Faculty of Public Health

of the Royal Colleges of Physicians of the United Kingdom

Working to improve the public's health

Response by the Faculty of Public Health to the Department of Health's consultation on *The Future Regulation of Health and Adult Social Care in England*

Introduction

The Faculty of Public Health is an authoritative public health body which aims to advance the health of the population through three key areas of work: health improvement; service improvement and health protection. In addition to maintaining professional and educational standards, the Faculty advocates on key public health issues and provides practical information and guidance for public health professionals.

The Faculty welcomes the opportunity to respond to the questions in this consultative document. We have chosen to confine our response to the **implications of the proposals for the regulation of public health and health promotion.**

Comments

1. In general, we very much welcome the proposals for a more streamlined approach to independent regulation of health and social care, particularly the commitment to a less burdensome mechanism and less duplication, and the extension across public, private and third sector commissioning and provision.

2. However, because the emphasis is clearly on health and social *care*, the proposals fail to take notice of the fact that there will be, and indeed already is, a burgeoning marketplace in providing various elements of public health (eg. information, needs assessments, service reviews) and health promotion (eg. commercial slimming organisations, stop smoking clinics, walking clubs).

3. **We feel strongly that the focus of the proposals is too narrow and that consideration needs to be given as to how regulation can be extended to cover those increasingly important aspects of public health concerned with the promotion and protection of health, prevention of ill-health and reduction of health inequalities as well as improved quality in health and social care.**

4. Whether this is through an extension of the remit of the proposed new regulator for health and social care or through a separate and/or parallel mechanism will need careful thought. **We see some advantages in a separate but closely parallel mechanism to give appropriate emphasis to public health and health promotion.**

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5. **Commissioning**
   As well as regulating providers of public health and health promotion, any new mechanism must also embrace regulation of local *commissioners*. Relying purely on SHAs to regulate commissioners fails to recognise that commissioning for public health and health promotion will increasingly be the job of local authorities through the mechanism of Local Area Agreements (LAAs). The Local Government White Paper makes it clear that the whole health and social care environment will need to be set within the context of LAAs. In particular, the Local Government White Paper emphasises the local authorities' role in health and wellbeing, the central strategic part played by the Local Area Agreement, the inclusion of Counties and Unitaries in this process, and a forthcoming duty to cooperate with PCTs around health and wellbeing. LAAs will be the key local driver.

6. We would therefore like to see the proposals take on board the wider health and wellbeing aspects of the Local Government White Paper and the new DH guidance on commissioning for health and wellbeing. **In particular we would like to see a new joint mechanism for regulating commissioning as well as providing. We see the most promising route being through the regulation of LAAs. Overview & Scrutiny Committees are expected to undertake this function and we feel there needs to be greater clarity about how the proposed new mechanism embraces this OSC regulatory role.**

7. **National standards**
   National standards must be determined in a way that allows for local variation. Many standards are based on outcomes, which is obviously a sensible approach. However, as far as public health outcomes are concerned, these tend to be based on shifting the health parameters of whole populations, and this emphasis does not readily allow for variations in local demography. In our view local commissioners serving challenging populations should no longer be penalised by regulators using the blunt instrument of failing to achieve national health outcomes. Furthermore, where comparable standards for public health and health care exist (for example in NICE recommendations), we would wish to see that providers are required to implement them with equal weight. **We understand a review of national standards is underway and we would wish to see the review address the challenge of making standards around public health more flexible and responsive to local inputs and outputs rather than a rigid preoccupation with population-wide outcomes.**

8. **Competition**
   In addition to care, the new marketplace will include private and third sector providers of public health and health promotion services. Indeed this is already happening with information providers (eg. Dr Foster) and obesity management (eg. Weight Watchers). A number of social enterprises are springing up all over the country to provide tailored health promotion programmes aimed at specific communities or patient education aimed at people with particular types of illness.

9. The new rules and standards will need to embrace all this. Commissioners will need guidance on encouraging competition, assessing business cases, and understanding contract mechanisms for ensuring quality delivery. Providers will need parallel guidance not only on what is required of them in pitching for contracts and delivering services but also in meeting standards.

10. **The specialist public health function**
    Both *Our Health, Our Care, Our Say* (OHOCOS) and the Local Government White Paper make it clear that needs assessments and service reviews will be fundamental to the commissioning of health and social care. So too are the collection and analysis of performance data. These tasks are core business for specialist Public Health. **We would like to see the proposals emphasise the need for adequate resourcing of the local specialist public health function. Any regulatory mechanism will need take notice of the resources allocated to the specialist public health function by commissioners.**

11. **Economic regulation**
    Achieving the best balance between investments in prevention and in remedial services is a key strategic question which needs to be addressed and monitored. There is currently a major imbalance in the flow of local NHS funds. Payment-by-results in particular has sucked money into the hospital sector – completely against the direction outlined in OHOCOS. This has had a devastating effect on health promotion and public health, as well as on front-line community services.

12. **In our view it is crucial that the economic regulation of acute trusts (through Monitor and the new regulator) is able to identify and control perverse incentives in the system which maximise activity (and income) for hospitals to the detriment of community and preventive services.**

13. The Faculty would be happy to work with the Department of Health and the other relevant regulatory bodies to address the points raised in our response.