PROFESSIONAL REGULATION AND PROTECTION OF TITLE

Council is asked to DISCUSS:

Options for achieving protection of title for ‘Registered Nutritionist.’

Introduction

1.1 Council will be aware that an implicit long term aim of the UKVRN has been to achieve statutory protection of title or equivalent external recognition. The purpose of this paper is to explore the four options for achieving protection of title, with the aim of demonstrating the integrity of the UKVRN and public benefit of strong professional regulation of nutritionists.

1.2 The four options explored below are;
- HPC statutory protection of title
- CHRE ‘assured register’ status
- Privy Council Chartership
- Science Council ‘Chartered Scientist’

Council is asked to consider the benefits, costs and distance of travel for each option, to inform our strategic planning and stakeholder engagement.

HPC Statutory Protection Of Title

2.1 The Health Professions Council (HPC) regulates 15 professions, including dieticians. HPC regulation gives statutory protection of title to regulated professions, with the consequential transfer of register operations, including FIP, from the relevant voluntary regulator/ professional body to the HPC.

2.2 The HPC, under the Health Professions Order 2001, gives the HPC discretionary powers to make recommendations to the Secretary of State for Health and to Scottish Ministers for the regulation of additional groups. Until 2010 the HPC had a new professions / aspirant groups process to assist the HPC in making recommendations and published its requirement for aspirant groups. However, with the publication of the Health and Social Care Bill 2011 and with it, the CHRE’s new responsibility for voluntary regulation (see below) the HPC is no longer considering applications and its new professions / aspirant groups process is now closed.

2.3 The current Government’s policy on extending regulation to new groups is that statutory regulation will only be considered in ‘exceptional circumstances’ where there is a ‘compelling case’ and where voluntary registers, such as those maintained by professional bodies and other organisations, are not considered sufficient to manage the risk involved.

2.4 Unless we can demonstrate a compelling case for statutory protection of title, that cannot be satisfied by CHRE ‘assured register’ status, it is unlikely we can achieve statutory protection of title under the term of present Government. However, Government policy does shift, and there could be an argument for laying the groundwork now, ready to make an application should policy change.
Council for Healthcare Regulatory Excellence

3.1 Health and Social Care Bill 2011 has given the Council for Healthcare Regulatory Excellence (CHRE) a new responsibility for voluntary regulation, to accredit Voluntary Registers in the Health & Social Care field. The CHRE is consulting on a scheme called ‘assured register status.’ The scheme is designed to appeal to voluntary registers who otherwise would wish to achieve HPC protection of title, but are unable to at present. Applications for ‘assured register’ will open in June 2012. Alison Douglas attended a workshop at the CHRE to give feedback on the current proposed arrangements and guidelines.

3.2 CHRE aims to provide an ‘accreditation scheme to enhance public confidence in unregulated health and care occupations by creating a reliable and effective assurance scheme for voluntary registers.’ Cost is likely to be around £11,000 application fee, with on-going annual fee of £9,000. CHRE stated benefits are:
- Mark of quality
- Seeks to influence outcomes
- Promotes professionalism, personal responsibility and accountability
- Balances public protection and market freedom
- Confers added value for consumers, commissioners and employers
- Clarifies, supports and simplifies choice
- Conforms to right-touch principles

3.3 Initially, we were very interested in the potential in the CHRE’s early plans to provide an alternative to HPC Registration. However, now the CHRE’s proposals are developed sufficiently to be fully scrutinized, it is our view that the costs and regulatory burden provide little incentive.

3.4 Becoming a CHRE accredited voluntary register will not give statutory protection to the title ‘nutritionist’ and will not make the title ‘Registered Nutritionist’ any more secure. The scheme is clearly much more about ‘customer focus’ and public choice/confidence and whilst we are confident in the robustness of our operation, we would have to make significant changes to our Governance and mode of operation, including involvement of patients/public and compliance with technical requirements. For example, compulsory PII, revalidation requirements, public’s ‘equal voice, for example, etc. Despite over 50 voluntary registers listed on the CHRE website, the CHRE only anticipate five applications in the first year of operation, and five applications thereafter.

Privy Council Chartership

4.1 A Royal Charter, granted by the Privy Council, was at one time the only means of incorporating a body, (akin to registering as a limited company today). Nowadays grant of new Charters is comparatively rare and reserved for eminent professional bodies or charities which have a solid record of achievement and are financially sound.

4.2 A Royal Charter would allow the AfN to refer to itself as ‘Chartered,’ for example, ‘The Charted Institute of Nutritionists’ and Registrants as ‘Chartered Nutritionists,’ a protected title with potential international reach. A professional body may apply for a Royal Charter if they represent a field of activity which is unique and not covered by other professional bodies, if it is in the public interest and at least 75% of the corporate members are qualified to first degree level standard.

4.3 Criteria for Chartership is; (although the Privy Council states that appearing to meet these criteria does not mean that a body will automatically be granted a Charter.)
(a) the institution concerned should comprise members of a unique profession, and should have as members most of the eligible field for membership, without significant overlap with other bodies.
(b) corporate members of the institution should be qualified to at least first degree level in a relevant discipline;
(c) the institution should be financially sound and able to demonstrate a track record of achievement over a number of years; 
(d) incorporation by Charter is a form of Government regulation as future amendments to the Charter and by-laws of the body require Privy Council (ie Government) approval. There therefore needs to be a convincing case that it would be in the public interest to regulate the body in this way; 
(e) the institution is normally expected to be of substantial size (5,000 members or more).

4.4 Once incorporated by Royal Charter a body surrenders significant aspects of the control of its internal affairs to the Privy Council. Amendments to Charters can be made only with the agreement of The Queen in Council, and amendments to the body’s by-laws require the approval of the Council (though not normally of Her Majesty). This effectively means a significant degree of Government regulation of the affairs of the body. Petitioning for a Charter is thus a public one, and can also be expensive in terms of the preparation of the formal documents. The Privy Council encourages institutions to take soundings among other bodies who may have an interest, in order to minimize the risk of a counter-petition. Any proposal which is rendered controversial by a counter-petition is unlikely to succeed, and suggests that the Privy Council Office should be approached informally at an early stage for advice on the likely chances of success of a formal Petition.

Science Council

5.1 The Science Council has the power, granted by the Privy Council, to awards the title ‘Chartered Scientist,’ which allows one to use the letters ‘CSi’ after one’s name. An option could be to apply to the Science Council to become a Licensed Body, enabling the AFN to award the title ‘Chartered Scientist,’ a designation which ‘recognises high levels of professionalism and competence in science’. Science Council stated benefits are:
- Being chartered is the mark of professional recognition.
- Being a Chartered Scientist allows all scientists working at the full professional level to be recognised on an equal footing.
- It gives an assurance of current competence through mandatory revalidation, and encapsulates the interdisciplinary nature of science in the 21st Century.
- By benchmarking professional scientists at the same high level, CSci aims to re-engage public trust and confidence in Science and scientists.

5.2 In order to become a Licensed Body an organisation first has to be accepted for membership into the Science Council, which costs approx £750 pa. Licensed Body application fee is £1,500, fee pa is £1,000 plus £20 for each CSci. At present not all RNutrs would be able to meet the requirements for CSci, e.g. the exemplifying educational standard for CSci is an M-Level qualification, however Science Council have also just begun piloting a new level of title, Registered Scientist which may be more appropriate for some registrants.