



Department for Health and Social Care: *Healthcare regulation: Deciding when statutory regulation is appropriate*

Consultation response

The Council of Deans of Health welcomes the opportunity to contribute to this consultation. The Council represents over 100 UK university faculties engaged in education and research for nursing, midwifery and the allied health professions.

Questions

Do you agree or disagree that a qualitative and quantitative analysis of the risk of harm to patients is the most important factor to consider when deciding whether to regulate a health or care profession?

Agree.

Why?

Regulation should be risk-based, agile and outcome-focused. The risk of harm to patients and patient safety is the most important factor when considering the regulation of healthcare professionals. The Professional Standards Authority (PSA) has a methodology [*Right-touch assurance: a methodology for assessing and assuring occupational risk of harm*](#). This should form the basis of assessing if a profession should be regulated or not.

Do you agree or disagree that proportionality, targeted regulation and consistency should also be considered in deciding whether to regulate a health or care profession?

Agree.

Why?

The Council is supportive of the use of the PSA's right-touch assurance methodology. However, we note that risk will vary within professional groups as well as between them depending on a range of factors. These include the location of the healthcare intervention, whether the professional is alone with the patient and the wider vulnerability of the patient.

Furthermore, the PSA's criteria for assessment connects the 'scale of risk' with the size of the profession. However, the number of practitioners in a particular field does not inherently alter the risk of professional misconduct to an individual patient. Other factors such as those listed above play a more significant role. The size of a professional group should not therefore be used alone in considering risk to patients or whether a profession such be regulated or not.

Development of the PSA's methodology is therefore needed to improve regulatory decision-making. The engagement of a range of stakeholders can assist in this process. Proportionate regulation should be the main outcome of any decision in this area.

Do you agree or disagree that the currently regulated professions continue to satisfy the criteria for regulation and should remain subject to statutory regulation?

Agree.

Why?

Most of these professions our members educate are subject to statutory professional regulation. The current balance seems broadly right. Decisions on the regulation/deregulation of professions should only be taken with a comprehensive understanding of the realities of a particular profession's practice and the full range of risks to public protection that can derive from this.

Do you agree or disagree that currently unregulated professions should remain unregulated and not subject to statutory regulation?

Disagree.

Why?

Most of these professions our members educate are subject to statutory professional regulation. The current balance seems broadly right. However, there is a case to explore the regulation of advanced practitioners. Consideration as to which regulator would regulate this professional and how/if they would be regulated across all four UK nations is also necessary.

For more information contact:

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