



BWRDD CYMRU | WALES BOARD

Consultation on Regulating Healthcare Professionals, Protecting the Public

CHCs are the independent watchdog of NHS services within Wales and we seek to encourage and enable members of the public to be actively involved in decisions affecting the design, development and delivery of healthcare for their families and local communities.

CHCs seek to work with the NHS, inspection and regulatory bodies to provide the crucial link between those who plan and deliver the National Health Service in Wales, those who inspect and regulate it, and those who use it.

CHCs maintain a continuous dialogue with the public through a wide range of community networks, direct contact with young people, patients, families and carers through enquiries, our Complaints Advocacy Service, visiting activities and through public and Patient surveys. Each of the 7 CHCs in Wales represents the "Patient voice" within their respective geographical areas.

CHCs routinely monitor the performance of NHS services in their area as well as respond to service developments and changes.

Community Health Councils (CHCs) across Wales are pleased to have received the consultation document 'Regulating Healthcare Professionals, Protecting the Public' and been provided with an opportunity to share their comments.

Questions:

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

We agree that regulators should be under a duty to co-operate. We feel it is important to be open and transparent.

2. Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and should have these related duties?

We agree that regulators should have an objective to be transparent as this is crucial to ensure patient safety.

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?

We agree that regulators should be required to assess the impact of the proposed changes to their rules, processes and systems before they are introduced, as the impact of any proposed change should be considered against all roles and responsibilities. We also feel that all considerations should be formally recorded.

- 4. Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators?**

We agree with the proposal.

- 5. Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval?**

- 6. Do you agree or disagree that regulators should be able to set a longer-term approach to fees?**

- 7. Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation?**

We agree that regulators should be able to establish their own committees, however it is important that these committees are transparent.

- 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?**

- 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?

We agree that regulators should have the powers to delegate the performance of a function to a third party as long as they remain responsible/accountable. It is important that independent checks are permitted in order to ensure that the way regulation works is safe and consistent across professions.

10. Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above?

We agree that regulators should be able to require and share data with those listed. In line with any data sharing, it is important that people understand what kind of data will be shared and for what purpose.

11. Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which they operate?

We agree that regulators should produce an annual report to the Parliament of each UK country to ensure maximum transparency.

12. Do you agree or disagree that the Privy Council's default powers should apply to the GDC and GPhC?

We agree that the Privy Council's default powers should apply to the GDC and GPhC to ensure consistency and the maximum

public protection.

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 or 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?**

We agree that regulators should have the powers listed above as it is essential to maintain a continuous role in setting and monitoring standards to ensure patient safety.

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?

We agree that regulators should have these powers as it is essential to maintain a continuous role in setting and monitoring standards to ensure patient safety.

15. Do you agree that all regulators should have the power to issue warnings and impose conditions?

As above.

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?

As above.

17. Do you agree that:

- **Education and training providers should have the right to appeal approval decisions;103**
- **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**

We agree to the above.

18. Do you agree or disagree that regulators should retain all existing approval and standard setting

powers?

We agree that regulators should retain all existing approval and standard powers.

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?

We agree that 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.

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?

We feel that these powers should apply.

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?

We agree that regulators should be able to conduct training in a range of ways.

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?

We agree that the GMC's duty to award CCTs should be replaced.

23. Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements?

We agree that regulators should be able to set out their CPD and revalidation requirements.

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?

We agree that regulators should hold a single register.

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

- **Name**
- **Profession¹⁰⁴**
- **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**

We agree that regulators should be required to publish the above as this source of information should be available to examinations to ensure openness and transparency.

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?

We agree that regulators should be given the powers to collect, hold and process this data.

27. Should they be given a discretionary power allowing them to publish specific data about their registrants?

We agree that regulators should be given the discretionary power to publish specific data.

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?

We agree that regulators should be able to annotate their register.

29. Do you agree or disagree that all of the regulators should be given a permanent emergency registration power?

We agree that regulators should be given permanent emergency registration powers in order to manage any concerns about a professional.

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?

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)?

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?

- 33. Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance?**
- 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?**
- 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?**
- 36. Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them?**

We agree that regulators should be able to suspend registrants from their register, particularly when patient safety is a concern.

- 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?

We agree that regulators should be able to set out their removal and readmittance processes to the register for administrative reasons.

38. Do you think any additional appealable decisions should be included within legislation?

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?

We agree that regulators should set out their registration appeals procedure to ensure maximum transparency.

40. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers?

41. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish non-practising registers?

42. Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation?

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 106**
- **2: case examiner stage**
- **3: fitness to practise panel stage?**

We agree that regulators should be given the above powers as it is their role to set standards and monitor registrants.

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?**

We agree to the above.

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?**

46. Do you agree or disagree with the proposed powers for reviewing measures?

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?

We agree with the proposal to ensure maximum openness and transparency.

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?

We agree that regulators should have the discretion to investigate but any decisions made should be open to the public for examination and scrutiny.

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?

We agree it should not be time limited.

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

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

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?

We agree that regulators should be given this power.

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?**

54. Do you agree or disagree with our proposed powers for Interim Measures, set out above?

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?

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?

We agree that registrants should have a right to appeal in order to aid transparency.

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?

- 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?**
- 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?**
- 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?**
- 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?**
- 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. Do you agree or disagree with this proposed mechanism?**
- 63. Do you have any further comments on our proposed model for fitness to practise?**

We have no further comments to make.

64. Do you agree or disagree with the proposed approach to the regulation of PAs and AAs?

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?

66. Do you agree or disagree with the transitional arrangements for PAs and AAs set out above?

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?

We agree that all professionals should be required to demonstrate that they remain fit to practice.

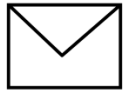
68. Do you agree or disagree with the benefits identified in the table above?

We agree.

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.

Unable to comment.

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