The Royal College of Ophthalmologists' response to the Department for Health's consultation on Promoting professionalism, reforming regulation.

January 18

INTRODUCTION

The Royal College of Ophthalmologists (RCOphth) is the professional body for ophthalmologists and trainees in the UK. We work to ensure quality of patient care through the maintenance of high standards in ophthalmology and the wider eye service. We work closely with leaders across the sector to help shape eye services for the benefit of patients.

We recently responded to the Department's consultation on regulating medical associates[1] and we welcome this opportunity to discuss through this consultation how to ensure the wider system of regulation keeps up with the changing workforce.

CONSULTATION QUESTIONS

1. 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?

Yes. The PSA is well placed to assess the need for regulation of healthcare practitioners based upon criteria set out in the PSA's paper 'Right Tough Assurance: a methodology for assessing and assuring occupational risk of harm'[2].

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

We support the proposed approach to assess evidence of risk of harm and then wider external policy factors. It is also important to have ongoing flexibility to assess changing risk to patients as roles continue to change, overlap and take on new responsibilities.

Increasing emphasis on shared care means it is not always clear who holds responsibility for patients. A patient may receive eye care from both a hospital consultant and an independent high street optometrist working in an extended role. It is not always clear who holds responsibility. Lack of integration between the two services combined with

[1] https://www.rcophth.ac.uk/wp-content/uploads/2017/11/RCOphth-response-to-DH-consultation-on-regulating-Med-Assocs-nov-17.pdf
[2] https://www.professionalstandards.org.uk/docs/default-source/publications/right-touch-assurance---a-methodology-for-assessing-and-assuring-occupational-risk-of-harm-(october-2016).pdf?sfvrsn=0

inconsistent levels of regulatory oversight may leave patients at risk. However, many optometrists will not go on to deliver healthcare and responsibility will remain with the clinical staff. Therefore, it is important that the assessment criteria can effectively manage a range of levels of risk within professional groups.

3. 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?

We would support a reassessment of professions that have taken on increased responsibility for patient care, therefore posing a greater risk. In eye care this includes optometrists, orthoptists, ophthalmic nurses and ophthalmic clinical scientists, many of whom have taken on extended roles. As above, however, within each professional group is a spectrum of practitioners holding varying levels of responsibility for care, so it may not be proportionate to impose a higher degree of oversight on all individuals.

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

Prohibition orders do not require CPD or provide an opportunity to identify fitness to practice issues before they pose a risk to patients. Using a system that requires a practitioner to practise in an unsafe way before it is activated would be a much less supportive way of promoting professionalism than the proposed changes to statutory regulation. To develop a truly multidisciplinary workforce delivering shared care, there should be a consistent approach to supporting professionals and promoting a culture of professionalism.

Therefore in the long-term, regulation would be preferable to prohibition orders.

5. Do you agree that there should be fewer regulatory bodies?

Yes, we would welcome steps to simplify regulation and make the process clearer and more efficient for the public and professionals.

6. What do you think would be the advantages and disadvantages of having fewer professional regulators?

Fewer regulatory bodies could bring greater consistency to practice by using common standards, which would support the increasingly multidisciplinary approach to care. It may also bring more efficiency and economies of scale. Simplifying the regulatory landscape should make it easier to understand and engage with, for both professionals and the public.

7. Do you have views on how the regulators could be configured if they are reduced in number?

No, but the PSA would be well placed to advise on the configuration.

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

Yes, this would bring greater flexibility to the system. Further work to establish how these powers are used should be carried out in consultation with the relevant professions in order to ensure an effective system is implemented.

9. What are your views on the role of mediation in the fitness to practise process?

Mediation may have a place in the fitness to practise process, as a way of supporting those involved to be more open and reflective. However, mediation alone would not be an appropriate method of resolving issues where there is a wider public protection risk. Whether a concern could be resolved by mediation rather than more involved FtP procedures, should reflect the level of public risk.

10. Do you agree that the PSA's standards should place less emphasis on fitness to practise performance and consider the wider performance of the regulators?

Yes. It is important to deal with potential problems 'upstream' by addressing education and ongoing professional development, while revalidation provides an opportunity to pick up poor practice. Since only a small proportion of practitioners are subject to fitness to practise concerns, it seems appropriate that regulators seek to increase their focus on professionalism and standards of care among registrants. This would promote quality improvement and innovation among the workforce which is crucial for the long-term development and sustainability of the health service.

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

Yes, to promote fairness, transparency and trust there should be an appropriate system to challenge decisions and hold regulators to account.

12. Do you think the regulators have a role in supporting professionalism and if so how can regulators better support registrants to meet and retain professional standards?

Yes, the regulators are well placed to support professionalism among those they regulate. Regulators can undertake research using the data they hold which can help identify areas

of concern and recommendations for education and training. Regulators can also provide an important contribution to the wider discussion on systemic support for professionals to meet required standards, for example by highlighting the need for employers to ensure adequate time for CPD activities.

13. Do you agree that the regulators should work more closely together? Why?

Greater collaboration could result in greater consistency, and sharing resources such as an online register would be simpler and more accessible for the public. Greater cooperation between professional and systems regulators could enable more complex, systemic issues to be better understood and addressed.

14. 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?

Yes. A single register would have advantages for patients and employers, providing a one-stop shop for checking all healthcare professionals are registered, rather than having to work out which ones are regulated and by whom, then accessing several websites. A single adjudicator would also mean there could be a consistency of approach, for example when a range of healthcare professionals are involved in the same incident resulting in an investigation.

15. Do you agree that data sharing between healthcare regulators including systems regulators could help identify potential harm earlier?

Yes, sharing data could enable a deeper understanding of risks so that they can be addressed before resulting in harm. However, it is important that there is transparency about how data about individuals is used, and that misinterpretation is avoided. Consulting with the professional bodies about new approaches to data use could help avoid misuse.

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

Yes, regulators should be able to respond more quickly to changing professional roles and models of care without lengthy legislative change, within a clear system of accountability.

17. 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?

Yes, the standard of accountability should be the same across all four nations.

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

Yes, this may improve accountability and would bring the councils in line with NHS and other organisations within the health arena that have exec and non-exec board members.

19. 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?

Yes. Councils could hold regular stakeholder engagement activities with employers and gather their views to inform decision-making.

20. 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?

Yes, although many regulators have already considered how they produce professionals who are fit to practise and have developed their policy and activities to deliver this.

21. 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?

Both are important. Further consultation with stakeholders should be carried out after savings have been made in order to clarify how they should be allocated.

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

a. an increase
b. a decrease
c. stay the same
Please explain your answer and provide an estimate of impact if possible.

There would be a potential cost to the College if substantial changes were introduced to curriculum development and education. Professional bodies may also need to provide additional profession-specific tools and information to supplement more generic standards and guidelines from a larger multi-profession regulator. We would therefore expect an increase in costs from revision and collaboration with other bodies. As a relatively small College, the costs may be moderate but significant.

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

A streamlined system of professional regulation should provide a more consistent approach to regulation and so improved patient safety. The eye care workforce is developing which includes a mix of professionals, some statutory regulated, others not. A consistent approach and an easy way for employers and patients to be able to check the register and to make a complaint, if necessary, is to be welcomed. The proposed system should also enable the PSA to respond to changes in the workforce as new professions emerge and existing ones take on new responsibilities and roles.

An indirect method of measurement of improved protection/patient safety would be a measure of the number of substantiated complaints against medical and other staff.

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

a. 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?

b. Advancing equality of opportunity between persons who share a relevant protected Characteristic and persons who do not share it?

c. 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?

It is unclear how these recommendations in of themselves would help achieve these aims. Rather, it is how they are implemented which will impact on issues of equality and healthcare professionals already have explicit codes of conduct that cover promoting equality.

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