

Council meeting, 20 February 2008

Section 60 order consultation response

Executive summary and recommendations

Introduction

The Department of Health is consulting until 22 March 2008 on the 'Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008'.

The consultation document includes proposals relating to the regulation of practitioner psychologists, as well as other amendments to the Health Professions Order 2001 relating to the implementation of other legislation, and the governance and accountability of the Council.

A draft response to the consultation is attached.

Decision

The Council is invited to:

- discuss the attached draft consultation and suggest any amendments necessary; and
- approve the consultation response for submission (subject to any amendments suggested at the meeting).

Background information

Consultations on draft standards of proficiency for practitioner psychologists and the threshold level of qualification for entry to the Register were held between 9 November 2007 and 8 February 2008.

The Executive will be shortly analysing the results of these consultations and it is presently anticipated that the key decisions and revised standards will be brought back to the Education and Training Committee and to Council at their meetings on 10 June 2008 and 3 July 2008.

Resource implications

None

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2008-02-08	a	POL	PPR	Council 20.02.2008 Section 60 order consultation response	Final DD: None	Public RD: None

Financial implications

None

Appendices

Appendix 1: Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008: a paper for consultation

Date of paper

8 February 2008

[Date]

Health Professions Council response to Department of Health consultation on 'Health care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008'

The Health Professions Council welcomes the opportunity to respond to this consultation.

The Health Professions Council is a statutory UK wide regulator, governed by the Health Professions Order 2001. We regulate the members of 13 healthcare professions. We maintain a register of health professionals, set standards for entry to our register, approve education courses for registration and deal with concerns where a health professional may not be fit to practise. Our main objective is to protect the health and wellbeing of those who use or need to use our registrants' services.

Our response focuses on parts two, four and six of the consultation document. We have structured our response to the consultation around each consultation question.

Statutory regulation of practitioner psychologists

Q1: Do you agree that practitioner psychologists should be statutorily regulated?

We agree that practitioner psychologists should be statutorily regulated by the HPC.

We believe that independent, statutory regulation of practitioner psychologists is essential to protect members of the public.

Statutory regulation has important benefits to the public via consistent standards and protection of professional titles in law. As the consultation document notes (paragraphs 5.18 and 5.19), regulators should be independent of government, and the professionals they regulate, to ensure that they are insulated from day to day political pressures, and can make, and be seen to make, appropriate decisions in the public interest.

Q2: Do you agree that psychologists and teachers working exclusively in the furtherance of psychological knowledge should not be statutorily regulated as practitioner psychologists?

We agree that these groups of individuals should not need to be statutorily regulated as practitioner psychologists.

In the existing professions we regulate, registrants often move into roles in academia and research after having first undertaken pre-registration education and training. Many chose to remain registered whilst carrying out these roles because this is a requirement of their employer; they continue to use the relevant protected title; or because they meet our broad definition of practising their profession and wish to remain registered.

We recognise that individuals engaged in academic, research or experimental psychology have often not undertaken pre-registration education and training and do not offer psychological services as defined in paragraph 3.2 of the consultation document.

However, we are concerned about the likelihood of confusion. In the consultation document, the definition of a practitioner psychologist includes those 'who are wholly or mainly engaged in teaching at postgraduate level or managing persons who use or are seeking to acquire such expertise' (paragraph 3.2). However, later the document says that not all teachers on postgraduate psychology programmes should be regulated; instead: 'The only teachers whom we propose should be regulated are those teaching on postgraduate courses who move into such teaching from a practitioner background and who are instrumental in teaching others to become practitioners.' (paragraph 3.4). We are keen to ensure that there is clarity on who should, and who should not, be registered.

We want to ensure that clear information is provided to aid the understanding of both the public and professionals alike.

Q3: Do you agree that others who deliver psychological therapies should not be dealt with in this Order but should be statutorily regulated in a future Order when standards appropriate to their roles have been agreed?

We support the statutory regulation of counsellors, psychotherapists and others who deliver psychological therapies and believe that statutory regulation is necessary to ensure public protection. We agree that these professional groups should be regulated in a further Order, once further work has been undertaken to ensure that they can be regulated appropriately.

Our Council recently agreed to begin the work necessary before counsellors and psychotherapists can become statutorily regulated. We plan to establish a Professional Liaison Group (PLG) later this year which will explore and make recommendations regarding the structure of the Register, professional titles

and standards of proficiency for counsellors and psychotherapists. This group will build on the work already undertaken by other organisations in this area.

Q4: Do you agree that all seven domains should be statutorily regulated by HPC, if not, which domains should not?

We agree that all seven domains should be statutorily regulated by HPC.

Q5: Do you agree with the descriptions of the seven domains in Annex A? If not, what alterations would you recommend?

We do not have a view on this question.

Q6: Do you agree that holders of BPS practising certificates who do not meet the full range of competences for one of the seven domains of psychology practice should be eligible for HPC registration and continuing practice only if they demonstrate they meet HPC standards for safe and effective practice, including undergoing additional training if necessary?

We agree that British Psychological Society (BPS) members who do not hold membership of a relevant division with a practising certificate, and who are not eligible to apply via the UK approved course route, can make an application via the grandparenting process (Articles 13 (2) (a) and 13 (2) (b) of the Health Professions Order 2001).

An individual would need to provide evidence of either lawful, safe and effective practice for three out of the five years before the opening of the Register (route a) or that they met the full standards of proficiency for practitioner psychologists (route b). Each application is assessed on an individual basis against the relevant standards and would take into account the applicant's education and training, as well as their experience.

Q7: Do you agree that standards to protect the public should cover conduct, competences and standards of education and training?

Yes. We publish the following standards:

- Standards of education and training.
- Standards of proficiency.
- Standards of conduct, performance and ethics.
- Standards for continuing professional development.

We also publish requirements for returning to practice.

These standards are key to our role in protecting members of the public and are used in our registration, fitness to practise and approvals and monitoring processes.

In our experience, clear, threshold standards, which apply across all registrants where possible, are an effective way of protecting members of the public. We are committed to producing and regularly reviewing standards in consultation with all relevant stakeholders, including members of the profession and the public.

We are currently consulting on draft standards of proficiency for practitioner psychologists, alongside a consultation on standard one of the standards of education and training, which relates to the threshold level of qualification for entry to the Register.

The consultation document correctly states that the threshold level of qualification for entry to the Register does not preclude the approval of education and training programmes at academic levels above the threshold (paragraph 3.25). We are consulting on a range of options, including seeking the views of stakeholders on whether a different threshold might be set for each domain.

Q8: Do you agree that practitioner psychologists should need to have at least three years undergraduate education in psychology accredited by the BPS for the Graduate Basis for Registration plus three years or equivalent postgraduate education and training?

We do not agree.

When the registered psychologists part of the Register opens, we will approve all those programmes which lead, or previously led, to BPS chartered status with membership of a division and a practising certificate.

We will only approve those programmes which lead directly to the entitlement to practise. As the consultation document notes, we will not be involved in approving undergraduate psychology programmes (paragraph 3.35). In those domains where a programme leads directly to the right to practice, we will approve that programme; in those programmes where a BPS qualification is necessary (sometimes in addition to a postgraduate programme), we will approve that qualification. This is similar to the way we currently approve education and training for clinical scientists and biomedical scientists.

We set the normal threshold level of qualification for entry to the Register which is expressed as an academic level. However, our standards of education and training do not specify the length of a programme. Instead, our approvals process is focused on the outcome of a programme – that the student can meet the standards of proficiency by its completion.

In addition, we would not specifically require the BPS Graduate Basis for Registration (GBR) for entry to pre-registration education and training. Standard two of our standards of education and training requires education and training providers to have appropriate admissions procedures in place, including 'appropriate academic and/or professional entry standards'.

Therefore, when we approve a programme, we are looking for evidence that the education provider has a procedure in place to ensure that, on commencement of the programme, the student has the appropriate knowledge and skills in order to be able to meet the standards of proficiency by its completion. Education providers might demonstrate this to our visitors by requiring applicants to hold the GBR. However, we would not make this a specific requirement and it is possible that education providers could, over time, develop alternative requirements, which do not include the GBR, but which nonetheless meet our standards.

Q9: Do you agree that partnership working between HPC, the profession and the public is the right way to design standards of proficiency for this profession?

Yes. In July 2007, we established a Professional Liaison Group (PLG) to put together draft standards of proficiency for practitioner psychologists. This group consisted of members of our Council (both registrant and lay), members of the profession and members of the public. We are currently consulting on draft standards.

We have benefited a great deal from the expertise and perspectives of both professional and lay voices in putting together the standards for consultation. We are committed to continuing to work together in a similar way to ensure that both public and professional perspectives are taken into account.

Q10: Do you agree that standards of proficiency and education and training should be derived from competences necessary for safe and effective practice?

Yes. We agree that standards of proficiency are threshold standards which should be derived from what is necessary for safe and effective practice and not from the level of an academic award.

Our Standards of education and training are used to approve pre-registration education and training programmes and are those standards which are necessary to ensure that the standards of proficiency are met. We are currently reviewing the standards of education and training and we expect to consult on revised standards later this year.

Q11: Do you agree that the regulator should have discretion as to how it obtains professional expertise to carry out professional education accreditation?

We agree that the regulator should have discretion as to how it obtains professional expertise to carry out the approval of pre-registration education and training.

Approval of education and training programmes against our standards of education and training is a crucial way in which we protect members of the

public. We believe that it is important that we carry out this role using appropriate expertise and input, where possible taking into account the role of other organisations that have a role in quality assurance and accreditation. However, as the consultation document notes, it is important that we carry out our role with impartiality so that we reach a fair and independent decision that ensures the public is protected.

We ensure appropriate professional input in our key processes through the use of 'partners'. In education, we use one type of partner called 'visitors'. Visitors are members of the profession or lay people with appropriate academic or clinical experience who visit education and training providers on our behalf to assess their work against our standards of education and training. We are currently conducting a recruitment process for practitioner psychologist partners in advance of the opening of the Register.

We are committed to ensuring that we minimise the anticipated burden of our approvals and monitoring processes on education and training providers, and to working with other interested bodies, where this is possible and does not affect our statutory functions. For example, we aim to hold approvals visits at the same time as professional body accreditation and internal university validation where possible.

We recognise the important role that professional bodies have to play in developing curricula and in encouraging good practice and innovation in education (see standard of education and training 4.2).

Q12: Do you agree that some academic and research psychologists should be allowed to use protected titles without committing an offence, as long as they do not practise as in the definition in 3.2?

We are concerned that this proposal could be potentially confusing, both to members of the public, and to academic and practitioner psychologists.

Article 39 (1) of the Health Professions Order 2001 makes it clear that a person who uses a protected title when not registered, commits an offence if they do so with 'intent to deceive'.

We believe that academic or research psychologists who use a protected adjectival title to denote an area of specialism in their academic or research work are unlikely to do so with the intention to deceive. However, we are concerned that such an exemption could cause confusion for the public and for professionals, as well as adding complexity to our role in ensuring that the misuse of protected titles is prevented.

Q13: Do you agree with the proposed protected titles? If not, what others would you suggest?

We agree with the proposed protected titles.

We believe that the number of titles protected should aim to strike a balance between preventing the misuse of professional titles, against the need for effective public recognition. Our research has shown that members of the public most easily understand a small range of recognisable professional titles as an indication that someone is qualified to practise their profession.

We note with interest that the consultation document uses the title 'business psychologist' (paragraphs 3.18 and 3.28). The Department may wish to carefully consider whether it would be necessary to additionally protect this title, if occupational psychologists are included within the scope of regulation.

The consultation document discusses the debate around whether it would be possible to protect the title 'registered psychologist', and says that this is something which could be considered, in light of the results of our consultation on draft standards of proficiency (paragraph 3.45).

The consultation draft of the standards of proficiency for practitioner psychologists is divided into three areas:

- generic standards which apply across all of the professions regulated by the HPC;
- profession-specific standards which are generic across all the practitioner psychologist domains; and
- profession-specific standards which are particular to each domain.

We would be happy to further discuss the standards, and the responses we receive to the consultation, to help inform this debate.

Additional comments on the draft legislation relating to the statutory regulation of practitioner psychologists

The draft amendment order states at article 5 (6) that:

'If on the appointed day for registered psychologists a person's name is included in the BPS register or the AEP register but his registration is suspended (whether temporarily or permanently) or he is the subject of proceedings which could lead to his removal or suspension from the BPS register or AEP register (or, if either register is closed as a consequence of the opening of the part of the HPC register which relates to registered psychologists, could have lead to his removal or suspension prior to the closure), the HPC—

- (a) may determine that his name is not to be entered in the part of the HPC register which relates to registered psychologists; and*
- (b) shall dispose of the mater (including any proceedings) in such a manner as it considers just.'*

The legislation does not specifically provide for those registered with the BPS (or AEP) who are not subject to a suspension order, but who, following previous proceedings, are subject to undertakings or conditions of practice.

We are keen to work closely with the Department to ensure that we are able to handle these cases appropriately, in order to ensure that members of the public are protected.

Safeguarding or protecting vulnerable groups

Q14: Do you agree with adding appearance on a barred list to the grounds for which a health professional's fitness to practise may be considered to be impaired?

We agree with the proposed amendments to Article 22 of the Health Professions Order 2001 to include inclusion in a barred list as a type of allegation. As explained in the consultation document, this will allow us to take timely and effective action in order to protect members of the public, without the need to go behind the circumstances which led to the decision to bar.

Q15: Do you agree with the proposed set of changes to the Safeguarding Vulnerable Groups Act 2006?

We support the proposed changes to the Safeguarding Vulnerable Groups Act 2006 which will ensure that regulators are able to obtain and provide information relevant to barring decisions.

We welcome the guidance on when regulatory bodies should make referrals to the Independent Barring Board (IBB) and anticipate continuing to work with the UK and Scottish Governments to implement the acts.

Q16: Do you agree with the proposed supplementary measures, relating to the Protection of Vulnerable Groups (Scotland) Act 2007?

We support the proposed supplementary measures relating to the Protection of Vulnerable Groups (Scotland) Act 2007.

Amendments to the Health Professions Order 2001

Q25: Do you support having as a main objective for the Health Professions Council a provision giving greater emphasis to the importance of public protection?

We support the emphasis placed on public protection in the proposed amendments to our objective and we welcome the move towards consistency in this area between the nine UK regulators of health professionals.

We believe that 'well-being' is an appropriate term which recognises the change in focus from cure to prevention, as well as the diverse range of contexts in which health professionals work.

Q26: Do you agree that these duties will improve the co-operation and co-ordination between the HPC and key stakeholders?

We welcome proposals to ensure consistency in the duties of the UK regulators of health professionals to work with those who have an interest in or affected by their work.

We are committed to continuing to work closely, wherever possible and appropriate, with all those with an interest in our role as a regulator.

Q27: Do you agree with the strategy for standardising the order and rule making powers of the HPC, and with the move towards giving it greater flexibility over internal "process" issues?

We agree with the movement towards standardising our order and rule making powers. We believe that the proposals strike a proper balance between necessary scrutiny and the flexibility to allow us to have better control over our internal processes.

Q28: Do you agree that the UK and Scottish Parliaments should play an enhanced role in relation to the monitoring of the Health Professions Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

We welcome our improved accountability to the UK and Scottish Parliaments and believe that this is an important measure to ensure public confidence in the regulators. We are committed to providing clear, transparent information for all those interested in how we work.

However, we are disappointed that the National Audit Office is not being given a role in scrutinising the UK regulators of health professionals.

Q29: Do you agree with the new, more flexible arrangements for establishing the constitution of the HPC?

We agree with the proposed amendments to schedule one of the Health Professions Order 2001 which will allow the reform of our Council. We support the White Paper recommendations that councils should in future become small and more 'board like', with members appointed rather than elected.

DRAFT

We hope that you find our comments useful. Should you wish to discuss any of our comments then please do not hesitate to contact us.

Yours sincerely,

Anna van der Gaag
President

Marc Seale
Chief Executive and Registrar

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