

Briefing

The white paper on the future of professional regulation and the Government's response to the Shipman and other inquiries

What they will mean for employers in the NHS

Key points

- The Government's recent white paper and accompanying documents set out wide-ranging reforms for the regulation of doctors and other health professionals.
- Doctors will need to have their practice monitored and will need to undertake a revalidation process every five years. Specialist doctors and GPs will have to meet additional revalidation standards.
- All health professionals will eventually be required to revalidate their professional registration on a regular basis.
- A system of recorded concerns will allow for doctors' conduct and practice to be logged locally, with patterns and trends to be tracked over time.
- General Medical Council (GMC) affiliates will provide support and advice to employers managing concerns about doctors, and provide quality assurance on the revalidation process.
- There are proposed important changes to the accountability and independence of statutory regulators.
- Your views and NHS Employers' response on behalf of employers have helped to shape the white paper and will hopefully help improve quality and safety for patients in the future.
- NHS Employers believes that revalidation for all health professionals and the role of the GMC affiliate will have the most significant impact on employers.

The Government's recent white paper on professional regulation and its accompanying documents set out a blueprint for health regulation reform that will have a significant impact on employers. Specifically, it recognises the importance of local employers in professional regulation and gives them new responsibilities to confirm the continuing competency of their staff.

This *Briefing* summarises the main documents, explains the implications for employers and describes the next steps.

Background

The Government's white paper on the future of professional regulation – *Trust, assurance and safety: the regulation of health professionals in the 21st Century* – was published on 21 February 2007 together with a response to the fifth report of the Shipman Inquiry – *Safeguarding*

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patients. The latter also addresses the recommendations from the inquiries into the conduct of Richard Neale, Clifford Ayling, Michael Haslam and William Kerr.

A third document – *Learning from tragedy, keeping patients safe* – gave an overview of the Government's proposals and actions in relation to all of the Shipman Inquiry reports.

The white paper follows a Government consultation, which NHS Employers responded to with views collected from NHS

organisations. The resulting documents aim to improve the quality and safety of care that patients receive from the NHS. Here we summarise each of the documents and their implications for employers.

Trust, assurance and safety: the regulation of health professionals in the 21st Century

The white paper builds upon the recommendations of the Chief Medical Officer's report

into the future of medical regulation – *Good doctors, safer patients* – and the Foster review of non-medical regulation, which were published in September 2006.

The need for more independent and accountable professional regulators

The white paper acknowledges that doubts about the impartiality of health regulatory bodies have emerged over a number of years, threatening to undermine public trust and

Current regulators in the UK

Regulator	Who they cover
General Medical Council (GMC)	Doctors
Nursing and Midwifery Council (NMC)	Nurses and midwives
Health Professions Council (HPC)	Arts therapists, biomedical scientists, chiropodists, podiatrists, clinical scientists, dieticians, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, speech and language therapists
General Dental Council	Dentists
General Chiropractic Council	Chiropractors
General Optical Council	Opticians
General Osteopathic Council	Osteopaths
Royal Pharmaceutical Society of Great Britain	Pharmacists
Pharmaceutical Society of Northern Ireland	Pharmacists in Northern Ireland

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confidence. The Government proposes a number of steps to strengthen the independence and accountability of regulatory bodies. These include:

- ensuring that councils of regulatory bodies have, as a minimum, parity of membership between professional and lay members
- arranging for councils to become more accountable to Parliament
- ensuring council members are independently appointed
- developing councils to become more strategic and board-like and consistent in size and role across the regulatory bodies
- strengthening the role of the Council for Healthcare Regulatory Excellence (CHRE)
- establishing a new General Pharmaceutical Council.

Revalidation and ensuring continuous fitness for practice

The Government proposes that all the statutorily regulated healthcare professions should have arrangements in place for ensuring revalidation of their professional registration through which they can periodically demonstrate their continued fitness to practise.

Revalidation for doctors will consist of two components: relicensure and specialist recertification.

All doctors will need a licence to practise, to enable them to remain on the medical register. This will be renewed every five years based on an appraisal process that will confirm the doctor has met the standards expected. This is described as 'relicensure'.

Specialist recertification will apply to all specialist doctors, including general practitioners, who will have to meet standards set and assessed by the medical Royal Colleges and approved by the GMC.

The Department of Health (DH) will discuss with each profession and its regulator the arrangements for revalidation of other health professionals. Appraisal will be a key component and, within the NHS in England, the Knowledge and Skills Framework should be used as far as possible as the basis of revalidation.

For employed staff working in an NHS organisation or independent sector provider, evidence to support revalidation will be provided as part of the normal staff management arrangements. Employers will be expected to make their

recommendations to the professional regulators.

For those staff performing services commissioned by primary care organisations, the commissioning organisation will be responsible for carrying out the revalidation process, in collaboration with the regulatory body, where necessary.

Tackling concerns

One of the main objectives of the white paper reforms is to ensure that when problems with individual health professionals arise, which cannot be fully addressed through clinical governance, there are systems in place to deal with concerns fairly, quickly and effectively.

One of the most far-reaching proposals is to set up a network of GMC affiliates at a regional level in England and at a national level elsewhere in the UK. Advised and assisted by regional medical regulation support teams, affiliates would provide support, advice and guidance to employers in managing concerns about doctors. They would also provide quality assurance for the process of revalidation for doctors.

A system of recorded concerns will underpin local regulation of

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concerns about doctors' conduct and practice and provide for effective local action, as well as allowing for patterns or trends to be tracked over time. A recorded concern is defined as a formal note of a concern over professional conduct or competency that the doctor has accepted but that is not regarded as serious enough to require referral to the GMC's central fitness to practise proceedings.

The DH will consider developing a more effective system of registration and inspection for agencies supplying health professionals in order to provide assurance of the quality of those who work as locums. The DH will also review the effectiveness of the current primary care performers list arrangements, including proposals for sanctions other than suspension or removal from the list.

The Government also proposes a range of actions at a national level to improve the handling of concerns. These include:

- establishing a fully independent body to adjudicate on GMC fitness to practise cases
- introducing a more independent adjudication process for the other regulators

- the CHRE establishing common protocols for local investigations across all regulators and guidance for employers on when to refer cases to the regulator
- ensuring that the GMC and GDC make full use of the National Clinical Assessment Service (NCAS) in their investigations
- considering whether to extend the scope of the NCAS to other health professionals.

In recognition of the importance of health as a factor in professional performance, the DH will establish a national advisory group to inform the development of a national strategy on the health of all health professionals.

This will include measures to ensure prevention of health problems, early intervention and rehabilitation. It will clarify the role of health in revalidation arrangements and the various responsibilities of employers, regulators, professionals and others in ensuring the health of professionals.

Professional education

The Government believes that regulators for non-medical professionals should continue to be responsible for educational standards. For doctors, it

proposes a three-board model covering undergraduate education, postgraduate education and continuing professional development. An undergraduate board and a continuing professional development board will be established in the GMC and the Postgraduate Medical, Education and Training Board will fulfil the role of the postgraduate board.

The DH will ask professional regulatory bodies and NHS employers to develop arrangements for selective language testing for applicants to posts.

Information about health professionals

The Government agrees with the Chief Medical Officer's proposal that the medical register should be the single authoritative source of information on doctors, including disciplinary action by employers and alert notices. The regulators will consider what other changes could be made to provide better access to information by patients and employers. The CHRE will also develop a single standard definition of 'good character'.

The Government will take forward the recommendation that there should be closer cooperation between regulators and employers when a health

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professional enters employment for the first time.

New roles and emerging professions

The Government plans to introduce statutory regulation for applied psychologists, some groups of healthcare scientists, psychotherapists and other psychological therapists. A UK working party will be established to develop criteria for determining which emerging and existing professions should be subject to statutory regulation.

Safeguarding patients

The *Safeguarding patients* report represents the formal Government response to the recommendations of the Shipman Inquiry's fifth report and the reports of the Ayling, Neal and Kerr/Haslam Inquiries. It covers many of the issues raised in the white paper but takes a broader view of patient safety beyond the role of the professional regulator.

Recruitment and screening

The Neale Inquiry, in particular, contained a number of recommendations aimed at improving recruitment and screening processes in health organisations. Some of these have already been incorporated into NHS Employers' guidance

and others are still under consideration.

Clinical governance

The Government accepts that more needs to be done to strengthen clinical governance. In addition to the measures proposed in *Trust, assurance and safety* to improve the handling of concerns, the Government will also:

- consider how the statutory duty of quality can be enhanced to underline the duty to investigate and learn from complaints and medical errors
- issue further guidance on the investigation of complaints and concerns
- consider how the accountability of GPs to their primary care trust (PCT) can be strengthened.

Complaints and concerns

Building on recent developments in this area, the Government will shortly issue a consultation paper with proposals for a new complaints system, including the development of national standards for handling complaints in health and social care.

Subject to consultation, the Government intends to amend the complaints regulations so

that complaints about treatment in general practice can be made directly to the PCT and that PCTs will be required to take an overview of complaints.

The Government will ensure that all organisations providing services to NHS patients have clear policies on how staff can raise concerns and explore with stakeholders how the duty of health professionals to report these concerns can be further emphasised.

Boundary transgressions

The Government considers that further work is required to develop guidance and awareness on the issue of sexual or other abuse by health professionals, as recommended by the Kerr/Haslam and Ayling Inquiries.

The CHRE has been commissioned to produce guidance on maintaining professional boundaries for health professionals as well as guidance for NHS and other employers on how to prevent, detect and investigate boundary transgressions.

Information sharing

All of the Inquiries stress the role of information sharing in identifying concerns about professional behaviour and competence and alerting

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healthcare organisations to the need to take action to protect the public.

Such information can be shared between different organisations, and only by joining up or triangulating such information can the true extent of concerns become apparent.

Unsubstantiated complaints or concerns, and other 'soft' information pose a range of handling problems. To address this, the Government will:

- issue guidance on the content of files kept by healthcare organisations and the circumstances under which this information may be shared
- consider a statutory duty to disclose information to safeguard the public
- develop work on 'practice profiling' as an indicator of the quality of services provided by primary care practices
- consider the recommendation from the Shipman Inquiry that GPs should be required to disclose clinical negligence claims to their PCT.

Implications for the NHS

Taken together, the white paper and the response to the Shipman and other Inquiries

represent a clear blueprint for the future of professional regulation and other measures designed to enhance quality and patient safety.

NHS Employers' viewpoint

NHS Employers welcomes the broad direction of travel indicated in these documents, which emphasises the key role of employers in assuring the quality of the health professionals they employ, throughout their careers.

We have consistently argued that because employers are responsible for the quality of services they provide they should also have clear responsibilities in relation to ensuring the continuing competence of the professional staff who provide those services. Revalidation for doctors has been under discussion for several years and it is encouraging to see the proposals translating into action.

NHS Employers anticipates that the proposals for revalidation of all health professionals and the role of the GMC affiliates will have the most significant impact on employers.

We were pleased to see that the original proposals for GMC

affiliates to be based in every organisation has been amended as we believe it would have caused real difficulties in relation to the accountability of the affiliate in the organisation. The issue of the interrelation between the affiliate and the employing organisation does still need to be clarified.

There is little doubt that introducing and operating an effective revalidation process for all professional staff is going to be a major undertaking. Of course, many employers will already have strong systems in place to provide a platform for revalidation but for other organisations this may be a challenge. There is a very specific concern as to whether PCTs have the capacity to take on this role in respect of the independent contractors providing services for them in their area.

However, this risk-based and proportionate approach to professional regulation is welcome, because it builds on existing systems and should not place an undue burden on employers. It is also important that the approach to professional regulation should be consistent with system regulation processes and that there is clarity where the processes may overlap.

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Next steps

All the proposals described will be taken forward as a single programme of action. The report itself points out that while the broad direction is clear, many issues of detail remain. The Government plans to publish an integrated implementation plan setting out the action envisaged in due course.

Many measures in the white paper will require primary legislation, although there are other measures where there is clear agreement on the need for change and these may be introduced sooner.

The Government will establish a national advisory board on professional regulation to advise the DH and the devolved administrations on implementation.

NHS Employers' next steps

NHS Employers is fully supportive of the white paper's introduction of regular revalidation for clinical staff, which will help them to maintain the highest professional standards.

We will be working closely with the DH, employers and other key stakeholders to ensure an efficient and effective system of

revalidation, which is underpinned by strong appraisal processes.

The documents contain many proposals that will require participation and advice from employers in order to ensure successful implementation and we will work alongside employers to ensure they are strongly represented in the decisions that affect them.

There is no doubt that this increased responsibility will present challenges for some organisations in terms of capacity and resource and we will start working with employers immediately to help

get the appropriate processes in place to support the additional work that these extra duties bring.

In some areas work is already underway, for example the review of primary care performers lists, employers' guidance on maintaining professional boundaries and preparatory work with the GMC.

NHS Employers is awaiting the Government's detailed implementation plan and looks forward to helping NHS organisations play their part in its delivery to improve the quality and safety of care for patients.

Further information

Trust, assurance and safety: the regulation of health professionals in the 21st century. White paper, February 2007.

www.official-documents.gov.uk/document/cm70/7013/7013.pdf

Learning from tragedy, keeping patients safe. Department of Health, February 2007

Good doctors, safer patients: proposals to strengthen the system to assure and improve the performance of doctors and to protect the safety of patients. Department of Health, July 2006

Safeguarding patients: lessons from the past – proposals for the future. The Shipman Inquiry Fifth Report, December 2004

NHS Employers

NHS Employers is responsible for workforce and employment issues, working on behalf of NHS organisations in England.

We help employers improve the working lives of NHS staff as a path to better patient care. We represent employers' views and act on their behalf in the current priority areas of:

- pay and negotiations
- planning and workforce
- productivity
- employer of excellence
- HR policy and practice.

NHS Employers is part of the NHS Confederation – the independent membership body for the full range of organisations that make up the modern NHS.

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