

Healthcare Regulation - deciding when statutory regulation is appropriate

UKPHR response- March 2022

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

UKPHR agrees with this statement. However, we'd suggest expanding the risk of harm to include populations and the public- some health professions have minimal contact with individual patients, but work to ensure the health of the public. For example, public health supports individuals, organisations, and society to tackle preventable disease, mortality and disability using:

- **Prevention: reducing the incidence of ill health supporting healthier lifestyle.**
- **Protection: surveillance and monitoring of infectious disease, emergency response and immunisation.**

Public health professionals protect the public in an upstream way, working to minimise the likelihood of individuals becoming patients.

It may also be helpful to understand how workforce requirements/ challenges impact the statutory vs non-statutory regulation debate, and how workforce issues may contribute to potential harm to the public and patients. For example, if an established healthcare profession is unregulated, but is experiencing significant workforce challenges that could threaten the health and wellbeing of the public, is this something that would be considered for potential statutory regulation?

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

However, statutory regulation does provide future-proofing for a profession, and can provide reassurance to the public during times of significant change. Healthcare organisations and landscape changes frequently. Statutory regulation can provide stability/consistency through periods of significant change. Horizon scanning and forecasting must also be taken into consideration.

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

However, we would appreciate clarification on the consultation statement that *the main risk, should a profession be considered for de-regulation, is that there may be a reduction in standards*. Is this referring to a reduction in standards across the profession, or a reduction in standards by the regulator? If the former, one could argue that there is an increased need for statutory regulation to bring practice standards back to where they should be. If the latter, this may not be a justified reason to bring a profession out of statutory regulation- if there is still a clear need for regulation of the profession (according to the DHSC guidance), support should be put in place to ensure the statutory regulator can raise standards and ensure effective regulation.

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

Agree

However, some clarity around the relationship between workforce requirements and challenges and statutory vs non-statutory regulation would be helpful. If an established healthcare profession is unregulated, but is experiencing significant workforce challenges that could threaten the health and wellbeing of the public, is this something that might be significant enough to consider whether statutory regulation might mitigate the workforce issues?

It would also be helpful to acknowledge that voluntary (ie unregulated) registers set and uphold standards in the same way as a statutory regulator. The term 'unregulated' can cover a broad range of professions, some of which have registers operating models similar to statutory regulators. Voluntary registers have a key role to play in protection of the public, ensuring workforce requirements of the NHS and other health agencies are met.