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Council – 9 December 2010

## Exploring options for Voluntary Registers

### Executive summary and recommendations

#### **Introduction**

When considering the regulation of a new profession both Government and regulators must take into account not only increased public protection but the cost of introducing the new regulatory regime.

One reason why Government may not be inclined to introduce legislation to regulate a new profession is that the costs of regulation outweigh the benefits of introducing regulation. The costs include both the direct costs to the professionals and the indirect cost to other individuals and organisations. For example, before making a decision to regulate a new profession, Government takes into account the cost to education providers in meeting the regulators education standards and the costs to employers of allocating resources to their employees to undertake Continuing Professional Development (CPD). This calculation is known as Regulatory Impact Assessment.

In today's economic climate Government may reject a proposal to regulate a new profession because the Regulatory Impact Assessment does not support it on cost benefit grounds. Are there alternatives that may address these aspects of the Regulatory Impact Assessment?

One option is to use voluntary regulation but without the powers of legislation. This option may have some advantages, but it cannot deliver nationally agreed educational, ethical and proficiency standards. It does not have legal powers in protection of title cases and the quality of its fitness to practise procedures may be limited.

An alternative option is to explore further the system used by the former Council for Professions Supplementary to Medicine (CPSM) from 1961 to 2001. This system of statutory regulation did not only protect the professional title but protected the professional title in conjunction with the term "State Registered", for example "State Registered Physiotherapist". It was a voluntary system of statutory regulation as individual practitioners were able to practise without being on the CPSM register provided they did not use the title "State Registered". If reintroduced, the use of the term "State" would not be advocated, rather the term "Registered". In terms of a regulatory impact assessment this option may be

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have cost advantages as well as benefits. It would however have the clear disadvantage of creating a degree of confusion with the public trying to differentiate between who was and who was not statutorily regulated. In addition, protection would not be provided to the public when using non-registered practitioners.

A system of 'voluntary' statutory regulation could be a pragmatic solution to the regulation of new professions in the current economic climate. It may however be seen as a retrograde step and should not be pursued.

### **Decision**

The Council is requested to advise the Executive on their view on the possible use of 'voluntary' statutory regulation when making recommendations to the Secretary of State about the regulated using Article 3 (17) of the Health Professions Order 2001 pursuant to section 60 (1) (b) of the Health Act 1999. Any work in this area would need to take account of the proposals on quality assuring voluntary professional and occupation registration – by the reformed CHRE.

### **Background information**

None

### **Resource implications**

Not assessed

### **Financial implications**

Not assessed

### **Appendices**

None

### **Date of paper**

29 November 2010