



Department
of Health

Promoting professionalism, reforming regulation

Questionnaire

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Contents

Contents	3
1. Summary of the questions.....	4

1. Summary of the 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?

Response:

Association for Nutrition AGREES the PSA should take on the role of advising the UK governments on which groups of healthcare professionals should be regulated (and that the remit of the PSA should extend beyond health and social care to all regulated professions). This is to ensure consistent treatment between professions which sit firmly outside health and social care and those within health and social care, and fair consideration of occupations which cross between sectors of the UK economy, or may not sit wholly within the designation of Health and Social Care. (For example, the nutrition professions carries an obligation for both human and animal health, at individual and population level.)

Association for Nutrition AGREES there should be formal criteria for determining appropriate regulatory oversight. Once criteria is agreed it should apply to the determination of appropriate regulatory intervention for all statutorily regulated professions, including those in health and social care (to include, for example, law, architecture, veterinary science, farriers and teaching) to ensure a consistent approach across all regulated professions in every sector of the UK economy.

Association for Nutrition DISAGREES with the statement made in the 2.2, that oversight of the Accredited Registers scheme by the PSA would not conflict with its suggested role advising the UK governments on which groups of healthcare professionals should be regulated. This is to avoid the perception of bias in decisions PSA might make in recommending which groups of professionals should be regulated and which should not, given PSA financially benefits from both. Oversight of Accredited Registers should be undertaken by an organisation which does not assume responsibility for advising UK government 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?

Response:

Association for Nutrition DISAGREES with the criteria suggested by the PSA as described in paragraphs 2.6 & 2.7 of the consultation document.

Whilst Association for Nutrition AGREES the prime purpose of the criteria in stage one should be to assess the risk of harm by individual practitioners in patient-led or one-to one health and social care settings, the criteria should also have a firm focus on assessing the risk of harm at population level, in the management of service provision, in research and policy, across both human and animal systems, where long-term, institutional or systematic harm is at its greatest. The criteria should address risk of harm not just in one-to one patient contact in response to a clinical need, but also regulated professionals' (and potentially regulated professionals') work promoting and maintaining good health at individual and population level, and in the research, management of service delivery and policy activity necessary to deliver good health across both private and public sectors.

In addition, criteria in stage one should assess the validity and effectiveness of the evidence-base which underpins the professional practice of occupations under review. The proposed criteria should be sufficiently delineated to allow PSA to advise the UK governments on which groups of healthcare professional's professional practice is sufficiently scientifically robust,

Promoting professionalism, reforming regulation

legally sound and evidence-based to give public confidence in its effectiveness. For example, a key concern Association for Nutrition is the need to distinguish between expert advice firmly grounded in evidence-based nutrition science, delivered by regulated, qualified graduate-level professionals, and the under- or unqualified operating at the economic margins of the profession, with little or no knowledge of the scientific evidence base, potentially causing public harm.

Second stage criteria (paragraph 2.7) omits reference to public benefit. The prime reason for regulatory intervention should be the ability of the professional to protect the public from unsafe practice. An objective assessment of the risk of insufficient statutory regulation in protecting the public from harm from unregulated individuals/ professional groups should be included here. Reference to 'patients' should be broadened to encompass the potential harm healthcare professionals can cause at family, group and population level, and in settings where there is no direct patient or public contact, such as in research, management, policy or service delivery functions in the private or public sector. 'Under 'risk perception' in second stage criteria the phrase 'the effect of regulation (or other means of oversight) would have on the confidence levels for the relevant profession' should be amended to include 'the effect of regulation on the confidence levels of patients, clients and public in the relevant profession, the robustness and integrity of its underpinning evidence-base and effectiveness of its professional practice to achieve and maintain good health.'

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?

Response:

Association for Nutrition AGREES current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight. This reassessment should also include PSA Accredited Registers and include an assessment of the validity and effectiveness of evidence-base and which underpins the professional practice of the regulated profession under review.

The reassessment should apply to all statutorily regulated professions, including those in Health and Social Care (to include, for example, law, architecture, veterinary science, farriers and teaching) to ensure a consistent approach across all regulated professions in every sector of the UK economy.

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

Response:

At present the Association for Nutrition AGREES there is insufficient evidence to assess the effectiveness of prohibition orders as an alternative to statutory regulation for some groups of professionals. However, Association for Nutrition would be keen to explore how prohibition orders may assist in the regulation of the wider non-professional workforce in nutrition at RQF levels 1-4, where occupational groups (such as personal trainers and nursery/ school cooks) provide nutritional advice to individuals and families but are not subject to statutory regulation. We would be happy to work with government to apply competence standards developed with Public Health England for the wider public health workforce in nutrition, to assess the effectiveness of prohibition orders as an alternative to statutory regulation

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

Response:

Association for Nutrition DISAGREES with the proposal there should be fewer regulatory bodies. The argument that fewer, larger regulatory bodies is based on a flawed financial model. The larger regulators cited in the evidence (apart from HCPC) have a single professional focus, with consequentially lower costs in stakeholder and public engagement. A larger regulator spanning several regulated professions will have a higher resulting spend per registrant on stakeholder and public engagement. Costs relating to FtP vary according to the risk profile of the relevant profession, and the ability of that profession, through its regulatory body, to organise itself to reduce risk and manage complaints cost-effectively. Whilst there is a strong argument to update and streamline the legislative framework for regulators within a modern legislative framework, and to harmonise professional standards, a discipline-level focus to each regulatory body will better assure the public the relevant professional groups are appropriately regulated.

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

Response:

Association for Nutrition AGREES fewer regulatory bodies would result in the loss of discipline focus, loss of confidence in regulatory oversight and the ability of a large, generic regulator to hold an individual professional to account. A large regulator encompassing several professions will not be sufficiently in touch with the evidence-base which informs professional standards and performance. It will risk losing its ability to respond appropriately and rapidly as it strives to harmonise standards and procedures across differing professions. Patient and public input will be far more difficult for a larger regulator to locate and organise, a key plank in ensuring public confidence in the robustness of professional regulation. However, the key danger of fewer, larger regulatory bodies will be a weakened focus on individual disciplines, reducing the regulator's understanding of the relevant profession's knowledge base and its development at the 'cutting edge' of practice and research (which most likely represents the higher risk) and consequent inability to protect the public from unsafe or incompetent practice.

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

Response:

Association for Nutrition DISAGREES with the concept of fewer regulatory bodies.

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

Response:

Association for Nutrition AGREES all regulatory bodies should be given a full range of powers for resolving fitness to practise cases. If the opportunity arises to modernise legislation/ orders, Association for Nutrition suggests the governing board of the regulatory bodies is much better placed than parliament to design and manage suitable and proportionate FtP processes for the profession it regulates.

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

Promoting professionalism, reforming regulation

Response:

No response.

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

Response:

No response.

Q11: 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?

Response:

No response.

Q12: 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?

Response:

Association for Nutrition AGREES regulators have an important role in better supporting registrants to meet and retain professional standards, alongside and in conjunction with professional associations, trade unions and learned bodies. Regulators have an important role in supporting and accrediting the education base and ensuring routes to registration remain relevant for employers. In quality assuring the education and training of regulated professionals, and in setting and monitoring professional standards which registrant must meet, regulators maintain and advance confidence of patients, clients and public in the relevant profession. The role of a professional regulator in quality assuring higher education should be in addition to, and aside from, the regulatory regime for H.E. quality assurance (Office for Students/ QAA/ HEFCE). Independent and profession-specific quality assurance of higher education by regulators outwith the regulatory regime for H.E assures the public that graduates/entrants to the profession acquire the right professional skills and behaviours in an integrated, coherent and assessed programme of study, informed by research and contemporary practice, and of the security of the profession's knowledge base,

Association for Nutrition AGREES regulators must ensure the validity and effectiveness of evidence-base and legal precedent which underpins the professional practice of the regulated profession. This objective is better achieved through a single discipline focus than a larger, multi-professional regulator. Regulators have an important (although not always fulfilled) role in ensuring the robustness and integrity of the underpinning evidence-base of regulated professions and the effectiveness of its professional practice to achieve and maintain good health. Regulators, working with and learning from professional associations, trade unions and learned bodies, should support the development of the knowledge base in higher education, in research, in management and policy in both private and public sectors, to ensure the advancement of professional standards and professional practice to better protect the public.

Promoting professionalism, reforming regulation

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

Response:

Association for Nutrition questions whether there is evidence regulators are not working closely together, including sharing information, and questions whether closer working is best achieved through the establishment of larger regulators combining different professions.

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?

Response:

No response.

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

Response:

Association for Nutrition AGREES data sharing between healthcare regulators including systems regulators could help identify potential harm earlier. However, at present there are good examples of sharing information between regulators (and applicant's duty to disclose) which reduces the need for corrective legislation.

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

Response:

Association for Nutrition AGREES regulatory bodies should be given greater flexibility to set their own operating procedures to avoid the unintended consequences of poorly-drafted or out of date operating procedures dictated by primary legislation. If the opportunity arises to modernise legislation/ orders, Association for Nutrition suggests the governing board of the regulatory bodies is much better placed than parliament to design and manage suitable and proportionate operating processes for the profession it regulates, (provided sufficient oversight of these delegated powers is given to PSA or similar.)

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?

Response:

No response.

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?

Response:

Promoting professionalism, reforming regulation

Association for Nutrition DISAGREES with the argument outlined on paragraph 4.19-4.21 that a regulator's board, comprising of a mix of executive and non-executive members, will provide greater accountability for executive action. Senior staff are accountable to their board. To provide advice and to manage decisions of the board, a clear separation of function between the board, and the staff team it employs provides greater clarity and accountability. It is easier for a board to disagree with the advice of a senior member of staff, and to hold a senior members of staff to account for their actions, when the senior member of staff does not sit as a full member of the board, with voting rights.

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?

Response:

Association for Nutrition AGREES regulatory bodies have a role in ensuring we have the right healthcare workforce, with the right skills and behaviours, educated to the right standards. However, the prime role of a regulator is to protect the public, and whilst employer views are helpful as part of a wider process of stakeholder engagement, employers, as a constituency, should not have privileged access to the governance of a regulator through the provision of a nominated or specially-appointed board member.

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?

Response:

Association for Nutrition AGREES regulators should be asked to set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals, provided that the proposals include an assessment of the validity and effectiveness of evidence-base which underpins the professional practice of the regulated profession. Regulators have an important (although not always fulfilled) role in ensuring the robustness and integrity of the underpinning evidence-base of regulated professions and the effectiveness of its professional practice to achieve and maintain good health. Regulators, working with and learning from professional associations, trade unions and learned bodies should support the development of the profession they regulate in both private and public sectors, to better protect the public.

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?

Response:

Association for Nutrition DISAGREES with the logic that fewer regulatory bodies will result in a lower retention fee. A larger regulator spanning several regulated professions will have a higher spend per registrant on stakeholder and public engagement, in harmonising professional standards and to update and streamline its operating framework.

In addition, costs relating to FtP vary according to the risk profile of the relevant profession, and the ability of that profession, through its regulatory body, to organise itself to reduce risk and manage complaints cost-effectively. If the regulatory bodies are combined into fewer, larger regulatory bodies, the danger is that regulators (and their registrants) who have managed to organise themselves to reduce risk and manage complaints cost-effectively, and thereby enjoy a lower retention fee levels, will be penalised by having to share the cost-burden of those

Promoting professionalism, reforming regulation

professions which find it harder to organise themselves to reduce risk and do not manage complaints cost-effectively.

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

Response:

Association for Nutrition (www.asociationfornutrition.org) is the voluntary regulator for Registered Nutritionists in the UK. We were established in 2010 by the Department of Health (DH) and the Nutrition Society (the learned society for Nutrition) as the profession's independent regulator and professional association. We hold the UK voluntary register for Registered Nutritionists (UKVRN), a qualification and competence-based register of professionals qualified in nutrition, with members in the UK and overseas. The register was developed in the early 1980s by the (then) Institute of Biology, the Institute of Food Science (IFST) and the Nutrition Society (NS) and transferred from the NS the AfN in June 2010.

Association for Nutrition is not a PSA Accredited Register, although we are confident through self-assessment we meet PSA Standards for Accredited Registers. The reason we have chosen not to apply to be accredited by the PSA is twofold. First, as UKVRN Registrants work across animal and human nutrition at both individual and population level, our Register is not an easy fit given the PSA's remit for health & social care practitioners. Second, PSA standards for Accredited Registers do not provide assurance the professional practice underpinning the accredited register is subject to scrutiny, so that the public can be assured of the scientific validity and its effectiveness individual and population level is firmly evidenced. It is this second point which is particularly important to us.

Registered Nutritionists provide scientific evidence-based information and guidance about the impact of food and nutrition on the health and wellbeing of humans (at an individual or population level) or animals. Whilst the title 'Registered Nutritionist' does not enjoy statutory protection, it is the accepted form of designation by PHE, the body responsible for the delivery of nutrition policy in England. Only Registered Nutritionists who meet rigorously applied competence standards/requirements and adhere to a common set of ethical standards will be eligible to use the title 'Registered Nutritionist'.

Our strategic aim; statutory regulation for both the title and practice of nutrition accords with our charitable objects; to promote the health of the public through the advancement of the education and the promotion of nutrition research to the public, alongside the maintenance of high standards of practice and regulation of nutritionists. Statutory regulation will help to protect the public, including individuals and families, by ensuring qualified professionals competent in nutrition science can be easily distinguished through the use of a protected title 'Registered Nutritionist'.

Good nutrition, through achieving government recommendations (based on consideration of the totality of the evidence) is consistent with good health and fundamental to living a long, full and rewarding life, as demonstrated by two recent reports. First, the 2016 Global Burden of Disease Study (Lancet 2017) showed diet and nutrition as the prime factor associated with morbidity and mortality, and demonstrated nutrition makes a significant contribution towards preventable disease. Second, the 17 UN Sustainable Development Goals (UN, 2015) which contains 12

Promoting professionalism, reforming regulation

nutrition relevant indicators, and the statement that ‘without adequate and sustained investments in good nutrition, the SDGs will not be realised’ (SUN, 2015). Within the UK alone, nutrition-related ill-health and physical inactivity is estimated to cost the NHS £6.7 billion a year, a figure predicted to grow by £1.9-2 billion at year by 2030. An estimated 70,000 premature deaths would be avoidable each year if nutritional guidelines for fruit, vegetable, salt, fat and sugar intake were met.

The United Kingdom is fortunate in having a body of well-qualified and well-regarded Registered Nutritionists who demonstrate extensive understanding of nutritional science and practice and uphold ethical standards through a comprehensive code of conduct. However, it is not always clear to the public, employers and commissioners that such scientific expertise is available, and risk of harm is at its greatest when individuals and families seek advice from those who are not demonstrably competent, and are not able to practice in accordance with defined standards of proficiency, conduct, ethics and training.

The current scientific focus in the UK and internationally is on the impact of non-communicable diseases such as obesity and diabetes. The opportunities to ensure that everyone’s nutritional needs are satisfied by being able to eat well are influenced by a complex interaction of issues around food security, choice and lifestyle. To address this, the public need to be advised by qualified, experienced and skilled nutrition professionals who understand evidence based practice and promote clear and consistent advice to encourage and support the adoption of healthier lifestyles - including a diet which is consistent with government advice. Our register includes professionals responsible for generating the evidence (pure and applied scientists); who assess the evidence (both responsible for scientific advisory committees and as their expert members) and develop policy (such as government officials in the devolved nations and in PHE); as well as implement interventions (in central and local government, within charities, education, the NHS and in the community); develop and communicate healthy eating messages (including in central and local government, teaching, and the media and beyond) and produce our food (those working in animal or crop nutrition and within the food sector from product development, catering, food service and manufacturing to retailing).

Bringing the Association for Nutrition under the statutory regulation will demonstrate the nutrition profession’s commitment to public protection and education and through the protected use of the title ‘Registered Nutritionist’, ensure the public has access to nutrition advice that is consistent, scientifically sound, evidence-based and effective.

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

Response:

No response.

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?

Promoting professionalism, reforming regulation

- 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?

Response:

No response.

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?

Response: