



IPEM Institute of Physics and Engineering in Medicine

IPEM response to the Department of Health and Social Care consultation: Regulating healthcare professionals, protecting the public

About IPEM

- The Institute of Physics and Engineering in Medicine (IPEM) is a professional association and Learned Society with 4,500 members working in hospitals, academia and industry, who are medical physicists, clinical and biomedical engineers and technologists working with applications of physics and engineering applied to medicine and biology.
- Our mission is to constantly improve human health by the application of physics and engineering to the prevention, diagnosis and treatment of disease through research, innovation, education and clinical practice.
- As a charity, IPEM's aim is to promote for the public benefit the advancement of physics and engineering applied to medicine and biology and to advance public education in the field. We do so by supporting and publishing research and supporting the dissemination of knowledge and innovation through project funding and scientific meetings; and by setting standards for education, training and continuing professional development for healthcare scientists and clinical engineers.
- In compiling this response, IPEM consulted with members of IPEM's Professional and Standards Council.

Governance and Operating Framework

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

Agree, for patient safety to be maintained an holistic approach is necessary.

2. Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and should have these related duties? Please give a reason for your answer.

Agree, transparency is necessary for accountability.

3. Do you agree or disagree that regulators should be required to assess the impact of proposed changes to their rules, processes and systems before they are introduced? Please give a reason for your answer

Agree, everything done within healthcare should assess the direct impact on the patient. The impact on current and prospective health and care professionals; and other relevant stakeholders across the health and care system should also be considered in terms of the in-direct impact on the patient.

4. Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators? Please give a reason for your answer.

Disagree, IPEM consider that it is essential that there is sufficient professional representation to the board.

- “68. Current and former registrants 3 may be appointed to the board (as either executive or non-executive directors) but should not make up more than half of the board at any time“
- “69. While regulators will still be able to appoint current or former registrants to their boards, members will still be appointed on merit and there will no longer be a requirement to appoint professional and lay members”.

The regulators clearly need to have detailed knowledge of the professions that they regulate, which can only be reliably provided by members of the professions. Lay members of boards are very helpful and should not be overlooked.

5. Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval? Please give a reason for your answer

Disagree, evidence has been provided to indicate that fees are sometimes reduced if they are set without Privy Council approval, however, no evidence is provided on the amount of increase if the Privy Council approval is needed or not – further information is required.

6. Do you agree or disagree that regulators should be able to set a longer-term approach to fees? Please give a reason for your answer.

Agree, long term approach enables better financial planning for registrants.

7. Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation? Please give a reason for your answer.

Agree, providing the function of the regulators are consistent. How they achieve the function should be down to individual regulators.

8. Do you agree or disagree that regulators should be able to charge for services undertaken on a cost recovery basis, and that this should extend to services undertaken outside of the geographical region in which they normally operate? Please give a reason for your answers.

Unable to comment – not enough information provided.

9. Do you agree or disagree that regulators should have the power to delegate the performance of a function to a third party including another regulator? Please give a reason for your answer.

Agree, providing the third party has the required experience, resource and knowledge to perform the function.

10. Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above? Please give a reason for your answer

Agree, currently IPEM expects individuals to self-declare regulatory issues which they are facing in order to determine whether this would affect their membership of IPEM.

11. Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which it operates? Please give a reason for your answer.

Agree, transparency is necessary for accountability.

12. Do you agree or disagree that the Privy Council's default powers should apply to the GDC and GPhC? Please give a reason for your answer.

Agree, consistency across all regulators is important.

Education and Training

13. Do you agree or disagree that all regulators should have the power to set:
- standards for the outcomes of education and training which leads to registration or annotation of the register for individual learners;
 - standards for providers who deliver courses or programmes of training which lead to registration;
 - standards for specific courses or programmes of training which lead to registration;
 - additional standards for providers who deliver post-registration courses of programmes of training which lead to annotation of the register; and
 - additional standards for specific courses or programmes of training which lead to annotation of the register?

Please give a reason for your answer.

Agree, but need to ensure the boundary between training and education providers and regulators are maintained.

14. Do you agree or disagree that all regulators should have the power to approve, refuse, re-approve and withdraw approval of education and training providers, qualifications, courses or programmes of training which lead to registration or annotation of the register? Please give a reason for your answer.

Agree, HCPC already does.

15. Do you agree that all regulators should have the power to issue warnings and impose conditions? Please give a reason for your answer

Agree, if regulators approve then they should also have the ability to withdraw approval.

16. Do you agree or disagree with the proposal that education and training providers have a right to submit observations and that this should be taken into account in the decision making process? Please provide a reason for your answer.

Agree, all parties should be heard if an appeal is requested.

17. Do you agree that:

- education and training providers should have the right to appeal approval decisions;
- that this appeal right should not apply when conditions are attached to an approval;
- that regulators should be required to set out the grounds for appeals and appeals processes in rules?

Please provide a reason for your answer

Agree that education and training providers should have the right to appeal approval decisions;

Disagree that this appeal right should not apply when conditions are attached to an approval education and training provider should be able to appeal if they do not agree with the conditions;

Agree that regulators should be required to set out the grounds for appeals and appeals processes in rules.

18. Do you agree or disagree that regulators should retain all existing approval and standard setting powers? Please provide a reason for your answer

Agree, providing it is completed in consultation with the profession.

19. Do you agree or disagree that all regulators should have the power to set and administer exams or other assessments for applications to join the register or to have annotations on the register? Please provide a reason for your answer.

Disagree, currently concerned by who carries out these assessments by HCPC.

20. Do you agree or disagree that this power to set and administer exams or other assessments should not apply to approved courses or programmes of training which lead to registration or annotation of the register? Please provide a reason for your answer.

Agree, regulators should set standards, the 'providers of training' should set the exams/assessment to the standard set by the regulator.

21. Do you agree or disagree that regulators should be able to assess education and training providers, courses or programmes of training conducted in a range of ways? Please provide a reason for your answer

Agree, regulators need to check defined standards are met.

22. Do you agree or disagree that the GMC's duty to award CCTs should be replaced with a power to make rules setting out the procedure in relation to, and evidence required in support of, CCTs? Please give a reason for your answer.

No opinion.

23. Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements? Please give a reason for your answer.

Agree, providing in is in collaboration with professional bodies.

Registration

24. Do you agree or disagree that the regulators should hold a single register which can be divided into parts for each profession they regulate? Please give a reason for your answer

Agree, HCPC are already doing this.

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

- Name
- Profession
- Qualification (this will only be published if the regulator holds this information. For historical reasons not all regulators hold this information about all of their registrants)
- Registration number or personal identification number (PIN)
- Registration status (any measures in relation to fitness to practise on a registrant's registration should be published in accordance with the rules/policy made by a regulator)
- Registration history

Please provide a reason for your answer.

Agree, HCPC on the whole already does this (except qualifications and registration history).

26. Do you agree or disagree that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data? Please give a reason for your answer.

Agree, provided data is sought only to determine ability to safely practice.

27. Should they be given a discretionary power allowing them to publish specific data about their registrants? Please give a reason for your answer

Disagree, the processes to remove people from the register should be transparent, therefore there is no need to publish additional data other than they are on or off the register.

28. Do you agree or disagree that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection? Please give a reason for your answer

Agree, the HCPC already do this.

29. Do you agree or disagree that all of the regulators should be given a permanent emergency registration power? Please give a reason for your answer.

Disagree, emergency registration should be use infrequently so there is no need for there to be a permanent emergency registration.

30. Do you agree or disagree that all regulators should have the same offences in relation to protection of title and registration within their governing legislation?

Agree, consistency is good.

31. Do you agree or disagree that the protection of title offences should be intent offences or do you think some offences should be non-intent offences (these are offences where an intent to commit the offence does not have to be proven or demonstrated)? Please give a reason for your answer.

Agree, offences should be non-intent offences, this would stop careless use of terminology.

32. Do you agree or disagree with our proposal that regulators should be able to appoint a deputy registrar and/or assistant registrar, where this power does not already exist? Please give a reason for your answer

Agree, HCPC already has a deputy registrar.

33. Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance? Please give a reason for your answer.

Agree, transparency is important.

34. Should all registrars be given a discretion to turn down an applicant for registration or should applicants be only turned down because they have failed to meet the new criteria for registration? Please give a reason for your answer

Agree, only if the individual is not safe to practice.

35. Do you agree or disagree that the GMC's provisions relating to the licence to practise should be removed from primary legislation and that any requirements to hold a licence to practise and the procedure for granting or refusing a licence to practise should instead be set out in rules and guidance? Please give a reason for your answer

Unable to comment – not enough information provided.

36. Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them? Please give a reason for your answer

Agree, providing the registrant is able to develop their skills appropriately so they can demonstrate they are safe to practice at the end of their suspension.

37. Do you agree or disagree that the regulators should be able to set out their removal and readmittance processes to the register for administrative reasons in rules, rather than having these set out in primary legislation? Please give a reason for your answer

Unable to comment – not enough information provided.

38. Do you think any additional appealable decisions should be included within legislation? Please give a reason for your answer

Unable to comment – not enough information provided.

39. Do you agree or disagree that regulators should set out their registration appeals procedures in rules or should these be set out in their governing legislation? Please give a reason for your answer

Unable to comment – not enough information provided.

40. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers? Please give a reason for your answer.

Agree, the HCPC does not hold a student register.

41. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish non-practising registers? Please give a reason for your answer

Agree, in this definition of non-practising, then CPD cannot be maintained.

42. Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation? Please give a reason for your answer.

Unable to comment.

Fitness to practise

43. Do you agree or disagree with our proposal that regulators should be given powers to operate a three-step fitness to practise process, covering:

- 1: initial assessment
- 2: case examiner stage
- 3: fitness to practise panel stage?

Please give a reason for your answer.

Agree, very similar to what already happens with the HCPC.

44. Do you agree or disagree that:

- All regulators should be provided with two grounds for action – lack of competence, and misconduct?
- Lack of competence and misconduct are the most appropriate terminology for these grounds for action?

- Any separate grounds for action relating to health and English language should be removed from the legislation, and concerns of this kind investigated under the ground of lack of competence?
- This proposal provides sufficient scope for regulators to investigate concerns about registrants and ensure public protection?

Please give a reason for your answers

Agree, very similar to what already happens with the HCPC.

45. Do you agree or disagree that:

- all measures (warnings, conditions, suspension orders and removal orders) should be made available to both Case Examiners and Fitness to Practise panels; and
- automatic removal orders should be made available to a regulator following conviction for a listed offence?

Please give a reason for your answers

Agree, very similar to what already happens with HCPC.

46. Do you agree or disagree with the proposed powers for reviewing measures? Please give a reason for your answer

Agree, powers seem appropriate

47. Do you agree or disagree with our proposal on notification provisions, including the duty to keep the person(s) who raised the concern informed at key points during the fitness to practise process? Please give a reason for your answer

Agree, transparency and maintaining patient/public trust is important.

48. Do you agree or disagree with our proposal that regulators should have discretion to decide whether to investigate, and if so, how best to investigate a fitness to practise concern? Please give a reason for your answer

Agree, providing regulators consult members of the profession when making the decision.

49. Do you agree or disagree that the current restrictions on regulators being able to consider concerns more than five years after they came to light should be removed? Please give a reason for your answer

Agree, demonstrating not fit for practice, evidence is enhanced if it can cover a larger number of incidents, although it should not result in individuals delaying in highlighting a fitness to practice issue.

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

No, non-compliance should be managed using existing powers such as “adverse inferences”, refusal to comply should always be considered negatively.

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

Agree, a straight-forward approach is useful.

52. Do you agree or disagree with our proposal that regulators should be given a new power to automatically remove a registrant from the Register, if they have been convicted of a listed offence, in line with the powers set out in the Social Workers Regulations? Please give a reason for your answer

Agree, employers would also refuse employment to individuals who had been convicted of a listed offence.

53. Do you agree or disagree with our proposals that case examiners should:

- have the full suite of measures available to them, including removal from the register?
- make final decisions on impairment if they have sufficient written evidence and the registrant has had the opportunity to make representations?
- be able to conclude such a case through an accepted outcome, where the registrant must accept both the finding of impairment and the proposed measure?
- be able to impose a decision if a registrant does not respond to an accepted outcomes proposal within 28 days?

Please give a reason for your answers

Agree with all the proposals, the process has the ability to stop here if there is sufficient evidence.

54. Do you agree or disagree with our proposed powers for Interim Measures, set out above? Please give a reason for your answer

Agree, the Interim Measures seem appropriate.

55. Do you agree or disagree that regulators should be able to determine in rules the details of how the Fitness to Practise panel stage operates? Please give a reason for your answer

Agree, it is good that the regulator must publicly consult on these rules.

56. Do you agree or disagree that a registrant should have a right of appeal against a decision by a case examiner, Fitness to Practise panel or Interim Measures panel? Please give a reason for your answer.

Agree, important to ensure all decisions made are robust.

57. Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland? Please give a reason for your answer

Agree, who pays for legal fees?

58. Do you agree or disagree that regulators should be able to set out in Rules their own restoration to the register processes in relation to fitness to practise cases? Please give a reason for your answer.

Not enough information to make an opinion.

59. Do you agree or disagree that a registrant should have a further onward right of appeal against a decision not to permit restoration to the register? Please give a reason for your answer.

Agree, it should be in line with appeals against removal from registration.

60. Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland? Please give a reason for your answer

Agree, it should be in line with appeals against removal from registration.

61. Do you agree or disagree that the proposed Registrar Review power provides sufficient oversight of decisions made by case examiners (including accepted outcome decisions) to protect the public? Please provide any reasons for your answer.

Agree, a registrar could review all cases if need be.

62. Under our proposals, the PSA will not have a right to refer decisions made by case examiners (including accepted outcome decisions) to court, but they will have the right to request a registrar review as detailed above. Do you agree or disagree with this proposed mechanism? Please provide any reasons for your answer.

Disagree, there needs to be an independent route.

63. Do you have any further comments on our proposed model for fitness to practise?

No.

Regulation of Physician Associates and Anaesthesia Associates

64. Do you agree or disagree with the proposed approach to the regulation of PAs and AAs? Please give a reason for your answer.

Agree. However, IPEM would like to bring to the attention of PSA the request to regulate an existing profession, Clinical Technologists, who currently are part of a voluntary register but have been lobbying to be regulated for 20 years.

65. In relation to PAs and AAs, do you agree or disagree that the GMC should be given a power to approve high level curricula and set and administer exams? Please give a reason for your answer.

Outside Clinical Science remit.

66. Do you agree or disagree with the transitional arrangements for PAs and AAs set out above? Please give a reason for your answer

Outside Clinical Science remit.

67. Do you agree or disagree that PAs and AAs should be required to demonstrate that they remain fit to practise to maintain their registration? Please give a reason for your answer

Outside Clinical Science remit.

68. Do you agree or disagree with the benefits identified in the table above? Please set out why you've selected your answer and any alternative benefits you consider to be relevant and any evidence to support your views

Agree.

69. Do you agree or disagree with the costs identified in the table above? Please set out why you've chosen your answer and any alternative impacts you consider to be relevant and any evidence to support your views

Agree.

70. Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the general equality duty that is set out in the Equality Act 2010, or by Section 75 of the Northern Ireland Act 1998?

- Yes – positively
- Yes - negatively
- No
- Don't know

Please provide further information to support your answer

Yes positively – provided there is diversity within the regulatory bodies.

ENDS

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