement for, or reference to, a representative professional body. Without such a requirement it is difficult to see how the specific body of knowledge that underpins a profession can be identified and developed and against which



educational standards can be set. With all regulated bodies, and also those aspirant professions, their body of knowledge and professional standards are defined by their representative professional organisation. The Government response to this issue is that “a single, robust and evidence based methodology for assessing new groups would be beneficial”, so we will wait to see what further is proposed and its potential implications for aspirant groups.

Reassessment

The issue of whether the current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight is a highly significant and potentially contentious question. It would require a considerable evidence base and accompanying risk assessment to deregulate a profession that has previously been deemed to require statutory regulation. However, it is recognised that practices change and this can reduce the potential to do harm. Any decision to reassess would first require assessment criteria far more stringent than those currently used by the PSA. Surprisingly, the responses to the consultation were almost equally split on this issue; the view of the Government is that the decision to regulate must be based on the risk of harm and that professions currently regulated (by all regulators, not just the HCPC) have not been assessed against consistent criteria and that there would be value in re-assessing some currently regulated groups. From a biomedical scientist perspective, the Institute would strongly resist any attempt to challenge the regulatory status of this profession, particularly as we form one of the largest of the HCPC regulated professions, have held regulatory status for almost 60 years and are now increasingly taking on roles that have until recently been the remit of



medically qualified pathologists.

With respect to the number of regulators, the HCPC regulatory model demonstrates that effective regulation for multiple professional groups can be achieved through a single regulator, which in itself could justify a reduction in the number of regulators. The key benefits of fewer regulators would be more consistent regulatory standards across professions and more consistent educational and continuing professional development standards. From a patient perspective it could be easier to lodge a complaint if there were to be a smaller number of regulators covering multiple professions. From a financial and

administrative perspective there would be the benefit of economies of scale, greater centralisation of processes and the added benefit of the potential for closer working between professional groups.

A smaller number of regulators would encourage greater collaboration and cross-regulator working and support the alignment of generic standards across all professions with the option for profession specific standards, if required. If this could be achieved it would enable standardisation of procedures/documentation/re-validation requirements, providing greater clarity of regulatory processes and ethics for registrants, employers and the public. It is clear that this is a direction of travel that the Government wishes to pursue, although this is unlikely to be welcomed by some single profession regulators.

Fitness to practise

A key driver for review and reform of the whole regulatory mechanism is the increasing number of fitness to practise hearings, which account for a significant proportion of registrant fees. It is of concern that there is an apparent misunderstanding between employers, complainants and regulators, whereby

service users often feel that errant professionals go unpunished, while employers frequently feel unsure when to refer and consequently regard the regulator as a complaints resolution service often for “low level” issues that could be better resolved nearer to source.

Mediation is underused in the context of regulation and ideally should be an option early in the investigative process to, where appropriate, attempt to rectify “problems” and avoid automatic progression to a formal legal process. An additional benefit of mediation would be to help remove the blame culture that inhibits improvement in practice. There was overwhelming support from respondents for regulators to be given a full range of powers for resolving fitness to practise cases, a view that is supported by the Government. Consequently, in future there will be broadly consistent fitness to practise powers across the regulators, which will include the option for a greater use of mediation.

Providing clarity

In future there is the expectation that professional regulators will work in partnerships with employers and HEIs, a model that already operates successfully with the complementary processes of HCPC approval and IBMS accreditation. The Institute’s view is that regulators are the gatekeepers of minimum standards that are required for professional practice and professional bodies interpret the standards in the context of the unique aspects of professional practice. Regulators provide the framework for professionalism; professional bodies support individuals to achieve them and employers to measure individuals against them. Regulators can best support registrants by working with professional bodies and employers to provide clarity to the requirements of the registration process. We will await further information on how our regulatory systems will change. 