



Response to *Promoting Professionalism, Reforming Regulation*, 23 January 2018

<p>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?</p>	<p>Are there any other options, and if so, what are they? It is important that whichever organisation takes on this role of advisor to the Government that they do so in a way which is transparent and consultative with the public. The organisation should have balanced ethnic and gender representation, especially at board level.</p>
<p>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?</p>	<p>We have insufficient information to comment.</p>
<p>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?</p>	<p>As a charity interested in maternity services, we would expect that midwives, doctors, nurses and social workers retain their current level of statutory regulation.</p>
<p>Q4: What are your views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals?</p>	<p>We are concerned that prohibition orders might be an inappropriate way to manage any group. For us to support this we would need a lot more detail about the context in which the orders would operate.</p>
<p>Q5: Do you agree that there should be fewer regulatory bodies?</p>	<p>We can see the case for cost savings by combining regulatory bodies (despite these not being fully evidenced in the consultation paper, and not fully supported by the background documentation including the commissioned CHSEO research). However, the evidence from the combining of the regulatory bodies for nursing and midwifery has shown no benefit to</p>

	maternity service users and significant risks have been identified. (See also response to question 6).
Q6: What do you think would be the advantages and disadvantages of having fewer professional regulators?	The timing of this consultation is highly awkward for those of us responding from the perspective of the safety and wellbeing of maternity service users in particular, given that we are currently awaiting two key reports from the PSA which we would expect to cast some doubt about the effectiveness of the current organisational structure and operation of the NMC. There are a number of outstanding concerns about the effectiveness of the Nursing and Midwifery Council, shared by a range of stakeholders, and yet we note that it is the NMC that provides the model of an efficient merged regulator in this consultation. We believe that it will be important to learn from the issues identified in the forthcoming reports about the NMC when considering the structure and operation of the wider regulatory system more generally. So far as we are able to comment in this context, we agree with the potential advantages outlined in the proposal paper, however we would like to see the evidence of any advantage that these reforms would have for maternity service users. We can see potential advantages in the standardisation of approach and possible cost savings. The potential disadvantages are that the need to build and maintain specific expertise (e.g. in relation to educational requirements and fitness to practice work) for different professional groups would not be adequately addressed.
Q7: Do you have views on how the regulators could be configured if they are reduced in number?	It is very important to us that midwives are regulated effectively and appropriately, whatever structure this is within, and as a separate group from other professions. If there is to be a restructuring of the regulators, then – subject to the response to q6 above - we would propose that the options are considered of (a) bringing together the regulation of doctors and midwives within the same regulator, and (b) shifting midwifery regulation to the HCPC. .
Q8: Do you agree that all regulatory bodies should be given a full range of powers for resolving fitness to practise cases?	For public protection, standards should be equivalent across all regulatory bodies. In exercising these powers, it is vital that the case examiners and panel members have the appropriate expertise and understanding of the professional area under consideration. Currently, in our experience this is an issue of concern in midwifery cases under the NMC.
Q9: What are your views on the role of mediation in the fitness to practise process?	We would like more clarity on this, given the possible confusion between this regulatory approach and an understanding of such mediation as between the professional and harmed service-user.

<p>Q10: Do you agree that the PSA's standards should place less emphasis on fitness to practise performance and consider the wider performance of the regulators?</p>	<p>Yes, we do agree that the PSA should focus on the wider performance of the regulator, but we would insist that a critical component of the regulator's work (and an area for improvement in the case of the NMC) is the operation of an effective fitness to practice procedure.</p>
<p>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?</p>	<p>Yes</p>
<p>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?</p>	<p>Yes, we agree that the regulators do have a role in supporting professionalism. Currently, the NMC tend to state that their role is not to support midwives, whereas the GMC explicitly states that they do support doctors, and we are interested in this apparent difference of approach. The GMC's website (https://www.gmc-uk.org/about/index.asp), for example, says "We support [registrants] in achieving and exceeding those standards, and take action when they are not met". In order to better support registrants, all regulators need to take account of the specific features of the profession.</p>
<p>Q13: Do you agree that the regulators should work more closely together? Why?</p>	<p>Standardisation of approach, accessibility for the public, understandable processes.</p>
<p>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?</p>	<p>We would like further information regarding the single adjudicator proposal.</p> <p>Joint working may highlight systemic issues where the employment context does not allow the professionals to carry out their work to the required standards. It might also show areas where one profession is receiving sole blame for failings when in fact the failings are across professions, or lie with the employer.</p>
<p>Q15: Do you agree that data sharing between healthcare regulators including systems regulators could help identify potential harm earlier?</p>	<p>See answer to question 14.</p> <p>It is essential that data sharing initiatives are properly resourced to ensure that the flagged data is properly investigated. In addition, it is essential that confidentiality is maintained.</p>
<p>Q16: Do you agree that the regulatory bodies should be given greater flexibility to set their own operating procedures?</p>	<p>This would have to be done under strong oversight from the PSA, retaining all current accountability mechanisms.</p>

<p>Q17: Do you agree that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, in addition to the UK Parliament?</p>	<p>Yes</p>
<p>Q18: Do you agree that the councils of the regulatory bodies should be changed so that they comprise both non-executive and executive members?</p>	<p>Yes - see response to question 1</p>
<p>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?</p>	<p>It is important that the views of the public take precedence. Employers are important stakeholders of the regulators and so there should be consultation with employers, but we do not support employers sitting on the councils. In addition to the views of employers being taken into account, we are keen to ensure that the views of the regulators are taken into account by employers. For example, employers should have a system to receive recommendations from the regulator to address issues that go beyond individual practitioners, to help to reduce systemic failings.</p>
<p>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?</p>	<p>Yes. They should also consult on these proposals with all stakeholders including the public and relevant lay organisations.</p>
<p>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?</p>	<p>Potential savings in the cost of operating the regulatory system could be reinvested in more equitable fee charging structures to reflect, for example, registrant incomes and working patterns (e.g. part time workers paying a reduced fee). We see no evidence in this document that there are any potential savings to be had from the reorganisation of nursing and midwifery regulation, given that the NMC already reaps the large-scale cost efficiencies envisaged for other professions. Therefore, we are concerned about the affordability of more upstream work to support professionalism.</p> <p>We were disappointed that there were no estimates given in the document for the costs and benefits of the proposals, broken down by profession.</p>
<p>Q22: How will the proposed changes affect the costs or benefits for your organisation or those you represent?</p>	<p>We see very little benefit for maternity service related to these proposals.</p> <p>For service-users in other areas of health and social care (which includes the women and</p>

<ul style="list-style-type: none"> - an increase - a decrease - stay the same <p>Please explain your answer and provide an estimate of impact if possible.</p>	<p>families we represent), the commissioned CHSEO report referenced in the consultation document also casts doubt on the likelihood of significant cost savings from any merger proposals in other areas of the regulatory system.</p> <p>The consultation document highlights a number of areas in which regulators might improve their engagement/ performance. Given the lack of cost-savings that seem to be envisaged for the NMC, we are keen to better understand how such improvement work will be financed.</p>
<p>Q23: How will the proposed changes contribute to improved public protection and patient safety (health benefits) and how could this be measured?</p>	<p>We are keen to see more effective measures of regulator performance. For example, reviews of the number and seriousness of fitness to practice cases over time, and how these have been reduced by upstream regulatory work; improvements in patient outcome and satisfaction, evidence that the public is effectively utilising existing referral channels to refer cases as appropriate, and improvements in profession-specific recruitment and retention could all be usefully linked to existing performance measures.</p>
<p>Q24: Do you think that any of the proposals would help achieve any of the following aims:</p> <ul style="list-style-type: none"> - 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? - Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it? <p>If yes, could the proposals be changed so that they are more effective?</p> <p>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?</p>	<p>Any reconfiguration needs to take into account that it is essential that regulators are regulating equitably across the sexes. In that context, and as reconfiguration options are examined, it may be helpful to ensure that each regulator, as far as possible, has a mix of professions within their portfolio which have a mixture of both sexes to help them in this objective.</p> <p>Regulators should not be discriminating against those seeking to take advantage of flexible working patterns. A directive that regulators should link the level of registrant fees to salaries might help ensure less discrimination against part time workers (who tend to be predominantly women), so this would seem to be worthy of review.</p>