

Where next for UK regulatory reform?

Douglas Bilton

Assistant Director, Standards and Policy

Dinah Godfree

Policy Manager



The Professional Standards Authority

We oversee nine health and care professional regulators



General Chiropractic Council



General Dental Council



General Medical Council



General Optical Council



General Osteopathic Council



Health & Care Professions Council



Nursing & Midwifery Council



General Pharmaceutical Council



Pharmaceutical Society Northern Ireland



Find a regulator on our website

The Professional Standards Authority

- Performance reviews
- Review of all decisions by fitness to practise panel hearings
- Policy development and research
 - Funding: statutory levy on the professional regulators*
- Accreditation of registers of occupations not statutorily regulated
 - Funding: initial accreditation and renewal fees*
- International performance and other reviews
 - Funding: commissioner*
- Government commissions including special reviews
 - Funding: commissioner*

Regulatory reform – some milestones

- Law Commissions report and draft Bill (April 2014)
- *Rethinking regulation* (August 2015)
- Government undertaking (December 2015)
- *Regulation rethought* (October 2016)
- Statement by Philip Dunne (October 2017)
- *Right-touch regulation (revised)* (October 2015)

Plans to consult

‘Our priorities for reform in this area are better regulation, autonomy, and cost-effectiveness while maintaining and improving our focus on public protection. We intend to consult on how these priorities can be taken forward, taking account of the Law Commissions’ work on simplification and consistency and building on the Professional Standards Authority for Health and Social Care’s paper *Rethinking regulation* published in August 2015. We will present proposals that give the regulators the flexibility they need to respond to new challenges in the future without the need for further primary legislation’.

Ben Gummer, former Parliamentary Under-Secretary of State, 17 December 2015

‘The Government is planning to consult on the high level principles of reform of professional regulation’.

Philip Dunne MP, Minister of State for Health, October 2017 (response to Parliamentary question)

What are we trying to achieve?

- Clarity for the public – what is regulation, what is it for, what can it do for me, how do I engage with it when I need to?
- Ease of access for employers to key knowledge
- Support for workforce planning and innovation – breaking down boundaries between professions
- Consistency of treatment across professions
- Improving fitness to practise
- Promoting learning from situations where things have gone wrong, and thus prevention (“upstream”)

Characteristics and purpose of a reformed system

The health professional regulatory system should be:

- Proportionate to the harm it seeks to prevent
- Simple to understand and operate
- Efficient and cost-effective.

The shared purpose of the regulatory system should be:

- Protecting patients and reducing harms
- Promoting professional standards
- Securing public trust in professionals.

Desirable features of a reformed system

- A shared theory of regulation based on right-touch thinking
- Shared objectives for system and professional regulators and clarity of roles
- Transparent benchmarking to set standards
- A rebuilding of trust between professionals, the public and regulators
- A reduced scope of regulation so it focuses on what works
- A proper risk assessed model of who and what should be regulated put into practice through a continuum of assurance
- A drive for efficiency and reduced cost (mergers and deregulation)
- Placing real responsibility where it lies: with the people who manage and deliver care

Right-touch reform (2017 – in press)

Addresses policy development for the regulatory functions:

- To set common standards that all registrants must meet
- To quality assure higher education courses that lead to registration
- To maintain a register of appropriately qualified practitioners
- To investigate allegations that registrants do not meet those standards and take action where necessary

Includes detailed account of how things are now – written for a wide readership

Harm and its prevention (standards)

- Seeking to find new ways to prevent harm
- Novel ways to interrogate FTP data to identify trends and patterns
- Assessing abstract ideas from the academic literature (formative spaces, relational regulation)
- Work at the boundary between the regulator and employers – benefits for prevention and managing concerns
- Understanding more about the relationships between regulators and registrants – how is the purpose of regulation communicated and understood?
- Understanding the role of patients in the safety of their own care – what is the role of regulators?

QA of higher education

- Seeking opportunities to simplify and improve regulators' legislation in this area
- Seeking opportunities to share best practice
- Review of regulatory approach and responsibilities among the many bodies involved in QA
- Setting out principles for reform in this area

Registers

- Details on register only when necessary for public protection
- Using specialist lists only when necessary
- Non-practising registers
- Length of time for which sanctions are displayed – consistency
- Consistently accessible information on erased registrants

Fitness to practise: the current picture

- Fitness to practise frameworks are complex and vary from one regulator to the next
- Most regulators are struggling with increasing caseloads
- Current framework expensive and overly adversarial
- Many aspects are set in legislation, but some are not
 - ⇒ What are we trying to achieve?
 - ⇒ How can we move forward with or without legislative reform?

FtP: an ideal model?

- **Purpose:** to protect the public, maintain public confidence, and declare and uphold professional standards (as now)
- Remove adversarial, legalistic aspects of current model
- Focus investigation on establishing facts (inquiring model)
- Encourage cooperation from registrants from the outset
- Use remediation where it works
- Ensure the voice of the complainant is heard

FtP: improvements within the current framework and beyond

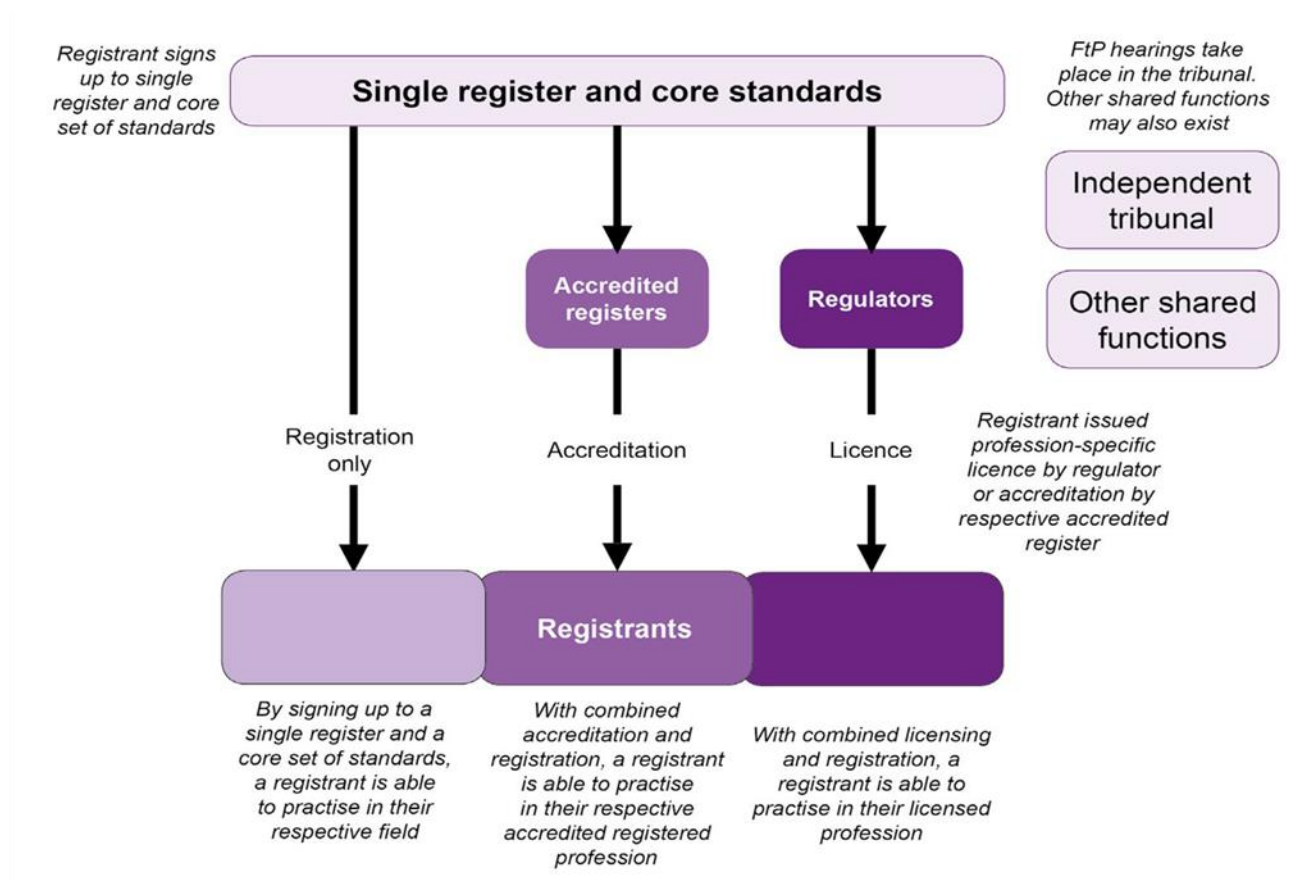
Two areas where more work is needed to deal with rising caseloads and ensure proportionality:

- **Threshold criteria**
 - Inconsistencies in policy and application across the regulators
 - Lack of clarity and transparency
 - Possibility of cases being closed where there is a risk to the public
- **Consensual disposal** (undertakings)
 - Piecemeal development with variations across the regulators
 - Need for transparency and accountability
 - Little understanding of what works and where risks are

A single assurance body

- A single register and core standards for all
- Encompassing statutory registration, accredited registration and other parts of the workforce
- Shared tribunal and other functions
- Licence to practise for those where this is justified by the risks arising from practice
- Underpinned by a consistent approach to the assessment of occupational risk of harm

A single assurance body



So, where next for regulatory reform?

- Publication of UK-wide public consultation (understood to be soon)
- Publication of *Right-touch reform*
- We encourage a wide range of stakeholders to engage with and respond to the consultation as and when it is published

The full report will be published on:
www.professionalstandards.org.uk

Douglas Bilton

Douglas.bilton@professionalstandards.org.uk

Dinah Godfree

Dinah.godfree@professionalstandards.org.uk