Law Commission Proposals for
Regulation of Health & Social Care Professionals
AfN Briefing: Initial response
2nd April 2014

Introduction


1.2 The Law Commission review examined the legal frameworks for the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health Care Professions Council, the Nursing and Midwifery Council, the Pharmaceutical Society of Northern Ireland and the Professional Standards Authority. These bodies are responsible for regulating 32 professions in the UK, consisting of approximately 1.44 million professionals.

1.3 Our 2011 submission to the Law Commission review regarding the regulation of nutritionists in the UK is published on our website; http://www.associationfornutrition.org/Portals/0/Public/Position%20Statements/AfNRegulationHealthCareProfessionals.pdf

1.4 The final report and draft Bill sets out a new single legal framework for the regulation of all health and social care professionals. It also makes recommendations for voluntary registers in the health & social care sector.

Initial Response from Association for Nutrition

2.1 AfN welcomes the proposal in the draft bill to give Government new powers to add protected titles & functions. We agree with the statement in the Law Commission’s final report (Page 221) that a decision regarding the addition of a protected title or function is primarily a political decision about public protection and the introduction of a criminal offence. We are less convinced that the allocation of public resource such as court time & police should be a determining factor as to whether statutory protection of title should be introduced. The AfN holds the UK Voluntary Register of Nutritionists; our strategic objective is to achieve statutory protection of title for Registered Nutritionists to protect and benefit the public.
2.2 AfN welcomes confirmation of the continuing role of the PSA in accrediting voluntary registers. It would have been helpful if the draft bill had included within it an explicit responsibility for the PSA to only accredit voluntary registers that support scientific evidence-based practice, as opposed to complimentary or therapeutic-based practice.

2.3 AfN supports the purpose of the draft bill, to introduce a clear and consistent legal framework for professional regulation to enable the regulators to uphold their duty to protect the public and to give greater autonomy to be able to deliver functions in a way that is suited to the profession concerned. We will review the proposal in more depth along with the Government’s response. At this stage our initial commentary on the proposed bill is;

The Structure of Reform

3.1 We welcome the recommendations regulators be given powers to make or amend rules concerning registration, renewals, education, standards and CPD. We consider this essential for the development of professions and its professionals.

3.2 We welcome the objectives of achieving a single approach to decision making to provide both the public and the registrants with a unified understanding of the purpose of regulation for the promotion and maintenance of public confidence in the profession; and proper professional standards and conduct for individuals as its core, which align with AfN aims.

Governance

4.1 The recommendation Councils concentrate solely on strategic and policy issues and not operational delivery will reduce the potential for perceived conflicts of interest. It is noted operational delivery is expected to be delegated entirely to executive officers and others. AfN will reflect on how this impacts upon our own operation.

4.2 The draft Bill recommends Councils should not be comprised of a majority of registrants and assists with providing definitions of both a registrant and lay members. We note that concurrent membership of the Councils of regulatory bodies will be prohibited. AfN plans to review its current arrangements for Council membership over the coming 24 months.

Registers and Registration

5.1 We note the proposal to allow regulatory bodies to introduce a barring scheme in respect of a professional prescribed in the regulations and that this can extend to a specified field of activity and/or a specified occupational group. As the Health Care Professions Council currently regulate Dieticians AfN will need to review the potential impact that this may have on UKVRN registrants.

Education, Conduct and Practice

6.1 During 2014, AfN is developing its continuing professional developments and will take account of the Law Commission’s recommendations on standards determining the amount and type of training and education required, what information should be provided by registrants to demonstrate compliance in their chosen field and the appropriate action to be taken should registrants not comply.
Fitness to practise – impairment

7.1 We welcome the inclusion of insufficient proficiency in the knowledge and use of the English language. AfN already holds a minimum ILETS requirement for registration of 7 with no element lower than 6.0. We will review this to ensure this is sufficient as a standard entry requirement.

Fitness to Practise – Investigation

8.1 The purpose of an effective regulator is to ensure public protection is paramount and therefore the basis for any investigation into a registrant has to ensure the public interest is accounted for. We are concerned the proposed introduction of a five year time frame since an alleged incident occurred could have implications on public protection. A single incident may not become known for several years which could fall under the remit of ‘disgraceful conduct’ but may not have a bearing on the public interest. This would be unfair on the individual ‘victim’ concerned. Additionally, many healthcare professionals do not work directly with the public and may be responsible for policy decisions which have a detrimental effect on members of the public over a longer period. This could lead to errors in decision making if FtP departments have high workloads.

Overlap issues

9.1 We welcome the proposal for regulators to share and exercise functions jointly. This will reduce bureaucracy in the regulatory process and ensure registrants across the healthcare team are handled with consistency. We are unclear at this stage how this might be implemented, given the proposal for regulators to have express powers to delegate their functions to other regulators.

9.2 We welcome the proposals that regulators should share information in the spirit of co-operations and hope that this will extend to voluntary regulators.