Department of Health & Social Care

Promoting professionalism, reforming regulation

Government response to the consultation

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1. Foreword

1.1. A professional, responsive and flexible workforce is the cornerstone of the NHS. We need the right number of people with the right skills in the right place to provide safe, high quality care for patients.

1.2. Professional regulation assures the public that the people who provide healthcare are qualified, capable and competent. When healthcare professionals do not meet these standards, professional regulators must act to protect the public. Professional regulation underpins public confidence that healthcare professionals provide safe care. However, the regulators of healthcare professionals could do more, and want to do more, to support the professionalism of all registrants. A new approach to regulation will help support the development of a more flexible health and care workforce.

1.3. The legislation that governs the nine UK healthcare regulatory bodies[1] is bureaucratic, inflexible and has led to complex and inefficient systems. Therefore, at the end of 2017 the UK and Devolved Governments consulted on proposals to reform the system of professional regulation across the UK in *Promoting professionalism; reforming regulation*.

1.4. The response to this consultation was largely positive. Since the consultation, the case for reform has been strengthened by several important reports:

- The Professional Standards Authority's (PSA) *Lessons Learned Review into the Nursing and Midwifery Council's handling of concerns about midwives' fitness to practise at the Furness General Hospital* (Morecambe Bay NHS Foundation Trust), which highlighted the need for greater transparency and better engagement with family members who have been affected by poor professional standards[2];
- The Gosport Independent Panel Report[3], which identified a need for efficient and timely resolution of fitness to practise issues;
- Professor Sir Norman Williams' *Review of Gross Negligence Manslaughter in Healthcare*[4], which identified the potential for professional regulation to do more to encourage openness and the development of a learning culture.

[1] General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC) and Pharmaceutical Society of Northern Ireland (PSNI).
[2] https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220_0
[3] https://www.gosportpanel.independent.gov.uk/panel-report/
[4] https://www.gov.uk/government/publications/williams-review-into-gross-negligence-manslaughter-in-healthcare

- *The NHS Long Term Plan*[5], which acknowledged the importance of NHS staff in the delivery of safe high quality healthcare, with a particular focus on enabling professionals to make the most of their skills; and
- *The Interim People Plan*[6], which highlighted the importance of professional regulation in supporting the development of a flexible and professional workforce that is both fit to practise and fit for purpose.

1.5. Our aim for reform is to enable the regulators to place a greater emphasis on supporting the professionalism of all registrants, while continuing to take appropriate action to manage concerns about a minority of professionals. This will help ensure safe, high quality care for patients.

1.6. In part, these changes can be achieved by the regulatory bodies adopting a different approach – indeed, many regulators have already made progress. However, more fundamental change can only be delivered through freeing the regulatory bodies from the constraints of prescriptive and bureaucratic legislation.

1.7. At the heart of these changes is the much needed modernisation of fitness to practise processes. All of the regulatory bodies will be given a full range of powers to investigate and resolve complaints about their registrant's fitness to practise more quickly, providing early resolution for patients, families and professionals, and ensuring that the steps necessary to protect the public are put in place sooner. The process will be more collaborative and less adversarial, more efficient and less bureaucratic. This will give regulators the capacity to invest more of their resources in supporting the professionalism of all registrants.

1.8. Too much detail about the regulators' day-to-day functions is set out in legislation which is subject to the agreement of Parliament. This adds unnecessary delay and complexity when making simple operational changes and hinders the regulatory bodies' ability to be responsive to a fast changing healthcare environment. We will provide the regulators with the autonomy to set more of their own operating procedures leading to more responsive regulation.

1.9. Greater autonomy must be accompanied by greater accountability. This includes effective governance underpinned by openness and transparency in how the regulatory bodies discharge their regulatory functions. We will put in place measures to support this, including requirements to update patients and family members on the progress of fitness to practise cases in which they have an interest. We will also consider the PSA's role in reviewing the consensual disposal of fitness to practise cases to ensure sufficient public protection.

1.10. The UK and Devolved Governments will now develop secondary legislation to put in place:

- Modern and efficient fitness to practise processes;
- Better supported professionals; and

[5] https://www.longtermplan.nhs.uk/publication/nhs-long-term-plan/
[6] https://www.longtermplan.nhs.uk/publication/interim-nhs-people-plan/

- More responsive and accountable regulation.

1.11. We will also make two legislative changes recommended by the Williams review and accepted by Government:

- To remove the General Medical Council's (GMC) right to appeal decisions of the Medical Practitioners Tribunal Service (MPTS) to the High Court; and
- To modify the GMC and General Optical Council (GOC) powers to require information from registrants for fitness to practise purposes to exclude reflective practice material.

1.12. We will consult on draft legislation to deliver these changes in due course.

2. Executive summary

2.1. The UK's model of professional regulation for healthcare professionals has become increasingly complex, outdated and is seen as adversarial and legalistic. This makes it difficult for regulators to be responsive to the changing needs of the healthcare environment, to support the development of a flexible workforce and to protect the public in the most effective way.

2.2. We consulted on proposals for the reform of professional regulation from 31 October 2017 to 23 January 2018. *Promoting professionalism; reforming regulation*[7] set out high level principles for reform with the aim of making professional regulation faster, simpler and more responsive to the needs of patients, professionals, the public and employers. This document summarises the responses to the consultation and outlines how we will take forward reform of professional regulation.

2.3. The consultation received over 900 responses from individuals, organisations, healthcare professionals and members of the public. We would like to thank those who took the time to share their views. Analysis of these responses is set out in detail in the chapters that follow. Responses to the consultation showed clear support for changes to the legislative structure that underpins the regulatory bodies.

2.4. The UK and the Devolved Governments of Northern Ireland[8], Scotland and Wales[9] will now develop and consult on draft secondary legislation to provide all nine UK regulatory bodies with a modern legislative framework.

2.5. We will prioritise changes to the regulators' fitness to practise processes and operating framework. This will realise the greatest benefits for regulatory bodies, registrants and the public. These changes aim to deliver:

- Modern and efficient fitness to practise processes;
- Better support for professionals; and
- More responsive and accountable regulation.

Modern and efficient fitness to practise processes

2.6. The regulatory bodies will be provided with broadly consistent powers to handle fitness to practise cases in a more responsive and proportionate manner. Fitness to practise concerns will be concluded quickly, proportionately and fairly,

[7] https://www.gov.uk/government/consultations/promoting-professionalism-reforming-regulation
[8] In Northern Ireland, a final decision on any new legislation required would be subject to the views of an incoming Minister for Health.

[9] This report presents a summary of the views that were expressed and the response of the four UK health departments.

replacing the current bureaucratic, time consuming processes that are burdensome and can be stressful for patients, their families, registrants and employers. The most significant change will enable regulators to resolve fitness to practise cases without the need for a full panel hearing where it is appropriate to do so.

2.7. In line with recent legislation to set up Social Work England (SWE), regulators will be able to:

- Use case examiners to consider complaints and, where appropriate, resolve them on a consensual basis; and
- Remove registrants from the register automatically where they have been convicted of a very serious criminal offence in the UK. The proposed list of offences to which automatic erasure will apply are set out in Annex B.

2.8. The PSA currently has a right to appeal fitness to practise panel decisions where it considers the action taken by the regulator is insufficient to protect the public. It does not currently have a right to review cases which are resolved without a hearing. The PSA's ability to review fitness to practise cases is an important element of public protection. We will consider the PSA's role in reviewing consensual disposal decisions.

2.9. On the 11 June 2018, Professor Sir Norman Williams published a review into gross negligence manslaughter in healthcare[10]. This report made recommendations, accepted by Government, two of which require legislative changes to fitness to practise arrangements. These changes will be taken forward alongside the other changes to fitness to practise processes. The changes are:

- Removal of the GMC's right to appeal decisions of the MPTS to the High Court. The PSA will have the sole right of appeal against such fitness to practise decisions, as is the case for the other eight regulatory bodies; and
- Modification of the GMC's and the GOC's powers to require information from registrants for the purposes of fitness to practise procedures so that it excludes reflective practice material.

Better support for professionals

2.10. The changes to fitness to practise will allow decisions to be made more quickly, providing early resolution for patients, families and professionals, and ensuring that the steps necessary to protect the public are put in place sooner. This will also be more efficient, freeing up the regulators' resources to better support the professionalism of all their registrants, ensuring that they have and maintain the right knowledge, skills and expertise to deliver safe, high quality care to patients.

[10] https://www.gov.uk/government/groups/professor-sir-norman-williams-review

More responsive and accountable regulation

2.11. The regulatory bodies' powers are set out in a legislative framework which has been developed over many years and requires frequent amendment. Changes to the operational procedures of the regulatory bodies often require primary or secondary legislation. This is both time consuming and costly and hinders the regulators' ability to make timely changes.

2.12. It is right that the overarching legislative framework for the regulation of healthcare professionals is set by Parliament. However, it is also important that the regulators are able to make changes to their operational procedures in a timely fashion. We will therefore amend legislation to allow regulatory bodies to change their day-to-day operating practices, allowing them to operate more efficiently and effectively and to respond to changes in the health and care environment.

2.13. Regulators have an existing duty to co-operate and we will explore whether this needs to be strengthened to enable them to work even more closely with one another and with other organisations in the health and care system in the exercise of their functions.

2.14. The *NHS Long Term Plan* and the *Interim People Plan* have emphasised the importance of the whole system working together to deliver improvements in health and care. We will introduce a new duty on the regulators to consider wider workforce implications when developing their policies and processes.

2.15. The regulatory bodies will also be subject to enhanced requirements for openness and transparency. This will include presenting annual, nation specific reports to each legislature in which they operate.

2.16. Strong governance of the regulators themselves is central to effective accountability. The time is right to make the next step in the journey from self-regulation towards a modern governance structure. The councils of the regulatory bodies will become boards which comprise executive and non-executive directors, appointed on the basis that they have the skills, knowledge and expertise to ensure the regulator discharges its functions effectively. The non-executive directors will always form the majority of the board. Current and former registrants may be appointed to the board, but they will not form a majority.

Next steps

2.17. The UK and Devolved Governments will now work with the regulators and stakeholders to take forward these changes to fitness to practise and governance arrangements. We will develop draft secondary legislation which will be consulted on in due course.

2.18. Before implementing the changes set out in this document, the Government will further consider the implications. This includes the implications for public protection, for healthcare professionals, as well as for the regulators themselves.

2.19. The consultation sought views on other areas for the reform of professional regulation and reports published since the consultation closed have highlighted further areas. We will consider these alongside work to implement changes to the priority areas. The areas are:

- How to assess the appropriate level of regulatory oversight for healthcare professions;
- The number of regulatory bodies;
- Reform of the registration, standards and education functions of the regulatory bodies; and
- Professional regulators' roles in regulating businesses and premises.

2.20. Any future proposals in these areas will be subject to consultation.

3. Background to the consultation

3.1. Regulation of healthcare professionals aims to protect patients and the public from harm. Healthcare professionals are regulated in order to ensure that they have the skills, competence, health and attitudes to deliver safe, high quality care that commands public trust and patient confidence. Regulatory bodies:

- keep a register of qualified professionals who are fit to practise so that patients and service users know who is and who is not qualified;
- set the outcomes required from undergraduate (and in some cases postgraduate) education and training that must be met before registration is granted, as well as inspecting education and training providers;
- set the standards of conduct, performance and behaviour expected of a registered professional so that they deliver care safely and effectively;
- operate a system to ensure that registered professionals continue to meet these standards, that their knowledge and skills are up to date, and they remain fit to practise; and
- take action to restrict the practice of a registered professional where the required standards of conduct, performance or behaviour are not met.

3.2. The UK Parliament is responsible for the regulation of healthcare professions in England and Wales. Regulation of health and care professionals is a transferred matter in Northern Ireland. In Scotland it is devolved for healthcare professionals who entered regulation after the passing of the Scotland Act 1998. There are 33 professions regulated by nine independent regulatory bodies. A further 62 occupations are covered by 26 voluntary registers accredited by the PSA[11]. As outlined in the 2007 Government White Paper *Trust*, *Assurance and Safety - The Regulation of Health Professionals in the 21st Century*[12], the independence of the regulatory bodies is vital 'to sustain the confidence of both the public and the professions through demonstrable impartiality. Regulatory bodies need to be independent of Government, the professionals themselves, employers, educators and all the other interest groups involved in healthcare'.

3.3. Most of the regulatory bodies cover the whole of the UK. The exceptions to this are the General Pharmaceutical Council (GPhC) which regulates pharmacists and pharmacy technicians in England, Scotland and Wales, and the Pharmaceutical Society of Northern Ireland (PSNI) which regulates pharmacists in Northern Ireland. The Nursing and Midwifery Council (NMC) regulates nursing associates in England only, but nurses and midwives across the UK. Additionally, the GPhC and the PSNI regulate pharmacy business premises and the GOC regulates optical businesses. The PSNI also has a professional leadership function that the other regulators do not have.

[11] https://www.professionalstandards.org.uk/what-we-do/accredited-registers/find-a-register
[12] https://www.gov.uk/government/publications/trust-assurance-and-safety-the-regulation-of-health-professionals-in-the-21st-century

3.4. The regulation of social workers in England currently sits with the Health and Care Professionals Council (HCPC). This will move to Social Work England (SWE) in December 2019. There are separate bodies in Scotlan, Northern Ireland and Wales that regulate social care workers; Scottish Social Services Council, Northern Ireland Social Care Council and Social Care Wales.

3.5. The work of the regulatory bodies is overseen by the PSA. The PSA scrutinises the work of the regulatory bodies by:

- reporting on the performance of the regulatory bodies on an annual basis;
- auditing decisions made during investigations into complaints about registrants' practise;
- making referrals (or appeals) to the relevant court if it considers that a final fitness to practise decision is insufficient to protect the public;
- undertaking research and sharing best practice; and
- undertaking special investigations and providing advice to health Ministers in all four UK Governments on regulatory issues.

3.6. The case for reforming professional regulation has long been acknowledged. The Law Commissions of England and Wales, Scotland and Northern Ireland published a comprehensive review of the legal framework and a draft Bill for professional regulation in the UK in 2014[13]. The reforms recommended by the Law Commissions aimed to consolidate and simplify the existing legal framework and introduce greater consistency across the regulatory bodies in some areas, such as the conduct of fitness to practise hearings. The UK and Devolved Governments published a response[14] in January 2015. *Promoting professionalism; reforming regulation* built on the Law Commissions' recommendations.

3.7. Since the consultation closed, the Department for Education has passed legislation[15] setting out the legal framework that will underpin the regulation of social workers in England by SWE. This legislation provides a similar set of fitness to practise powers to those we propose to introduce for the other nine regulatory bodies. It provides a flexible set of legal powers for handling fitness to practise while devolving more operating decisions and processes to the regulatory body itself.

3.8. Additionally, several reports have been published that have a particular bearing on proposals for the future of professional regulation of healthcare professionals in the UK. These include:

- The PSA's *Lessons Learned Review into the Nursing and Midwifery Council's handling of concerns about midwives' fitness to practise at the Furness General Hospital[16];*

[13] https://www.lawcom.gov.uk/project/regulation-of-health-and-social-care-professionals/
[14] http://qna.files.parliament.uk/ws-attachments/176610/original/Government's%20response%20to%20Law%20Commission%20report.pdf
[15] http://www.legislation.gov.uk/uksi/2018/893/contents/made
[16] https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220_0

- The Gosport Independent Panel Report[17];
- Professor Sir Norman Williams' *Review of Gross Negligence Manslaughter in Healthcare[18];*
- *The NHS Long Term Plan[19]*; and
- *The NHS Interim People Plan[20]*.

3.9. The passing of SWE legislation and the above reports have informed the UK and Devolved Governments' thinking in shaping the reform proposals outlined in this document.

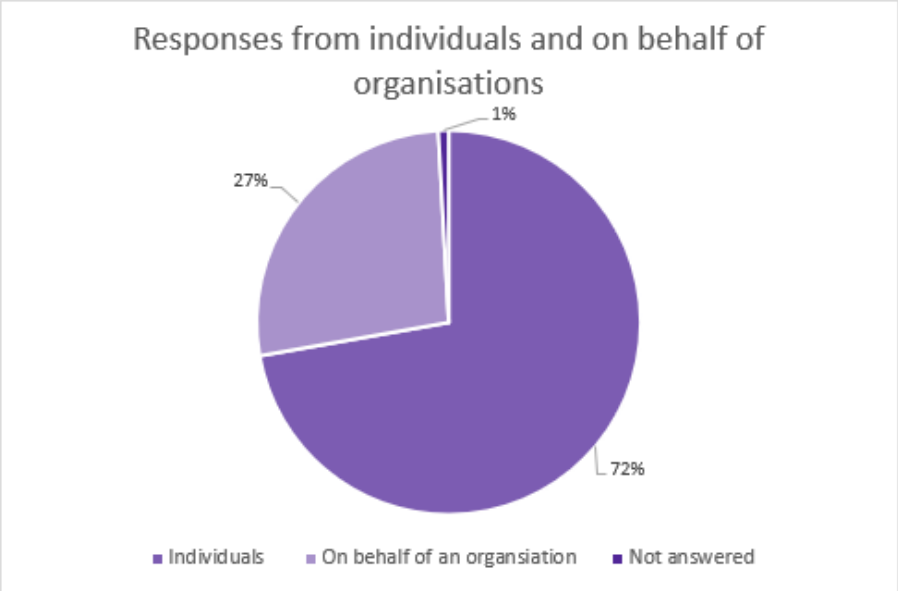
[17] https://www.gosportpanel.independent.gov.uk/panel-report/
[18] https://www.gov.uk/government/publications/williams-review-into-gross-negligence-manslaughter-in-healthcare
[19] https://www.longtermplan.nhs.uk/publication/nhs-long-term-plan/
[20] https://www.longtermplan.nhs.uk/publication/interim-nhs-people-plan/

4. Consultation process and overview of responses

4.1. Consultation on *Promoting professionalism; reforming regulation* ran for 13 weeks from 31 October 2017 to 23 January 2018. There were 918 responses to the consultation from a range of stakeholders, including regulatory bodies, professional bodies, healthcare professionals and members of the public.

4.2. Responses were submitted via the digital platform 'Citizen Space', by email and by post. 72% of responses were from individuals, 27% were made on behalf of an organisation and 1% did not answer this question.

4.3. 99 responses did not answer any of the questions asked and did not provide comments relating to any of the consultation questions. These responses were omitted from the analysis making the total number of responses analysed 819.



4.4. The following analysis provides a high level summary of the key themes raised in narrative (qualitative) responses. The narrative responses to some questions covered several different themes. For this reason, total responses that included a narrative response may not equal 819.

4.5. The consultation was taken forward in accordance with the Cabinet Office Consultation Principles. The full text of these principles is provided on the Gov.uk website[21]. The consultation paper was published on the Gov.uk website[22]. A list of the questions asked is provided at Annex A.

[21] https://www.gov.uk/government/publications/consultation-principles-guidance
[22] https://www.gov.uk/government/consultations/promoting-professionalism-reforming-regulation

5. Protecting the public

5.1. Historically, the approach and rationale for bringing new groups into statutory regulation has not been consistent. The view of the UK and Devolved Governments is that statutory regulation should be used proportionately and only where risks to public and patient protection cannot be addressed in other ways (such as through employer oversight or accredited voluntary registration).

5.2. Additionally, the current landscape of professional regulation is complex and variable. It can be confusing to the public and registrants, lead to inconsistencies in approach to regulatory matters, and may not deliver best value for registrant fees. This may undermine the public, professions and employers' confidence in the regulatory system.

5.3. The consultation considered the role of professional regulation in protecting the public, and sought views on:

- How best to determine the appropriate level of regulatory oversight for professional groups;
- The architecture of professional regulation; and
- Which regulatory bodies should have oversight of which professions.

Q1: Do you agree that the PSA should take on the role of advising the UK Governments on which groups of healthcare professionals should be regulated?

Proposal

5.4. HCPC is the only regulator that has the legislative power to recommend that a profession should be regulated. As the HCPC was established as a multi-profession regulator and has often assumed regulatory oversight of new groups it could be seen to have a vested interest in expanding its registrant base.

5.5. The consultation proposed that the PSA, working with relevant stakeholders, should take on the role of advising the UK and Devolved Governments on which groups of professionals should be regulated. The UK Governments recognised the link between assessing new groups for regulation with the PSA's powers to accredit voluntary registers but did not believe this would amount to a conflict of interest. The ultimate decision regarding whether a group should be regulated would remain with Ministers.

Responses

Category	Number of responses	Percentage
Agree	378	46%
Disagree	350	43%
Not answered	91	11%
Total	**819**	**100%**

Question analysis

5.6. There was no clear consensus on this proposal, with a similar number of respondents agreeing and disagreeing. 46% of respondents were in favour of the PSA advising the UK and Devolved Governments on which groups of healthcare professionals should be regulated, while 43% disagreed.

UK and Devolved Governments' response

5.7. The UK and Devolved Governments believe that the PSA is best placed to provide independent advice on which groups of healthcare professionals should be regulated.

5.8. The PSA accredits organisations that register health and social care practitioners who are not subject to statutory regulation. The PSA charges for this accreditation. Professions that are not statutorily regulated may choose to seek PSA accredited status and this could create an incentive for the PSA to recommend that such groups should not be subject to statutory regulation.

5.9. The UK and Devolved Governments believe that this potential conflict of interest is mitigated by the fact that the process for regulating professions is transparent and subject to a statutory requirement to consult. The ultimate decision about whether a new group should be regulated will remain with Ministers.

Q2: What are your views on the criteria suggested by the PSA to assess the appropriate level of regulatory oversight required of various professional groups?

Proposal

5.10. Statutory regulation of healthcare professionals should only be used where the risk to public and patient protection cannot be mitigated in other ways. Assessing the level of risk inherent within the practice of a profession is difficult. This is further complicated by the complexity of the healthcare environment.

5.11. There is currently no formal framework in place for assessing the appropriate level of regulatory oversight of healthcare professionals. The PSA has set out draft criteria[23] for making such assessments and the consultation sought views on the criteria.

[23] https://www.professionalstandards.org.uk/publications/detail/right-touch-assurance-a-methodology-for-assessing-and-assuring-occupational-risk-of-harm

Responses

Category	Number of responses
The size of professional group should not be included in the criteria	157
Further evidence needed/clarity needed/untested criteria	153
Supportive of the criteria	137
Not answered	126
Concerns on the lack of information around the measurement, threshold and benchmarking of criteria	96
Not applicable	88
Unsupportive of the criteria	81
Total	**838**

Question analysis

5.12. A significant number of respondents had concerns about the PSA's criteria. 153 thought that further evidence/clarity was needed and 96 expressed concern about the lack of information, threshold and benchmarking. A further 81 responses were broadly unsupportive of the criteria.

5.13. A notable number of respondents (157) suggested that that the size of a professional group should not be included in the criteria to assess the right level of regulation. Many of these respondents were members of small professional groups that are currently regulated.

5.14. 137 responses were supportive of the PSA's criteria.

5.15. Broadly there was a view that further detail was needed on how the approach to assessing the appropriate level of regulation would work and for the criteria to be robustly tested.

UK and Devolved Governments' response

5.16. The UK and Devolved Governments believe that a single, robust and evidence based methodology for assessing new groups would be beneficial. We appreciate the complexity in developing such a methodology. We expect the PSA to continue to review and refine its model to ensure the advice it provides is robust, transparent and evidence based.

5.17. The ultimate decision about whether a new group should be regulated will remain with Ministers. The process for regulating new professions will continue to be transparent and subject to public consultation.

Q3: Do you agree that the current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight?

Proposal

5.18. To date there has not been a commonly agreed set of criteria used to determine the appropriate level of regulatory oversight required for professional groups. As a result, professions have been brought into statutory regulation on what can appear to be an ad hoc or inconsistent basis.

5.19. In addition to seeking views on the potential criteria used to assess whether certain healthcare professions should be regulated, we also sought views on whether those professions that are currently statutorily regulated should be subject to the same assessment.

Responses

Category	Number of responses	Percentage
Agree	323	39%
Disagree	405	49%
Not answered	91	11%
Total	**819**	**100%**

Which groups should be reassessed as a priority?

Professions regulated by	Number of responses
Health and Care Professions Council	47
All groups	40
Nursing and Midwifery Council	39
Non-regulated groups	31
General Medical Council	29
General Dental Council	20
General Chiropractic Council	11
General Pharmaceutical Council	11
General Osteopathic Council	9
Pharmaceutical Society of Northern Ireland	6
General Optical Council	4
Not answered	223
Total	**470**

Question analysis

5.20. 49**%** of respondents felt that the professions that are currently statutorily regulated should not be subject to a reassessment to determine the most

appropriate level of regulatory oversight. Additional narrative comments opposed removing any professions from regulation.

5.21. 39% of respondents agreed that the professions that are currently statutorily regulated should be subject to a reassessment to determine the most appropriate level of regulatory oversight.

5.22. Many respondents (223) did not provide a view on which groups should be reassessed. 551 respondents did not answer the third part of this question, which asked “why these groups”.

5.23. The responses to the question about which groups should be reassessed as a priority have been presented under the heading of the regulatory body that regulates them. For example, where a respondent said a paramedic and biomedical scientist should be reassessed as a priority, this is shown as two responses under HCPC.

5.24. Where respondents supported reassessment, the professions regulated by HCPC were most frequently cited. HCPC regulates sixteen healthcare professions (see Annex C for a full list of HCPC regulated professions). The individual profession that received the highest number of recommendations for reassessment were chiropodists/podiatrists. The second most frequent response was that all statutorily regulated groups should be reassessed.

UK and Devolved Governments’ response

5.25. The UK and Devolved Governments believe the decision to regulate healthcare professional groups must be based on the risk of harm, with statutory regulation only used where the risks to public and patient protection cannot be addressed in other ways (for example through employer oversight or accredited registers). Groups coming into regulation to date have not been assessed against consistent criteria.

5.26. Subject to the development and testing of the PSA criteria, we believe there would be value in assessing some groups of healthcare professions that are currently statutorily regulated. Any subsequent proposals to alter the regulatory status of any professions would be subject to public consultation and would require legislative changes.

Q4: What are your views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals?

Proposal

5.27. Statutory regulation of healthcare professionals should only be used where the risk to public and patient protection cannot be mitigated in other ways (for

example through employer oversight or accredited registers). Prohibition orders (also referred to as negative registers) could be used as an alternative approach to ensure public protection where statutory regulation is not warranted. Prohibition orders were recommended by the Law Commission[24] in its review of the regulation of Healthcare Professionals and Social Care Professionals in England.

5.28. Regulatory bodies could be given powers to issue an order to bar people from practising a certain profession or restrict the activities they can carry out. Failure to follow these orders could be a criminal offence. Employers could be required to check whether a prohibition order is in place as part of their pre-employment checks.

5.29. The PSA undertook a review of the use of prohibition orders in December 2016[25] and found little evidence on which to draw a conclusion about their effectiveness in a health context.

5.30. The consultation sought views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals.

Responses

Category	Number of responses	Percentage
Agree	150	18%
Disagree	513	63%
Not answered	156	19%
Total	**819**	**100%**

Further comments

Category	Number of responses
Not answered	220
Useful for unregulated groups	114
Combining voluntary registration and prohibition orders not equal to statutory regulation	98
Removal of statutory regulation will reduce public safety	87
Further evidence needed	72
Unsupportive	59
Not applicable	49
Total	**699**

Question analysis

5.31. Most respondents (63%) did not support the use of prohibition orders as an alternative to statutory regulation. Some respondents thought that combining

[24] http://www.lawcom.gov.uk/app/uploads/2015/03/lc345_regulation_of_healthcare_professionals.pdf
[25] http://www.professionalstandards.org.uk/docs/default-source/publications/policy-advice/feasibility-of-prohibition-order-schemes---initial-evaluation.pdf

voluntary registration and prohibition orders would fall short of providing the same level of patient protection as statutory regulation.

5.32. A minority of respondents (114) felt that prohibition orders could be useful in relation to some unregulated healthcare professional groups.

UK and Devolved Governments' response

5.33. The UK and Devolved Governments accept there is little evidence at present to support the use of prohibition orders.

Q5: Do you agree that there should be fewer regulatory bodies?

Proposal

5.34. There are currently nine regulatory bodies, with great variation in terms of the number of professions and registrants that they regulate. For example, the HCPC regulates 16 professions, while the GMC, General Chiropractic Council (GCC) and the General Osteopathic Council (GOsC) regulate a single profession each. The NMC regulates around 690,000 nurses, midwives and nursing associates (England only), compared with the GCC and GOsC which have around 3,200 and 5,200 registrants respectively (see Annex C for a full list of regulators, professions regulated and number of registrants).

5.35. Reducing the number of regulatory bodies could deliver benefits. It might be simpler for employers, patients and the public to find the correct regulatory body with which to raise concerns. Having fewer regulatory bodies could support improved consistency of standards and fitness to practise processes and decisions, delivering fair and consistent public protection.

Responses

Category	Number of responses	Percentage
Agree	472	58%
Disagree	255	31%
Not answered	92	11%
Total	**819**	**100%**

Question analysis

5.36. A majority of respondents (58%) supported a reduction in the number of regulatory bodies, whereas 31% disagreed. More details were provided in response to Q7 which sought views on the advantages and disadvantages of having fewer regulatory bodies.

UK and Devolved Governments' response

5.37. We have considered responses to Q5, Q6 and Q7 together. See below for the UK and Devolved Governments' response.

Q6: What do you think would be the advantages and disadvantages of having fewer professional regulatory bodies?

Proposal

5.38. This question sought views on the potential advantages and disadvantages of a reduction in number of regulatory bodies. The UK and Devolved Governments set out some benefits that may be realised through reducing and reconfiguring the regulatory bodies. These include**:**

- greater clarity for patients and their families on where and how to raise concerns and what the process involves;
- a clearer system of professional regulation that delivers effective public protection;
- a consistent approach to regulation; and
- the opportunity to maximise economies of scale by having fewer, larger regulatory bodies.

Responses

Advantages	**Number of responses**
Easier for stakeholders to understand	284
Not answered	165
Consistency in the fitness to practise process	162
Cost savings	145
Economies of scale	96
Not applicable	96
Simpler	17
Total	**965**

Disadvantages	**Number of responses**
Loss of expertise	285
Not answered	220
Loss of professional identity	121
Adapting to increased workload/reduced capacity	97
Loss of responsiveness and quality	90
Not applicable	63
Increased fees	54
Too generic	48
Total	**978**

Question analysis

5.39. Respondents felt that there would be both advantages and disadvantages to reducing the number of regulatory bodies.

5.40. 284 respondents thought that fewer regulatory bodies would make it easier to navigate the professional regulatory system for the public, patients, families and carers, stakeholders, employers and employees.

5.41. 162 respondents highlighted the potential for greater consistency. Examples included consistency in the regulatory approach, consistency in the fitness to practise triage process and subsequent outcomes.

5.42. 145 respondents said fewer regulatory bodies may lead to cost savings, including reduced administration costs which could lead to lower registration fees.

5.43. The most frequently raised concern (285 responses) was that combining multiple professions under a single regulator would lead to a loss of profession-specific expertise.

5.44. 121 respondents thought that this proposal could lead to a loss of professional identity. The aim of professional regulation is to protect patient safety. However, regulation can also confer secondary benefits such as increasing the status of the profession. Some respondents felt that losing their dedicated regulatory body could diminish the standing of their profession.

5.45. Another concern was whether the regulatory bodies would be able to adapt to an increased workload, if their numbers were reduced.

5.46. A small number of respondents (30) highlighted the value of the model of regulation operated by HCPC which regulates different professions and suggested that this model should be applied more widely.

UK and Devolved Governments' response

5.47. We have considered responses to Q5, Q6 and Q7 together. See below for the UK and Devolved Governments' response.

Q7: Do you have views on how the regulatory bodies could be configured if they are reduced in number?

Proposal

5.48. There is no clear rationale for the current position of having nine regulatory bodies.

5.49. Research suggests that efficiencies begin to accrue when a regulatory body has a registrant base of between 100,000 and 200,000[26]. Five regulatory bodies have fewer registrants than this, potentially contributing to higher costs.

5.50. The UK and Devolved Governments set out a case for exploring a reduction in the number of regulatory bodies, possibly to three or four, and sought views on how the regulatory bodies might best be configured if there were fewer of them.

Responses

Category	Number of responses
Not answered	260
Not applicable	152
• Medics • Nurses • All other professionals	75
Extend HCPC remit	68
All other suggestions	264
Total	**819**

Question analysis

5.51. Respondents suggested a wide variety of options for reconfiguring the regulatory bodies. The most frequently suggested model (75 responses) was to reduce the current set of regulatory bodies to three separate bodies covering:

- doctors;
- nurses; and
- all other professionals.

5.52. The second most frequent suggestion (68 responses) was to extend the remit of HCPC. Responses ranged from amalgamating the smaller professions under HCPC, to HCPC becoming the single regulatory body for all regulated professions.

UK and Devolved Governments' response (questions 5-7)

5.53. The UK and Devolved Governments remain of the view that reconfiguring the regulatory bodies has the potential to deliver benefits such as;

- providing greater clarity for patients and their families and carers about which organisation to contact for what reason, and what can be expected from the process;
- creating a clearer system of professional regulation that delivers more effective public protection;
- improving the consistency of approach for the regulatory bodies based on a consistent and flexible set of powers; and

[26] https://www.chseo.org.uk/downloads/report4-costefficiency.pdf

- maximising the economies of scale that can be achieved by having fewer, larger bodies.

5.54. The core functions of the regulatory bodies are the same. They are required to:

- keep a register of qualified professionals who are fit to practise so that patients and service users know who is and who is not qualified;
- set the outcomes required from undergraduate (and in some cases postgraduate) education and training that must be met before registration is granted, as well as inspecting education and training providers;
- set the standards of conduct, performance and behaviour expected of a registered professional so that professionals deliver care safely and effectively;
- operate a system to ensure that registered professionals continue to meet those standards, that their knowledge and skills are up to date, and they remain fit to practise; and
- take action to restrict the practise of a registered professional where the required standards of conduct, performance and behaviour are not met.

5.55. While regulatory bodies need a clear understanding of the roles and working environment of the professionals they regulate, HCPC and other international regulatory systems[27] have demonstrated that multi professional regulation can work.

5.56. The UK and Devolved Governments believe that a case can be made for fewer regulatory bodies, but acknowledge that more work is needed before bringing such a proposal forward. The UK and Devolved Governments will consider how best to develop proposals to reconfigure the professional regulation landscape. Any proposals to reconfigure the regulatory bodies will be subject to public consultation.

[27] https://www.ahpra.gov.au/

6. Responsive regulation

6.1. The UK's system of professional regulation is not flexible enough to respond to the evolving challenges of delivering healthcare. To some extent, this is because regulators are hampered by a legislative framework that is in parts more than 150 years old, with outdated procedures that have not kept pace with changes in the health and care system.

6.2. Consequently, the regulatory bodies manage complaints about professionals in a largely reactive way, focussing much of their effort and resources on managing concerns about a minority of registrants at the expense of supporting the professionalism of the majority.

6.3. Investigations into allegations made about professionals (known as fitness to practise proceedings) will always be central to delivering public protection. However, these processes are bureaucratic and lengthy, which can be frustrating and stressful for patients and their families, registrants and employers. They are also legalistic and adversarial, and this can be detrimental to the development of a learning culture. Fitness to practise concerns need to be handled in a timely, efficient and proportionate manner to ensure safe, high quality healthcare delivery.

6.4. Increasing the responsiveness of professional regulation is not a new idea and some changes have already been made to the legislation that governs some regulatory bodies. More could be done to enable all regulators to respond quickly to changes in the way that healthcare is delivered. This will require legislative change.

6.5. Increasing the responsiveness of the regulatory system will deliver improvements in three main areas:

- allowing complaints about registrants' fitness to practise to be investigated and resolved more quickly, contributing to high standards of public protection;
- enabling regulators to invest more in supporting the professionalism of all their registrants, which can prevent problems emerging or escalating; and
- responding more quickly to changes in healthcare delivery and workforce developments, ensuring professionals are not only fit to practise but remain fit for purpose.

6.6. The consultation sought views on:

- what improvements can be made to the system of investigating and resolving fitness to practise concerns;
- what more the regulatory bodies can do to support the professionalism of registrants; and
- what changes need to be made to allow the regulatory bodies to respond more quickly to the challenges of healthcare delivery.

Q8: Do you agree that all regulatory bodies should be given a full range of powers for resolving fitness to practise cases?

Proposal

6.7. Regulatory bodies do not have a consistent set of powers to manage fitness to practise complaints.

6.8. Cases often proceed to a full hearing, even when the registrant and regulator agree both the findings of the case and appropriate outcome. This is time consuming, costly and can be stressful for all parties involved. Such cases could be safely resolved at an earlier stage without a panel hearing.

6.9. Changes have already been made to the legislation of some regulatory bodies to enable them to resolve complaints in a more timely and responsive manner. For example, the GMC, NMC, General Dental Council (GDC) and GOC have introduced Case Examiners who can make decisions (undertakings) at the end of the investigation stage, without having to proceed to a full hearing, where there is agreement with the registrant on the findings and measures needed. Such measures range from restricting a registrant's fitness to practise to requiring retraining. This has delivered quicker decisions and reduced the reliance on expensive, adversarial hearings.

6.10. We proposed to provide all the regulatory bodies with a single, broadly consistent and comprehensive set of fitness to practise powers. This will provide a wider range of powers to resolve cases in a more proportionate way, including the power to introduce Case Examiners and manage cases through consensual disposal.

Responses

Category	Number of responses	Percentage
Agree	593	72%
Disagree	46	6%
Not answered	180	22%
Total	**819**	**100%**

Further comments

Advantages	Number of responses
Not answered	409
Supportive	84
Must ensure the fitness to practise process is not watered down	79
Retain adversarial elements for serious allegations	66
Consistent/equity across regulatory bodies	51
HCPC currently works well	25
All other comments	105
Total	**819**

Question analysis

6.11. A large majority of respondents (72%) agreed that all the regulatory bodies should be given a full range of powers for resolving fitness to practise cases.

6.12. There were only a small number of additional comments on the proposals. These were split between concerns that changes could water down the fitness to practise process (79 responses) and views that providing all the regulatory bodies with a full range of powers would support consistency (51 responses) with an additional 84 responses being broadly supportive.

UK and Devolved Governments' response

6.13. The UK and Devolved Governments agree that all the regulatory bodies should be given a full range of powers for resolving fitness to practise cases. This would support a more proportionate approach to handling concerns raised about registrants' fitness to practise. The aim here is to strengthen, not weaken, fitness to practise processes.

6.14. The broad range of powers we are proposing to give all regulatory bodies is consistent with those made available to SWE [28], the new regulator for social workers in England.

6.15. In line with the powers granted to SWE, we also intend to enable regulatory bodies to automatically remove registrants convicted of very serious criminal offences in the UK (a list of the registered offences is included in Annex B) without the need for any fitness to practise proccess.

6.16. We understand the need for each regulatory body to make independent decisions that reflect the context in which they work. Operating details, such as the process for triage of cases, will not be set out in legislation but will be set by the regulatory bodies themselves.

6.17. We will bring forward secondary legislation to put in place broadly consistent fitness to practise powers for all nine regulatory bodies.

Q9: What are your views on the role of mediation in the fitness to practise process?

Proposal

6.18. The current approach to fitness to practise is adversarial and more needs to be done to move to an inquisitorial approach that seeks to establish the circumstances of a case.

http://www.legislation.gov.uk/uksi/2018/893/contents/made

6.19. The Law Commissions' report[29] recommended the use of mediation as part of fitness to practise procedures. The UK and Devolved Governments originally rejected this recommendation but in response to feedback in the pre-consultation stakeholder engagement events we decided to revisit this.

6.20. Respondents were asked whether dispute resolution or mediation when dealing with enquiries and complaints that do not need a full fitness to practise investigation could help resolve cases at an earlier stage.

Responses

Category	Number of responses
Supportive	351
Proportionate	240
Not answered	220
Unsupportive	52
Initial step in process	29
More inquisitorial approach rather than an adversarial one	28
Total	**920**

Question analysis

6.21. A high number of respondents (351) were supportive of the use of mediation as part of the fitness to practise process.

6.22. 240 respondents stressed the need for mediation to be used proportionately.

UK and Devolved Governments' response

6.23. The UK and Devolved Governments agree that dispute resolution or mediation could help resolve cases at an earlier stage where a full fitness to practise investigation is not required.

6.24. We will introduce changes that will enable the regulatory bodies to include mediation as part of their fitness to practise processes if they wish.

Q10: Do you agree that the PSA's standards should place less emphasis on fitness to practise performance?

Proposal

6.25. An objective of reforming the regulation of healthcare professionals is to provide the regulatory bodies with the tools to handle fitness to practise cases more proportionately. The legislative changes that we will put in place to achieve this will free up the regulatory bodies to provide greater support to the professional standards of all registrants.

[29] http://www.lawcom.gov.uk/app/uploads/2015/03/lc345_regulation_of_healthcare_professionals.pdf

6.26. The consultation aimed to seek views on expanding the PSA's oversight of a broader, supportive regulatory role in its guidance *Standards of Good Regulation*[30].

Responses

Category	Number of responses	Percentage
Agree	216	26%
Disagree	376	46%
Not answered	227	28%
Total	**819**	**100%**

Further Comments

Category	Number of responses
Not answered	370
Fitness to practise is essential	121
More emphasis on upstream helpful e.g. education/more supportive role	91
Essential that fitness to practise is not watered down	90
PSA consider entirety of regulatory bodies' functions	22
All other comments	125
Total	**819**

Question analysis

6.27. This question was not phrased clearly – the intention was to ask whether the PSA should consider the wider performance of the regulatory bodies through its standards of good regulation, including how they regulatory bodies support the professionalism of all their registrants.

6.28. There were three main responses to the question. Firstly, that fitness to practise is an essential part of regulation and the performance of the regulatory bodies. Secondly, the PSA's standards should place more emphasis on "upstream" issues before cases get to fitness to practise (this should include the training and education of healthcare professionals). Thirdly, respondents said that fitness to practise should not be watered down.

UK and Devolved Governments' response

6.29. The PSA updated its *Standards of Good Regulation* in February 2019[31].

6.30. Given that the question was incorrectly phrased, the UK and Devolved Governments will not seek to draw conclusions from this question or make any changes as a result.

[30] https://www.professionalstandards.org.uk/publications/detail/standards-of-good-regulation-(revised)-2019
[31] https://www.professionalstandards.org.uk/publications/detail/standards-of-good-regulation-(revised)-2019

Q11: Do you agree that the PSA should retain its powers to appeal regulatory bodies' fitness to practise decisions to the relevant court, where it is considered the original decision is not adequate to protect the public?

Proposal

6.31. The PSA has a power (under Section 29 of the National Health Service Reform and Health Care Professions Act 2002) to refer decisions of fitness to practise panels or committees to the appropriate court where it considers the decision is not sufficient for the protection of the public.

6.32. The consultation proposed that these powers should be retained to ensure adequate public protection.

Responses

Category	Number of responses	Percentage
Agree	550	67%
Disagree	60	7%
Not answered	209	26%
Total	**819**	**100%**

Further Comments

Category	Number of responses
Not answered	447
If this adds a layer of protection for the public, it should be retained.	107
Appeal process important/need for appeals process	37
All other responses	228
Total	**819**

Question analysis

6.33. A large majority of respondents (67%) agreed that the PSA should retain its power to appeal regulatory bodies' fitness to practise decisions to the relevant court, where it is considered that the original decision does not protect the public. 107 responses highlighted that the PSA's right of appeal adds a layer of protection for the public.

UK and Devolved Governments' response

6.34. The UK and Devolved Governments agree that the PSA should retain its power under Section 29 of the National Health Service Reform and Health Care Professions Act 2002 to refer fitness to practise decisions to the relevant court where it considers the decision is not sufficient for the protection of the public.

6.35. This is consistent with the recommendation of the Williams Review[32] that the PSA should retain this right of appeal and that the equivalent power for the GMC to appeal such decisions made by the Medical Practitioners Tribunal Service (MPTS) should be removed.

6.36. We will bring forward legislation to remove the GMC's power to appeal decisions of the MPTS, bringing the GMC in line with the other regulatory bodies.

Q12: Do you think the regulatory bodies have a role in supporting professionalism and if so how can regulatory bodies better support registrants to meet and retain professional standards?

Proposal

6.37. There is more to the regulation of healthcare professionals than managing fitness to practise. Professional regulation should be about supporting the professionalism of all registrants to ensure they have and maintain the right knowledge, skills and expertise to deliver safe, high quality care.

6.38. All the regulatory bodies are responsible for setting the standards of education and approving higher education courses that enable entry into the professions that they regulate. They also have mechanisms in place for assessing the continuous professional development of their registrants. The regulatory bodies play a crucial role in assuring that professionals are, and remain, both fit to practise and fit for purpose.

6.39. The work of the regulatory bodies is currently heavily focused on fitness to practise, mainly due to the legislative constraints under which they operate. Our planned reform of fitness to practise procedures would enable regulatory bodies to devote more resources to support the professionalism of their registrants.

Responses

Category	Number of responses	Percentage
Agree	604	74%
Disagree	40	5%
Not answered	175	21%
Total	**819**	**100%**

Further Comments

Category	No. Responses
Not answered	252
HCPC good model	157

[32] https://www.gov.uk/government/groups/professor-sir-norman-williams-review#report

Sharing best practice/education/CPD/support	157
Clear standards and guidance	76
Regulators need to work with professional associations/education providers	53
All other responses	124
Total	**819**

Question analysis

6.40. Respondents overwhelmingly agreed (74%) that regulatory bodies have a role in supporting the professionalism of their registrants. A high number of respondents (157) suggested that the HCPC operates an effective model of supporting professionalism, highlighting the clarity of the standards that apply across multiple professions.

6.41. 157 respondents felt that the regulatory bodies should do more to support the professionalism of all registrants, in particular through sharing best practice in relation to education, continuing professional development and professional standards.

6.42. 76 respondents were of the view that the standards against which they are regulated are not clear or practical in the context of their current work or clinical environment. Additionally, 53 respondents thought that the regulatory bodies need to work more closely with professional associations and education providers to help support professionalism.

UK and Devolved Governments' response

6.43. The UK and Devolved Governments agree that the work of the regulatory bodies is heavily focused on fitness to practise. Supporting professionalism is central to providing assurance that healthcare professionals are well equipped to deliver safe, high quality care.

6.44. All the regulatory bodies have in place, or are creating, systems to assess the continued professional development (CPD) of their registrants. The GMC and NMC have each developed a process of revalidation to ensure the continued fitness to practise of their registrants.

6.45. The UK and Devolved Governments expect the regulatory bodies to continue working in partnership with employers and higher education providers to ensure that professionals are equipped to provide safe, high quality care.

6.46. It is important that the regulatory bodies set out a clear framework for how they will support the development and maintenance of professional standards. The UK and Devolved Governments believe that the changes we will make to modernise fitness to practise processes will enable the regulatory bodies to place a greater emphasis on supporting the professionalism of all registrants.

7. Efficient regulation

7.1. The professional regulation landscape is complex and varied. The nine regulatory bodies vary significantly in size, number of professions and professionals they regulate.

7.2. The healthcare system is complex, and there is an opportunity, and indeed an expectation, for the regulatory bodies to work more effectively with one another and with other parts of the regulatory system. This includes sharing data (within the framework of current data protection legislation) and best practice to improve public protection.

7.3. There is also a need to enable regulators to become more responsive to the needs of public, registrants and the wider healthcare system. This could be done by providing them with greater autonomy to set their own operational procedures to respond to a changing healthcare environment while strengthening their overall accountability to the UK and Devolved Governments.

7.4. The consultation sought views on;

- how the regulatory bodies can best work together;
- providing more flexibility to allow the regulatory bodies to set their own operating procedures; and
- strengthening the operating framework and accountability of the regulatory bodies.

Q13: Do you agree that the regulatory bodies should work more closely together? Why?

Proposal

7.5. All the regulatory bodies perform similar functions for different professional groups but undertake these in different ways and under different legislative frameworks.

7.6. There have been a number of attempts to promote joint working and regulators have collaborated effectively in the past on some specific areas.

7.7. However, there is now a need for a fundamental shift from a system which allows regulators to co-operate to one which creates an expectation or places a duty on them to work together to improve public protection and create more efficiencies in the system.

Responses

Category	No. Responses	Percentage
Agree	607	74%
Disagree	48	6%
Not Answered	164	20%
Total	**819**	**100**

Further Comments

Category	No. Responses
Not answered	277
Potential to increase quality, efficiency, accessibility and responsiveness/Easier to navigate/Streamlined	202
Sharing expertise/knowledge/resources	200
Consistent/Common appraoch/Joined up working	199
Cost savings	124
Total	**1002**

Question analysis

7.8. Most respondents agreed (74%) that the regulatory bodies should work more closely together. Responses highlighted the potential benefits that joint working could have on the regulation of healthcare professionals. This included an increased quality of service from the regulatory bodies, efficiency and accessibility of the regulatory bodies, and their ability to operate in a more responsive manner.

7.9. The narrative responses noted that the sharing of expertise, knowledge and resources across the regulatory bodies would be beneficial. This would help provide a more consistent, efficient and joined up approach to the regulation of healthcare professionals.

UK and Devolved Governments' response

7.10. We have considered responses to Q13, Q14 and Q15 together. See below for the UK and Devolved Governments' response.

Q14: Do you think the areas suggested above are the right ones to encourage joint working?

Proposal

7.11. The UK and Devolved Governments sought views on four areas where joint working could improve public protection and create efficiencies. These were:

- A shared online register, search engine or online portal of all registered healthcare professionals to make it easier for patients, the public and

employers to access details about whether a healthcare professional is registered and about that professional's registration;

- A single set of generic standards for all healthcare professionals (underpinned by profession-specific standards owned by the individual regulatory bodies) to ensure that all healthcare professionals are working to the same core set of professional standards. The standards will only differ where there is a profession specific need. This model has been operated by the HCPC for many years;
- A single adjudicator responsible for all fitness to practise decisions to provide greater consistency of decision making processes on all fitness to practise cases, making the process fairer and simpler for regulated professionals, patients and the public; and
- A single organisation conducting back office functions such as HR, finance and IT. Each regulatory body is currently responsible for their back office services. If one organisation was responsible for these functions economies of scale suggest they are likely to be delivered more efficiently.

Responses

Category	No. Responses	Percentage
Agree	481	59%
Disagree	113	14%
Not Answered	225	27%
Total	**819**	**100**

How would those contribute to improve patient protection?

Category	No. Responses
Not answered	304
Easier for patients, public, employers to access information	128
Care should be taken to ensure no loss of profession-specific criteria/Concerns on loss expertise	121
Improve consistency/equity/common approach	121
HCPC use generic standards underpinned by specific standards	87
Non-applicable	59
Single adjudicator with profession-specific elements retained	56
Total	**876**

Question analysis

7.12. The majority of respondents (59%) agreed that the four areas proposed for joint working would deliver benefits. Respondents felt that joint working in these areas would help improve the understanding of the regulatory system for patients, public and employers.

7.13. 121 respondents raised concerns about a single set of generic standards for all healthcare professionals. Respondents stated that care needs to be taken to ensure profession specific standards are not lost.

7.14. 121 respondents suggested that all the proposed areas for joint working would help provide a consistent and common approach across the regulatory bodies. A small number highlighted the effectiveness of HCPC's approach of a general set of standards complemented with profession specific standards.

UK and Devolved Governments' response

7.15. We have considered responses to Q13, Q14 and Q15 together. See below for the UK and Devolved Governments' response.

Q15: Do you agree that data sharing between healthcare regulatory bodies including systems regulatory bodies could help identify potential harm earlier?

Proposal

7.16. There is a large amount of intelligence gathered across the healthcare system that is not routinely shared between regulators to ensure the right body takes action in order to protect the public. Appropriate sharing of data may be valuable in identifying potential harm earlier.

Responses

Category	No. Responses	Percentage
Agree	567	69%
Disagree	75	9%
Not Answered	177	22%
Total	**819**	**100**

Further Comments

Category	Number of responses
Not answered	447
Supportive	170
Not applicable	54
Useful in identifying trends to indicate regulatory issues	44
Compliance with data protection	40
All other responses	64
Total	**819**

Question analysis

7.17. Most respondents (69%) agreed that data sharing between regulatory bodies, including system regulators, could help identify potential harm earlier.

7.18. A few responses (40) stressed the need to make sure that sharing of data followed data protection legislation.

UK and Devolved Governments' response (Q13, Q14 and Q15)

7.19. The UK and Devolved Governments agree that the regulatory bodies should work more closely together. There are a number of areas where joint working may improve public protection and create efficiencies in the system. We expect the regulatory bodies to work together to deliver a consistent and coherent system, which delivers an efficient regulatory approach across the regulated professions.

7.20. There has been recent progress in this area. For example, in July 2018, the GMC, GPhC, HCPC and NMC, along with other health and social care regulators and bodies signed a new protocol[33] to help them share emerging concerns with each other more effectively.

7.21. Regulators have an existing duty to co-operate and we will explore whether this needs to be strengthened to enable them to work even more closely together with one another and with other organisations in the health and care system in the exercise of their functions.

Q.16: Do you agree that the regulatory bodies should be given greater flexibility to set their own operating procedures?

Proposal

7.22. The regulatory bodies' powers are set out in a legislative framework which has been developed over many years and requires frequent amendment. Changes to the operating practices of the regulatory bodies often require primary or secondary legislation; this is both time consuming and costly and can hinder the regulators' ability to make timely changes. Where changes are needed to more effectively protect the public, delays can hinder the provision of safe care.

7.23. Providing the regulatory bodies with powers to amend their own operating procedures will enable them to respond to the changing way that healthcare is delivered without the agreement of Parliament. This will help them to be more responsive to the needs of the public, registrants and the wider healthcare system.

Responses

Category	No. Responses	Percentage
Agree	342	42%
Disagree	276	34%

[33] https://www.cqc.org.uk/news/stories/joint-statement-emerging-concerns-protocol

Not Answered	201	25%
Total	**819**	**100**

Further Comments

Category	No. Responses
Not answered	377
Reduce accountability	88
Standardised operating procedure/consistent/framework	57
Non-applicable	52
All other responses	245
Total	**819**

Question analysis

7.24. The views of respondents were mixed. 42% of respondents agreed that the regulatory bodies should be given greater flexibility to set their own operating procedures, whereas 34% disagreed with the proposal.

UK and Devolved Governments' response

7.25. The UK and Devolved Governments believe that providing the regulatory bodies with powers to amend their own operating procedures will allow for a more responsive approach to regulation.

7.26. At present those operating procedures that are set in rules can usually only be amended through a legislative process. This restricts the ability of the regulatory bodies to operate in a responsive way. We will change legislation to allow the regulatory bodies to set out more of their own procedures in rules which can be made without the agreement of Parliament.

7.27. This will create a consistent legislative framework that will give the regulatory bodies broadly consistent powers within which they can develop flexible processes to meet the needs of the context in which they operate.

7.28. The regulatory bodies will be required to consult on proposed new rules. Some areas which require greater levels of oversight will continue to be set in rules requiring the approval of Parliament.

Q17: Do you agree that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, in addition to the UK Parliament?

Proposal

7.29. The regulatory bodies cover a wide range of professions that operate across the UK. It is important that they are accountable both to the public and to the UK and Devolved Governments.

7.30. The UK Parliament, the Scottish Parliament, the National Aseembly for Wales and the Northern Ireland Assembly have powers to hold the regulatory bodies to account through hearings or taking evidence.

7.31. We proposed that the regulatory bodies should lay annual nation specific reports before each of the relevant UK Parliamens in which they operate.

Responses

Category	No. Responses	Percentage
Agree	483	59%
Disagree	132	16%
Not Answered	204	25%
Total	**819**	**100**

Further Comments

Category	No. Responses
Not answered	464
Supportive	134
Leads to better governance/accountability	66
Standardisation across the UK	46
All other responses	109
Total	**819**

Question analysis

7.32. A majority (59%) of respondents agreed that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, in addition to the UK Parliament. Respondents said that this would improve the accountability of all the regulatory bodies.

UK and Devolved Governments' response

7.33. The UK and Devolved Governments agree that providing the regulatory bodies with greater flexibility to set their own operating procedures must be balanced with greater accountability. This includes greater accountability to the UK and Devolved Governments.

7.34. The UK and Devolved Governments believe that transparency is vital, not only for public safety but also for establishing public confidence in the actions of the regulatory bodies. We will set out enhanced requirements for regulatory bodies to be transparent and open in their operations. This will include presenting annual, nation specific reports to each legislature in which they operate.

Q18: Do you agree that the councils of the regulatory bodies should be changed so that they comprise both non-executive and executive members?

Proposal

7.35. The regulation of healthcare professionals has moved away from a model of self-regulation over the last 20 years. While this is a clear improvement there remain vestiges of the old system of self-regulation which need to be addressed. Additionally, councils do not currently include executive members of the regulator, which can hamper effective accountability.

7.36. We proposed changing the make-up of the councils to a board structure, comprising executive and non-executive directors appointed on the basis of their skills, knowledge and expertise.

7.37. In line with good governance principles it would be the responsibility of the Chair of each regulatory body to determine the skills and experience needed for the board to effectively discharge its functions. This includes whether and how many current or former registrants sit on the board.

Responses

Category	Number of responses	Percentage
Agree	516	63%
Disagree	78	10%
Not answered	225	27%
Total	**819**	**100%**

Further Comments

Category	Number of responses
Not answered	457
Supportive	67
Board structure useful for governance and efficiency	57
HCPC good model	36
All other responses	202
Total	**819**

Question analysis

7.38. 63% of respondents agreed that the structure of the regulatory bodies' should change to a board structure that comprises both non-executive and executive members. 57 respondents felt this would help improve governance and efficiency. 67 respondents were broadly supportive.

7.39. Some regulatory bodies felt that their governance arrangements were already satisfactory.

UK and Devolved Governments' response

7.40. The UK and Devolved Governments agree that councils of the regulatory bodies should become boards comprising executive and non-executive directors, appointed on the basis that they have the skills, knowledge and expertise to ensure the regulator discharges its functions effectively. The non-executive directors will always form the majority of the board. Current and former registrants may be appointed to the board but they will not form a majority.

Q19: Do you think that the views of employers should be better reflected on the councils of the regulatory bodies, and how might this be achieved?

Proposal

7.41. The regulatory bodies have a role, along with others within the healthcare system, of ensuring that professionals have the right skills and behaviours and are educated to the right professional standards and have the right professional values. This ensures that professionals are fit to practise and fit for purpose.

7.42. It is therefore important that the regulatory bodies work closely with employers of professionals. The consultation sought views on whether employers should be represented on the councils of the regulatory bodies.

Responses

Category	No. Responses	Percentage
Agree	275	34%
Disagree	335	41%
Not Answered	209	26%
Total	**819**	**100**

Further Comments

Category	Number of responses
Not answered	345
Impossible to get fair representation of employers on a council	97
Private sector patient/client also employer	97
Employers would have vested interests	57
Employer views important	53
All other responses	170
Total	**819**

Question analysis

7.43. A large number of respondents did not provide a view on the question.

7.44. There was no clear consensus among respondents. 41% of respondents did not agree that the views of employers should be better reflected on the councils of the regulatory bodies. 34% felt that there was a need for better representation of employers.

7.45. 97 respodents pointed out that it would be difficult to reflect the range of employer types, such as large service private providers, self-employed registrants and those directly employed by the NHS.

UK and Devolved Governments' response

7.46. The UK and Devolved Governments believe that the regulatory bodies should be working closely with employers to ensure that professionals are educated to the right professional standards and have the right knowledge, skills and expertise.

7.47. The responses to the consultation raised legitimate concerns in relation to a potential conflict of interest should employers be represented on the boards of the regulatory bodies.

7.48. We will not therefore take forward the proposal for employers to be represented on the regulatory bodies' board. However, we expect regulatory bodies to actively seek and consider the views of employers.

Q20: Should each regulatory body be asked to set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals?

Proposal

7.49. The regulation of healthcare professionals is more than just fitness to practise. The regulatory system needs to support the professionalism of all registrants to ensure that they have the right knowledge, skills and expertise to deliver safe, high quality care.

7.50. The proposed reform of fitness to practise procedures set out in the consultation will create capacity for the regulatory bodies to devote resources to supporting and maintaining the professionalism of their registrants.

7.51. It is important that the regulatory bodies continue to be transparent in carrying out their functions. This should include setting out how they will ensure they produce and sustain fit to practise and fit for purpose professionals.

Responses

Category	No. Responses	Percentage
Agree	556	68%
Disagree	63	8%
Not Answered	200	24%
Total	**819**	**100**

Further Comments

Category	Number of responses
Not answered	425
HCPC good model	143
Standardised approach/consistent/common	38
All other responses	213
Total	**819**

Question analysis

7.52. 68% of respondents agreed that each regulatory body should set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals.

7.53. 143 respondents referred to the HCPC's model of supporting professionalism as an effective model, noting the clarity of the standards that apply across multiple professions, including the standards for continuing professional development.

UK and Devolved Governments' response

7.54. The UK and Devolved Governments welcome steps that the regulatory bodies have already taken to ensure that they produce and sustain fit to practise and fit for purpose professionals. We expect, as the legislative changes come into force, that the regulatory bodies will have more resources to focus on the professionalism of all registrants and that they will set out a clear strategy for how they will achieve this.

Q21: Should potential savings generated through the reforms be passed back as fee reductions, be invested upstream to support professionalism, or both? Are there other areas where potential savings should be reinvested?

Proposal

7.55. The reform of the regulatory bodies fitness to practise processes should produce efficiency savings. We sought views on whether such savings should be used to support the professional standards of all registrants, to reduce registrant fees, or both.

Category	Number of responses	Percentage
Both	277	34%
Fee reduction	109	13%
Not answered	245	30%
Support professionalism	188	23%
Total	**819**	**100%**

Question analysis

7.56. The response was mixed. 34% of respondents felt that any savings should be directed to both fee reductions and invested in supporting professionalism, 23% thought that they should be reinvested to support the professionalism of registrants, and 13% that they should be solely used to support a reduction in registrants' fees.

UK and Devolved Governments' response

7.57. The reform of the regulatory bodies fitness to practise processes should lead to a reduction in spending on fitness to practise. It is clear from the consultation responses that there is support for both reinvesting this to support the professionalism of registrants and to reduce the fees paid by registrants.

7.58. The UK and Devolved Governments have previously set out their view that fee rises should be kept to a minimum.

7.59. In line with the powers granted to SWE and following discussions with the regulatory bodies since consultation we will introduce a power enabling regulatory bodies to charge (on a cost recovery basis only) for work they undertake outside of the registration of professionals. This power will mean that the fees paid by registrants will no longer fund all of the functions of the regulatory bodies, and will therefore reduce the pressure on registrant fees.

7.60. The use of potential savings is ultimately a matter for the regulatory bodies.

8. Impact assessment

8.1. The aims of the proposals set out in *Promoting professionalism; reforming regulation* were to simplify, streamline and modernise the legislative framework for the regulation of healthcare professionals. The consultation sought views on the impact of the proposals. This section summarises the responses of the impact of the proposed changes.

Q22: How will the proposed changes affect the costs or benefits for your organisation or those you represent?

- **an increase**
- **a decrease**
- **stay the same**

Please explain your answer and provide an estimate of impact if possible.

Responses

Category	No. Responses	Percentage
Decrease	148	18%
Increase	154	19%
Not Answered	334	41%
Stay the same	183	22%
Total	**819**	**100**

Further Comments

Category	No. Responses
Not answered	265
Deregulation and the wider negative impacts this could have	202
Non-applicable	67
Generally Decrease cost	30
General Increase cost	28
All other responses	227
Total	**819**

Question analysis

8.2. A large number of respondents did not answer this question. Of those that did, responses were mixed. 22% of respondents felt that the proposed changes would have neither a cost or benefit to their organisation, whereas 18% said they would decrease costs and 19% said they would increase costs.

8.3. A high proportion of respondents (202) said that the deregulation of smaller professions could have a negative impact on the healthcare system.

UK and Devolved Governments' response

8.4. The UK and Devolved Governments will continue to work with stakeholders to assess the impact of the legislative changes that we propose to take forward in this document.

Q23: How will the proposed changes contribute to improved public protection and patient safety (health benefits) and how could this be measured?

Responses

Category	Number of responses
Not answered	261
Better governance, a more efficient and streamlined regulatory process	159
Decrease patient safety	105
Easier for public/transparency/clarity	102
Sharing of information	89
Not applicable	82
All other responses	21
Total	**819**

Question analysis

8.5. The response to this question was mixed. The highest number of those that responded suggested that the proposed changes could both lead to improved governance and a more efficient and streamlined regulatory system (159 responses).

8.6. This was balanced by respondents' views that the proposals could reduce public safety (105 responses).

UK and Devolved Governments' response

8.7. The UK and Devolved Governments will continue to work with stakeholders to assess the impact of the legislative changes that we will now take forward.

9. Equality analysis

Overview of chapter

9.1. This consultation sought views on the impact of the proposals on the Department of Health and Social Care, the Devolved Governments and the professional regulatory bodies' Public Sector Equality Duty. This chapter summarises the responses.

Q24: Do you think that any of the proposals would help achieve any of the following aims:

- **Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 and Section 75(1) and (2) of the Northern Ireland Act 1998?**
- **Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?**
- **Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?**

If yes, could the proposals be changed so that they are more effective?

If not, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims?

Responses

Category	No. Responses	Percentage
No	267	33%
Not Answered	357	44%
Yes	195	24%
Total	**819**	**100**

If Yes, please explain

Category	No. Responses
Not answered	511
Deregulation could be counter productive	86
Non-applicable	54
All other responses	168
Total	**819**

If no, please explain

Category	No. Responses
Not answered	579
Deregulation could be counter productive	70
Non-applicable	46
All other responses	124
Total	**819**

Question analysis

9.2. A high number of respondents (44%) did not respond to the question. Of those who did, the majority did not think that the proposals in the consultation would achieve the aims equality aims set out in Q24. However, respondents did not provide evidence that the proposals would be detrimental.

UK and Devolved Governments' response

9.3. The UK and Devolved Governments will continue to work with stakeholders to assess the impact of the legislative changes that we will take forwards.

Annex A - Consultation questions

Q1: Do you agree that the PSA should take on the role of advising the UK Governments on which groups of healthcare professionals should be regulated?

Q2: What are your views on the criteria suggested by the PSA to assess the appropriate level of regulatory oversight required of various professional groups?

Q3: Do you agree that the current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight? Which groups should be reassessed as a priority? Why?

Q4: What are your views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals?

Q5: Do you agree that there should be fewer regulatory bodies?

Q6: What do you think would be the advantages and disadvantages of having fewer professional regulatory bodies?

Q7: Do you have views on how the regulatory bodies could be configured if they are reduced in number?

Q8: Do you agree that all regulatory bodies should be given a full range of powers for resolving fitness to practise cases?

Q9: What are your views on the role of mediation in the fitness to practise process?

Q10: Do you agree that the PSA's standards should place less emphasis on the fitness to practise performance?

Q11: Do you agree that the PSA should retain its powers to appeal regulatory bodies' fitness to practise decisions to the relevant court, where it is considered the original decision is not adequate to protect the public?

Q12: Do you think the regulatory bodies have a role in supporting professionalism and if so how can regulatory bodies better support registrants to meet and retain professional standards?

Q13: Do you agree that the regulatory bodies should work more closely together? Why?

Q14: Do you think the areas suggested above are the right ones to encourage joint working? How would those contribute to improve patient protection? Are there any other areas where joint working would be beneficial?

Q15: Do you agree that data sharing between healthcare regulatory bodies including systems regulatory bodies could help identify potential harm earlier?

Q16: Do you agree that the regulatory bodies should be given greater flexibility to set their own operating procedures?

Q17: Do you agree that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Irish Assembly, in addition to the UK Parliament?

Q18: Do you agree that the councils of the regulatory bodies should be changed so that they comprise of both non-executive and executive members?

Q19: Do you think that the views of employers should be better reflected on the councils of the regulatory bodies, and how might this be achieved?

Q20: Should each regulatory body be asked to set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals?

Q21: Should potential savings generated through the reforms be passed back as fee reductions, be invested upstream to support professionalism, or both? Are there other areas where potential savings should be reinvested?

Q22: How will the proposed changes affect the costs or benefits for your organisation or those you represent?
- an increase
- a decrease
- stay the same

Please explain your answer and provide an estimate of impact if possible.

Q23: How will the proposed changes contribute to improved public protection and patient safety (health benefits) and how could this be measured?

Q24: Do you think that any of the proposals would help achieve any of the following aims:
- Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 and Section 75(1) and (2) of the Northern Ireland Act 1998?
- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?

If yes, could the proposals be changed so that they are more effective?
If not, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims?

Annex B – Listed offences

This annex lists the offences proposed to be covered by automatic erasure from the registers, set out at paragraphs 2.7 and 6.15.

- Murder.
- An offence under any of the following provisions of the Sexual Offences Act 2003—
    - (a)section 1 (rape),
    - (b)section 2 (assault by penetration),
    - (c)sections 5 to 8 (rape and other offences against children under 13),
    - (d)sections 9 to 12 (child sex offences),
    - (e)sections 30 to 33 (offences against persons with a mental disorder impeding choice), or
    - (f)sections 47 to 50 (abuse of children through prostitution and pornography).
- An offence under any of sections 9 to 12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (sexual services of children and child pornography).
- An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008—
    - (a)article 5 (rape),
    - (b)article 6 (assault by penetration),
    - (c)articles 12 to 15 (rape and other offences against children under 13),
    - (d)articles 16 to 19 (offences against children under 16),
    - (e)articles 37 to 40 (abuse of children under 18 through prostitution and pornography), or
    - (f)articles 43 to 46 (offences against persons with a mental disorder impeding choice).

- An offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—
    - (a)section 1 (rape),
    - (b)section 2 (assault by penetration),
    - (c)sections 3 to 6 (sexual assault and sexual coercion) committed against a person who is, by virtue of section 17 of that Act (capacity to consent: mentally disordered persons), treated as incapable of consenting,
    - (d)sections 18 to 26 (rape and other offences against children under 13), or
    - (e)sections 28 to 33 (offences against older children).
- An offence under either of the following provisions of the Modern Slavery Act 2015—
    - (a)section 1 (slavery, servitude and forced or compulsory labour), or
    - (b)section 2 (human trafficking).
- An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015—
    - (a)section 1 (offence of human trafficking), or
    - (b)section 4 (slavery, servitude and forced or compulsory labour).
- Extortion (in Scotland).
- An offence under section 21 of the Theft Act 1968 (blackmail).
- An offence under section 20 of the Theft Act (Northern Ireland) 1969 (blackmail).
- An offence under section 3 of the Sexual Offences Act 2003 (sexual assault).
- An offence under article 7 of the Sexual Offences (Northern Ireland) Order 2008 (sexual assault).
- An offence under section 3 of the Sexual Offences (Scotland) Act 2009 (sexual assault).

Annex C – Regulatory bodies and regulated professions

Regulatory body	Acronym	Professions regulated	Number of registrants (including premises where applicable) 2017/18
General Chiropractic Council	GCC	Chiropractors	3,255
General Dental Council	GDC	Dentists Clinical dental technicians Dental hygienists Dental nurses Dental technicians Dental therapists Orthodontic therapists	110,128
General Medical Council	GMC	Medical practitioners	281,018
General Optical Council	GOC	Optometrists Dispensing opticians Student optometrists Student dispensing opticians Optical businesses	30,097
General Osteopathic Council	GOsC	Osteopaths	5,239
General Pharmaceutical Council	GPhC	Pharmacists in Great Britain Pharmacy technicians in Great Britain Pharmacy business premises in Great Britain	78,625 Pharmacy Professionals and 14,348 Pharmacies on register
Health and Care Professions Council	HCPC	Arts therapists Biomedical scientists Chiropodists/podiatrists Clinical scientists Dietitians Hearing aid dispensers Occupational therapists Operating department practitioners	361,061

Regulatory body	Acronym	Professions regulated	Number of registrants (including premises where applicable) 2017/18
		Orthoptists Paramedics Physiotherapists Practitioner psychologists Prosthetists/orthotists Radiographers Social workers in England Speech and language therapists	
Nursing and Midwifery Council	NMC	Nurses Midwives Nursing Associates	690,773
Pharmaceutical Society of Northern Ireland	PSNI	Pharmacists in Northern Ireland Pharmacy business premises in Northern Ireland	2,479 Pharmacists and 548 Pharmacies

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