Council

28 July 2020

hcpc **health & care professions council**

Professionalism and prevention framework

Executive Summary

Our model of regulation has existed for many years but is now considered to be unfit for purpose and in need of reform[1]. Thinking about how the model should be reformed has been developed[2] and the consensus is that there should be increased upstream activity focussed on promoting professionalism and preventing and reducing harm.

The upstream approach is supported by a strong evidence base and other regulators have developed clear strategies and are making significant moves, without legislative reform, to change their focus of regulation. There is an expectation and desire to change the way we regulate, adopting an upstream approach that supports registrants to achieve high standards and prevent harm.

To enable this change, we propose the development of a clear vision and framework for our upstream professionalism and prevention work. This paper aims, through discussion and the answering of specific questions, to:

1. Identify our vision for professionalism and prevention; and

2. Inform the development of a professionalism and prevention framework.

To inform discussions, we provide:

Appendix A – a summary of initiatives identified in Regulation rethought and Professionalism and prevention – proposals in more detail

Appendix B – the evidence base

Appendix C – what other regulators are doing

Decision	Council is asked to discuss and answer the questions posed in the paper.
Previous consideration	Professionalism and prevention – proposals in more detail, December 2018
	Draft corporate strategy 2019-24, December 2018

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[1] PSA Rethinking regulation, 2015
[2] See: Enabling excellence autonomy and accountability for healthcare workers, social workers and social care workers; Rethinking regulation; Regulation rethought; Promoting professionalism, reforming regulation

Next steps	Outcome of the discussions will inform the development of a professionalism and prevention framework.
Strategic priority	The strategic priorities set in 2018 are no longer current. We are developing a new strategy that we aim to confirm at the end of 2020.
Risk	Strategic risk 1-4:

Strategic risk 1-4:
- failure to deliver effective regulatory functions;
- failure to anticipate and respond to changes in the external environment;
- failure to be a trusted regulator and meet stakeholder expectations; and
- failure to be an efficient regulator.

Risk appetite. The following sections are relevant to this paper:-
- Public protection - The Council takes a minimal approach to public protection risks. Public protection is our aim and our strategy and processes are intended to provide this.
- Compliance - The Council takes a minimal approach to compliance and regulatory risk. We will meet the law, regulations or standards in place to protect the public and employees and to protect data.
- Communication - The Council is open to communicating and taking decisions, even when this may be unpopular, to further public protection.
- Innovation - The Council seeks innovation that supports public protection, quality and efficiency. We balance embracing new technology and ideas with impact and financial investment and assess projects accordingly.

Financial and resource implications	None at this stage
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What is our vision for professionalism and prevention?

1. Ensuring that we have a consistent understanding of what we mean and envisage when we say 'professionalism and prevention' is important for the development of any framework. The following statement is provided to aid discussion and provides for a shift in the way we regulate, which includes changes to the way we deliver some of our regulatory functions, as well as improving and sharing our knowledge and insights and increasing our engagement with and influence of stakeholders.

Professionalism and prevention represents a move away from the traditional thinking and approach to regulation to one that provides greater influence of, collaboration with and support for our stakeholders, enabling current and future registrants to embed and achieve high professional standards.

Question 1:

    a) **Does this statement reflect our vision for 'professionalism and prevention'?**

    b) **If not, how would you change it?**

Your answer:

What should a professionalism and prevention framework include?

2. A framework should identify all the initiatives we need to undertake to realise our vision for professionalism and prevention and include those that we currently undertake, need to undertake and are dependent on regulatory reform.

Existing regulatory functions

3. To realise our vision, we may need to make changes to our existing regulatory functions to ensure they support professionalism and prevention and ensure protection of the public. These changes might include:

a. Ensuring that our approach to the setting and monitoring of education Standards enables an open dialogue with providers and opportunities to reflect and refine the learning they provide, ensuring it supports professionalism and prevention.

b. Ensuring that our registration processes are proportionate and explained in plain English and that our continuing professional development requirements encourage self-reflection, drive professionalism, embed Standards and advance prevention.

c. Encouraging early local resolution of registrant mistakes and ensure that our fitness to practise process is only engaged for those cases that require regulatory action, and developing a support service providing fitness to practise advice to employers, supporting their decisions about what and when to refer a concern to us.

d. Adopting a more enquiring and resolution focused investigation approach, and proactively seeking effective resolution of cases at an early stage through increased transparency and engagement with parties.

e. Ensuring the language we use across our regulatory functions is clear and more public-focused, avoiding the use of technical language where possible.

Question 2:

a) **Thinking about our regulatory functions, does the list at   identify the changes we should make to realise our vision for professionalism and prevention?**

b) **Would you add, remove or amend any?**

Your answer:

New initiative and increased activities

4. To realise our vision, we may also need to do new things and increase our activities in certain areas. A professionalism and prevention framework could identify that, in addition to changes to our regulatory functions, we will:

a. Develop our knowledge and insights through improvements in our ability to identify, collect and analyse the wealth of intelligence we own that relates to the practice of our professions.

b. Develop a coherent way of assessing the risks that arise from the different kinds of professional practice we regulate, to enhance our understanding of the risks we are seeking to manage and harms we are seeking to prevent and to improve our ability to measure how well we are protecting the public.

c. Continue to commission and undertake research that develops our and others' understanding of the root causes of unprofessional behaviours, risk of harm and how these can be managed and prevented.

d. Use our growing knowledge and insights to inform our work, measure our impact and educate and influence our stakeholders to create cultures and working environments that promote and support our registrants' professionalism.

e. Increase our support for, and share our knowledge and insights with, education providers, enabling them to develop and deliver learning that embeds professional values and behaviours.

f. Increase our engagements with and the development of useful guidance and other practical learning tools to empower, educate and support our registrants to meet their Standards.

g. Increase our support for and engagements with employers, educating and influencing a change in culture and support for registrants at a strategic and local level.

h. Collaborate with other regulators on upstream regulation activities, sharing our knowledge and insights, and seek opportunities to share platforms and lead discussion about upstream regulation and professionalism and prevention.

Question 4:

a) **Does the list at   identify the initiatives we should undertake to realise our vision for professionalism and prevention?**

b) **Would you add, remove or amend any?**

Your answer:

Appendix A – a summary of initiatives identified in Regulation rethought (2016) and Professionalism and prevention – proposals in more detail

The Professional Standards Authority (PSA) in Rethinking regulation called on regulators to aspire to a radical upgrade in their focus on prevention action. It explained that regulation should be designed in a way that protects patients and supports professionals, employers and other staff delivering care to achieve the Standards required of them. It recognised that this may involve radically different interventions from those currently familiar to regulators.

In Regulation rethought, the PSA explained how regulators could be more preventative and, through intervention and influence, reduce the prevalence of instances of non-compliance with Standards. This included these recommendations:

a) Change in language – the technical language of regulation is obscure and alienating and, in pursuit of simplicity and understanding, a change in language is needed and terms like 'fitness to practise', 'impairment' and 'revalidation' should be avoided and replaced with plain English.

b) Local resolution – many cases that may not require regulatory attention are subject to investigation and processing and could be resolved locally by employers, registrants and local mediation where available. If the Responsible Officer role were expanded to all regulated professions it would provide a means of encouraging better complaints handling by registrants, and better use of local processes, ensuring that matters were resolved more quickly and effectively.

c) Adopting an enquiring instead of a confrontational approach – moving the fitness to practise process away from the adversarial approach to one which is more inquisitorial and provides for non-confrontational exploration of the circumstances leading to the allegation and opportunities for resolving a case through discussion and agreement, without need for a formal hearing.

d) Developing a risk-based approach – development of a coherent way of assessing the risks that arise from different kinds of professional practice to enhance understanding of the risks we are seeking to manage and the harms we are seeking to prevent.

e) Identifying trends – regulators need to identify trends, correlations with organisational and human factors and potential risk of harm that should be brought to the attention of healthcare providers, other regulators and improvement bodies to contribute to reducing harms.

f) Sharing intelligence – professional and systems regulators and educators need to share intelligence and alert each other to heightened risk of harms and these insights should be used to support employers to recognise the circumstances in which harm occurs, and to support the development of cultures, workplaces and systems that empower registrants to comply with professional regulatory standards.

g) Co-ordinated approach – preventing and reducing harm, promoting professionalism, improving quality and encouraging compassionate care

requires a co-ordinated approach by regulators, employers, educators and professional bodies.

In our paper <u>Professionalism and prevention – proposals in more detail</u>, we explained how our existing regulatory functions support professionalism and prevention and identified that the intention was to put a stronger emphasis on doing more of certain activities or taking a different approach. This included:

a) Increasing our focus on influencing professional practice and preventing the causes of harm, which included engaging more with professionals to embed standards in every-day practice.

b) Providing materials for educators to use to teach the importance of professionalism and understanding of regulation.

c) Increasing our engagement with employers and working in partnership with them so they understand our Standards, processes and expectations on registrants, the impact of working cultures and triggers that may lead to impaired fitness to practise.

d) Increasing our efforts so registrants' really understand how our Standards can support professional practice as well as recognising the triggers for disengagement and how to avoid them.

e) Focus students' understanding of professionalism and what it means to be a registered professional and the importance of continued learning and how this can support continuing fitness to practise.

f) Developing a professional liaison team who would engage with all these stakeholders and provide advice, deliver seminars, workshops and learning sets in the workplace and respond to requests for talks, presentations and webinars.

g) Improving how we capture, interrogate and publish data and identify trends that can inform prevention strategies.

h) Continue to commission research in areas relevant to our regulatory function, and then use this research to develop prevention strategies or to deliver improvements to our regulatory processes.

Appendix B – the evidence base

The upstream approach is based on evidence and academic opinion that supports the effectiveness of early intervention to prevent harm, and is consistent with the current thinking on the most effective way to regulate. This includes but is not limited to:

- *Enabling Excellence: autonomy and accountability for health and social care staff* – a government strategy for reforming the system for regulating health and social care workers.

- *Rethinking regulation* – identified that radical reform to healthcare regulation was needed to meet the demands of health and social care in the future. It argues that regulation should be designed around the people it affects and in a way that protects patients and supports professionals, employers and other staff delivering care to achieve the standards required of them. It proposes that regulators should shift the allocation of their resources to a greater focus on preventing breaches of standards.

- *Regulation rethought* – *explores how* regulators could be more preventative and, through intervention and influence, reduce the prevalence of instances of non-compliance with Standards.

- Professor Gerry McGivern's work *Exploring and explaining the dynamics of osteopathic regulation, professionalism and compliance with standards in practice*, highlights a growing body of research demonstrating that professionals are more likely to comply with standards when they align with what they already see as good professional behaviour and when they view such standards as legitimate and effective in improving practice.

- *Professionalism in healthcare professionals* – increases our understanding of professionalism and identifies that regulators have an important role to play in supporting professionalism, and enabling it to flourish and develop.

- *Preventing small problems from becoming big problems in health and care* – explores the implications of engagement and disengagement on competence and harm. It identifies that the early identification of signs of disengagement is possible.

- *People like us?* – identifies there are many more fitness to practise referrals about professional 'people like us' than people who may differ in terms of their motivations, circumstances and actions. The findings point towards the adoption of a more nuanced set of regulatory tools, and much greater emphasis on local, employer-led interventions.

- *Promoting professionalism, reforming regulation* – recognises that professional regulation should be about supporting the professionalism of all registrants to ensure they have and maintain the right knowledge, skills and expertise to deliver safe, high quality care. Those responding to the consultation overwhelmingly agreed that regulatory bodies have a role in support the professionalism of their registrants.

Appendix C – what other regulators are doing

General Dental Council (GDC)

The GDC, since 2017, has been [Shifting the balance](#) and [Moving upstream](#). Its view is that regulation best serves the public and is fairest for the professions if it focuses on preventative action to secure public safety and confidence before things go wrong, rather than intervening only after problems have occurred.

It recognises that good regulation should involve a very broad spectrum of tools and mechanisms designed to positively influence behaviour. Proportionate and fair enforcement sits at one end of the spectrum. But good regulation starts 'upstream' with communications, engagement and learning; persuasion and influence; leadership, partnership and an expression of common goals. It extends into more formal powers: standards, codes of practice, accreditation and a wide range of analogues in place across many different sectors.

Moving upstream, confirms the GDC's intention to shift its regulatory focus away from enforcement to one of preventing harm. Moving upstream is about promoting professionalism, putting a stronger emphasis on patient protection, learning within the system, engaging more effectively with registrants and future registrants, and developing alternative approaches to CPD.

In November 2019, the GDC published its corporate strategy 2020-22 – Right time, right place, right touch. This strategy reflects the change in emphasis in its approach.

Nursing and Midwifery Council (NMC)

The NMC's new [strategy](#) is structured around three key roles – regulate, support and influence – and identifies that its regulatory role is enhanced when it supports the public, its professions and partners. This includes providing emotional and practical support to all those involved in their processes, useful guidance, in collaboration with employers and educators, to help professionals uphold standards in practice. It talks about a rebalance of focus towards good practice from poor practice, preventing – not just responding to – harm. Sharing intelligence from its work, and collaborating with partners to address mutual concerns.

General Medical Council (GMC)

The GMC's current [strategy](#) confirms that it is shifting the emphasis of its work from acting when things have gone wrong to supporting all doctors in delivering the highest standards of care. Using its insights to refocus medical regulation on supporting a high quality workforce in delivering good medical practice.

Its established Regional Liaison Service has been working closely with employers and professions for some years. Using intelligence and a risk based model, the service identifies areas of concern and will deliver targeted engagements, support and learning. The service also delivers sessions to medical students, bringing standards and guidance to life and building confidence to address ethical and professional challenges. Advisors will work closely with Responsible Officers

supporting the identification, referral and management of fitness to practise concerns.

Social Work England (SWE)

SWE has established a network of regional engagement leads, who are registered and practising social workers working in localities with a range of stakeholders, including employers, people with lived experience of social work, social workers, and education and training providers.

Their role is to raise awareness and ensure the consistent implementation of SWE's standards, including sharing of analysis of when individuals or providers fall short of standards, and driving forward improvement across their region.