

Council, 6 December 2011

Voluntary registers

Executive summary and recommendations

### **Introduction**

At its meeting on 22 September 2011, the Council considered a draft statement of policy on voluntary registration. The statement was approved, subject to the Executive revising the statement in light of the Council's discussions.

The final statement has been attached to note. The statement was finalised soon after the Council's discussion and has to date been sent to a small number of organisations who have requested clarification of the HPC's evolving position on this topic. The statement has also been sent to colleagues at the CHRE.

In the accompanying paper in September 2011, the Council were advised that the Executive was seeking legal advice to clarify a number of issues which would inform further discussion and development in this area. This has very recently been received and will inform a further substantive paper to the Council at its meeting in February 2012.

### **Decision**

This paper is to note; no decision is required.

### **Background information**

As described above.

### **Resource implications**

None

### **Financial implications**

None

### **Appendices**

Policy statement on voluntary registration

### **Date of paper**

24 November 2011

## **Voluntary registration**

### **1. Introduction**

- 1.1 This document outlines the HPC's developing thinking on the topic of the voluntary registration of professions and occupations in light of the Health and Social Care Bill 2011.
- 1.2 In this document 'we' refers to the HPC.

### **2. What is voluntary registration?**

- 2.1 In February 2011, the government published the Command Paper 'Enabling Excellence – Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers' ('the paper').
- 2.2 The paper sets out the current government's policy on regulation, including its approach to extending regulation to new groups. In particular, it sets out the government's policy that, in the future, statutory regulation will only be considered in 'exceptional circumstances' where there is a 'compelling case' and where voluntary registers, such as those maintained by professional bodies and other organisations, are not considered sufficient to manage the risk involved.
- 2.3 The paper also outlines a system of what is called 'assured voluntary registration'. The Council for Healthcare Regulatory Excellence (CHRE), (which has oversight of the nine regulators of healthcare professionals), is to be renamed and given powers to accredit or quality assure voluntary registers held by professional bodies and other organisations.
- 2.4 The HPC and the other regulators<sup>1</sup> are to be given powers to set up voluntary registers, subject to publishing an assessment of the likely assessment of doing so (an 'impact assessment') and holding a public consultation. A voluntary register would mean that registration would not be compulsory in order to practise, but, over time, registration might become a requirement of employers and commissioners and individuals could choose to register.
- 2.5 The paper also said that by the end of 2013 the HPC should explore with government the scope for putting in place a system of voluntary registration for adult social care workers in England.<sup>2</sup> Adult social care workers include staff who work with adults in residential care homes, in day centres and who provide care in someone's home.

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<sup>1</sup> The nine regulators overseen by the CHRE: [www.chre.org.uk](http://www.chre.org.uk)

<sup>2</sup> The regulation of social workers and social care workers is devolved to the four countries

### 3. HPC's position and approach

- 3.1 We are in the early stages of considering whether, how and in what circumstances we might consider exercising our future powers to establish voluntary registers.
- 3.2 We are actively exploring establishing voluntary registers in light of the government's clear statement of policy about statutory regulation and its preference for 'assured voluntary registration'. However, **we will only establish a voluntary register for a professional or occupational group if we consider that such a register would strengthen public protection.**
- 3.3 As a result, we have not yet made any decisions about whether the HPC should establish a voluntary register for any specific professional or occupational group.
- 3.4 We have identified, however, what we believe might be the potential benefits of setting up voluntary registers, and the potential risks or drawbacks. We have also produced a set of principles which will inform our developing approach to voluntary registration.

#### Benefits

- 3.5 The following outlines the potential benefits to the public, including service users, employers, to the profession or occupation, and to the HPC, of establishing voluntary registers.
  - As a statutory regulator with established processes, nationally agreed standards, and a track record of delivering cost-effective, efficient regulation, the HPC may be in a strong position to deliver a system of voluntary registration – in particular, where a given profession or occupation does not already have an established voluntary register. A voluntary register might help members of the public to make informed choices.
  - The HPC is independent from the professions it regulates. Its sole role is to protect the public. This provides assurance to the public that decisions will be made in the public interest rather than solely in the professional interest. This compares to voluntary organisations that may perform a registration function alongside supporting the interests of members and developing the profession.
  - An HPC voluntary register might have the potential to create one register, rather than many parallel registers for the same profession, which could be confusing for members of the public trying to make informed choices about practitioners.
  - The HPC has good relationships and recognition with a wide and varied range of employers – this means it may be in a good position to outline the potential benefits of voluntary registration to employers and

commissioners who may then make registration a specific requirement for employment or funding.

- Even where a voluntary register or registers already exist, the HPC may be in an improved position to undertake this role – for example, with the capacity and previous experience to deal with conduct or competence concerns. Some organisations holding voluntary registers rely heavily on the good will and commitment of the individuals involved and might not therefore have the equivalent resources available for undertaking regulatory functions.
- Voluntary registration with a statutory regulator might be a ‘stepping-stone’ on the path to potential future statutory regulation, enabling the evidence to be gathered that might support the protection of a title or function associated with that group in the future.

### **Risks and drawbacks**

3.6 The following outlines the potential risks and drawbacks of setting up voluntary registers.

- The level of protection afforded by a voluntary register would be lower than a statutory register because registration would not be compulsory and some practitioners may choose to practise without registration, leaving the public at risk.
- Someone removed from a voluntary register because of concerns about their conduct or competence would be able to continue to practise. The HPC would need to carefully consider the public protection risk and the reputational risk this may cause.
- Voluntary registration might confuse or mislead members of the public who may assume that it affords the same level of protection as the HPC’s statutory registers.
- A voluntary register might only be meaningful if employers, commissioners and service regulators made registration a requirement and this may only be likely to happen once a ‘critical mass’ of practitioners become registered. It might be difficult to build sufficient numbers on a voluntary register without such requirements in place.
- The cost, resource and capacity implications of the HPC establishing voluntary registers need to be explored further, but might potentially be prohibitive (at least in some cases).
- A voluntary register may not be a ‘stepping stone’ to statutory regulation - there is no guarantee that a voluntary register will eventually lead to a statutory register being introduced by the government.

## Principles

- 3.7 Having considered the potential benefits, and the potential risks or drawbacks involved in voluntary registration, we have developed a guiding principle and nine principles relating to implementation which will inform our developing approach in this area.
- 3.8 We will use the principles outlined below as we continue to discuss whether, how and in what circumstances we might consider establishing voluntary registers.

### **The HPC will only consider establishing voluntary registers provided they strengthen public protection.**

- Any voluntary registers would seek to assure the standards of registered practitioners, command the confidence of stakeholders and allow the public, employers and others to make informed decisions.
- Although the focus would be on the needs of public protection, the HPC's approach would take into account other relevant factors such as government policy; the differences between what can be achieved through a voluntary system compared to a statutory system; the costs and feasibility of developing, establishing and maintaining voluntary registers; and the capacity of the organisation to open additional registers.
- Any voluntary registers maintained by the HPC would be clearly differentiated from the HPC's statutory registers so that the public could understand the different types and levels of assurance they offer.
- Where the HPC establishes or considers establishing a voluntary register on the invitation of the UK Government or of one of the devolved administrations, the HPC would seek funding to cover the costs involved.
- After development and initial set-up, all voluntary registers would be operated on a full cost-recovery basis.
- The model of voluntary registration should be appropriate to the group concerned, proportionate and cost-effective, taking into account, for example, the risk profile of the profession / occupation; the requirements or qualifications for entry; and the profile of practitioners, including practitioners' ability to pay for registration.
- Where the HPC is considering establishing a voluntary register and there already exists a credible register or registers for that group (which account for a significant proportion of practitioners), HPC voluntary registration should have the support of at least one representative organisation in the field.

- The process for dealing with concerns about the conduct or performance of voluntarily registered practitioners should be proportionate, balancing the need to maintain the integrity of the Register and protect the public with the absence of statutory powers (for example, to demand information) and the need to control costs to maintain the viability of the Register.
- The HPC would work with service regulators, commissioners and employers to encourage them to recognise practitioners who are voluntarily registered in their activities. (For example, by only employing practitioners who are voluntarily registered; or by recognising voluntary registration through service regulation.)

#### **4. Next steps**

4.1 We intend to agree the policy and process in this area over the course of 2011 and into early 2012 before, if we consider appropriate, beginning to consider which groups might be suitable for voluntary registration. An impact assessment and consultation would then be required before reaching a final decision in respect of a specific group.

4.2 Some of the areas we will be considering include.

- How might we identify and prioritise professional and occupational groups to consider them for voluntary registration?
- What kinds of considerations might we take into account in undertaking an impact assessment and consultation?
- What types of voluntary registration might there be and how might we determine which type would be suitable for a particular group?
- What are the cost and resource implications involved?