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Regulating health and social care professionals

A single clear and consistent legal framework is needed to enable the regulators of health professionals in the UK to modernise and continue to uphold their duty to protect public safety, according to the three Law Commissions of the UK.

In a report published today, the Law Commissions of England and Wales, Scotland and Northern Ireland recommend a new UK-wide single statute for the regulation of health and social care professionals that would provide regulators with new powers and duties, and set them a clear main objective of protecting the public.

In the UK there are nine separate regulatory bodies responsible for around 1.4 million professionals working in 32 different health and social care roles. The Commissions' report makes recommendations in relation to eight of these bodies, including the General Medical Council, General Dental Council, General Pharmaceutical Council, Health Professions Council and Nursing and Midwifery Council. The regulators' main functions are to keep a register of professionals, set standards for education and practice, and ensure that professionals are fit to practise. But they are currently covered by a number of different legal frameworks, all established before devolution, which has led to a high degree of inconsistency in their powers, duties and responsibilities.

Under the Commissions' recommended reforms, regulators would be empowered to investigate proactively instances of suspected poor conduct and practice whenever such concerns come to their attention. At the moment, some can investigate only when they receive a formal complaint.

The reforms would bring consistency to, and extend, the range of sanctions that can be imposed by regulators' fitness to practise panels. And, for the first time, they would be empowered to discipline or strike off professionals who are not able to communicate clearly in English.

The new framework would also give regulators the power to make their own rules, following public consultation. Currently, regulators wanting to change rules for their profession, for example on education requirements, must apply to Government, which can take up to two years.

If implemented, the Commissions' reforms would also:

- implement the recommendations of the public inquiry into the scandal at Mid-Staffordshire NHS Trust (the Francis report) that the regulators should have wider powers to investigate poor professional practice and to reconsider cases that have been closed following a mistake or error
- introduce revalidation – an ongoing assessment of a professional's fitness to practise – to all health and social care professionals. Currently only doctors are required to demonstrate ongoing fitness to practise

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- enable new regulators to be established, bringing new groups of professionals into regulation
- allow for the introduction of barring schemes to prevent unregulated workers from providing health or social care services, and
- place an obligation on regulators to seek opportunities to work together.

The report also makes recommendations in relation to the duties and powers of the Professional Standards Authority. The Authority would be required to review the economic efficiency of the regulators to ensure that they are providing value for money, and it would be given a new power to appeal against fitness to practise decisions that fail to protect the public.

Nicholas Paines QC, the Law Commissioner leading the project for England and Wales, said: “The professional regulators of the health and social care field operate within a wide variety of legal frameworks that have been agreed and amended by Parliament in different ways, at different times, over the past 150 years.

“Our recommended reforms place patient protection firmly at the heart of a new legal framework. If implemented, they will enhance the autonomy of the regulators, empower them to respond more quickly and effectively to emerging public health concerns and enable them to meet the demands of a modern, devolved health and social care sector.”

Patrick Layden QC TD, leading the project for the Scottish Law Commission, said: “A single statute governing the regulation of health and social care professionals will bring consistency and certainty to a legal framework that is currently fragmented, complex and expensive.

“Our recommended reforms place an obligation on the regulators to seek opportunities to work together, which will do much to enhance the consistency of the sector and the effectiveness of the regulatory bodies.”

Leading the project for Northern Ireland, Judena Goldring said: “The regulators have a duty to act in a way that promotes and protects the health, safety and well-being of the public. But they are hampered in their efforts to do so by the shortcomings of the legal framework within which they operate.

“Our recommendations would bring much needed reform, enhancing the power of the regulators to provide flexible and responsive forms of regulation that promote high professional standards and protect public safety”.

The report, “Regulation of Health Care Professionals and Regulation of Social Care Professionals in England”, includes a draft Bill which, if implemented, would enact the Commissions’ recommended reforms.

Notes for editors

1. The 32 registered health and social care professions and their relevant regulators.

Regulatory bodies	Registered professions
General Chiropractic Council (GCC)	Chiropractors
General Dental Council (GDC)	Dentists, clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists and orthodontic therapists
General Medical Council (GMC)	Doctors

General Optical Council (GOC)	Optometrists and dispensing opticians
General Osteopathic Council (GOsC)	Osteopaths
General Pharmaceutical Council (GPhC)	Pharmacists and pharmacy technicians in Great Britain
Health Professions Council (HPC)	Arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists/orthotists, radiographers, speech and language therapists, and social workers in England
Nursing and Midwifery Council (NMC)	Nurses and midwives

2. More details on this project can be found at:
 - <http://www.lawcom.gov.uk> (see the Regulation of Health Care Professionals project page)
 - <http://www.scotlawcom.gov.uk/law-reform-projects/joint-projects/regulation-of-health-care-professions/>
 - <http://www.niawcommission.gov.uk/>
3. The Law Commission and the Scottish Law Commission are non-political independent bodies set up by Parliament in 1965 to keep all the law of England and Wales and of Scotland under review, and to recommend reform where it is needed.
4. The Northern Ireland Law Commission exists to review areas of the law and to make recommendations for reform. It was established under the Justice (Northern Ireland) Act 2002 (as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010), and was set up in 2007 following the recommendations of the Criminal Justice Review Group.
5. For all press queries please contact:
Phil Hodgson, Head of External Relations 020 3334 3305
Jackie Samuels, Press Office 020 3334 3648
Email: communications@lawcommission.gsi.gov.uk

Law Commission
1st floor, Tower
52 Queen Anne's Gate
London SW1H 9AG

Scottish Law Commission
140 Causewayside
Edinburgh EH9 1PR

Northern Ireland Law Commission
Linum Chambers, 8th Floor
2 Bedford Square
Bedford Street
Belfast BT2 7ES