

**Council, 14 October 2010**

**Consultation on our proposals for post-registration qualifications**

**Executive summary and recommendations**

**Introduction**

Post-registration qualifications are those which are undertaken by individuals once they are registered with us. We have powers to 'annotate' or mark post-registration qualifications on our Register to indicate that individuals have successfully completed the programme. At the moment, we only annotate post-registration qualifications on our Register where they relate to entitlements to supply, use or prescribe medicines.

We have developed some criteria which we will use to make decisions about whether we should annotate additional post-registration qualifications on our Register. We have also identified two post-registration qualifications which could be annotated on our Register.

We are seeking the views of stakeholders on our proposed criteria and also on whether we should consider annotating neuropsychology and podiatric surgery on our Register.

Subject to agreement by the Council, we hope to consult on our proposals between October and January of next year.

**Decision**

The Council is invited to:

- discuss and agree the text of the attached consultation paper (subject to minor editing amendments).

**Background information**

The Council previously considered post-registration qualifications at its meeting on 13 December 2007. The paper can be found here: [http://www.hpc-uk.org/assets/documents/10002048council\\_meeting\\_20071213\\_enclosure08.pdf](http://www.hpc-uk.org/assets/documents/10002048council_meeting_20071213_enclosure08.pdf)

Post-registration qualifications have previously been considered by the Education and Training Committee on a number of occasions. This paper was discussed on 8 June. The paper can be found here: <http://www.hpc-uk.org/aboutus/committees/educationandtraining/index.asp?id=492>

## **Resource implications**

The resource implications include writing up of the consultation responses document and meetings with stakeholders. These resource implications are accounted for in the Policy and Standards Department and workplan for 2010-2011.

Depending upon the outcomes of the public consultation, there may be further resource implications for 2011-2012, when the policy on post-registration qualifications implemented. These would be incorporated within the relevant workplans for 2011-2012.

## **Financial implications**

The financial implications as this stage will be the printing and mailing of the consultation document to relevant stakeholders. This would cost approximately £600 to send to 400 consultation contacts.

Depending upon the outcomes of the public consultation, there may be further financial implications for 2011-2012, when the policy on post-registration qualifications is implemented. These would be incorporated within the relevant budgets for 2011-2012.

## **Appendices**

None

## **Date of paper**

23 September 2010

## Consultation on our proposals for post-registration qualifications

Contents Consultation on our proposals for post-registration qualifications .....	1
Contents .....	1
1. Introduction .....	3
About the Health Professions Council .....	3
Post-registration qualifications and the HPC Register .....	3
About this consultation .....	4
About this document .....	4
Consultation questions .....	5
Overarching questions about the criteria .....	5
Questions about specific criteria .....	5
Questions on annotating neuropsychology and podiatric surgery .....	6
Your comments .....	6
How to respond to the consultation .....	6
2. Background .....	7
External policy context .....	7
Trust, Assurance and Safety .....	7
Extending professional and occupational regulation .....	7
Advanced practice project .....	8
HPC and post-registration qualifications .....	8
The Health Professions Order .....	8
Existing annotations of the Register .....	9
Education and training .....	9
Standards of proficiency .....	10
Standards and advanced areas of practice .....	10
How we have formulated our consultation proposals .....	10
3. Our proposals on post-registration qualifications .....	12
Criteria for making decisions about post-registration qualifications .....	12
Summary of criteria .....	12
Your comments .....	13
Risk to the public .....	13
Our proposal .....	14
Qualifications and experience .....	15
Our proposal .....	16
Annotations and protected functions or titles .....	17
Our proposal .....	19
Exclusivity .....	19
Our proposal .....	20
Information for the public .....	20
Post-registration qualifications which could be annotated .....	21
Neuropsychology .....	21
What is neuropsychology? .....	21
Entry into the profession .....	21
Employment .....	22
Existing governance and regulation arrangements .....	22

Options for annotation.....	22
Podiatric surgery.....	24
What is podiatric surgery?.....	24
Entry into the profession .....	24
Employment.....	25
Existing governance and regulation arrangements.....	25
Use of the title 'podiatric surgeon' .....	25
Options for annotation.....	26
Rationale for choosing these qualifications .....	27
Questions on our proposals to annotate these qualifications .....	28
4. Next steps .....	29

FOR DISCUSSION/APPROVAL BY COUNCIL 141010

## 1. Introduction

- 1.1 We are the Health Professions Council (the HPC). This paper presents for consultation our proposals related to post-registration qualifications.
- 1.2 This section provides an introduction to the consultation document. It provides information about this consultation, summarises the questions we are seeking your views on and explains how you can respond to the consultation.

### About the Health Professions Council

- 1.3 We are a regulator and were set up to protect the public. To do this, we keep a register of professionals who meet our standards for their professional skills and behaviour. Individuals on our register are called 'registrants'.
- 1.4 We currently regulate 15 professions:
  - Arts therapists
  - Biomedical scientists
  - Chiropodists / podiatrists
  - Clinical scientists
  - Dietitians
  - Hearing aid dispensers
  - Occupational therapists
  - Operating department practitioners
  - Orthoptists
  - Paramedics
  - Physiotherapists
  - Practitioner psychologists
  - Prosthetists / orthotists
  - Radiographers
  - Speech and language therapists

### Post-registration qualifications and the HPC Register

- 1.5 Post-registration qualifications are those which individuals undertake once they are registered with us. They often allow registrants to extend their scope of practice into areas not covered by their initial pre-registration training. In some circumstances we are required by law to 'annotate' post-registration qualifications on our Register so that members of the public or employers can check that an individual has the necessary qualification.
- 1.6 Members of the public can check that a registrant is registered with us by searching our on-line register: [hpcheck.org](http://hpcheck.org). The following information is publicly available:
  - the registrant's name;
  - their registration number;
  - the area where they work; and
  - the dates they are registered from and to.

- 1.7 A registrant's qualifications are not listed on the website. However, in some circumstances, we 'annotate' a registrant's entry on the Register to indicate that they have completed a post-registration qualification. We currently annotate qualifications related to entitlements to use medicines as we are required by law to do so (see paragraphs 2.11 - 2.13 below).
- 1.8 The post-registration qualifications are offered by education providers and incorporate theory and practice. The term 'qualifications' does not only refer to formal qualifications delivered by higher education institutions. Instead, we mean any type of learning which has an assessment process at the end. The assessment process means that the provider can check that the registrant has the necessary skills. The learning could be delivered through a higher education institution or through another accrediting organisation.

### **About this consultation**

- 1.9 This consultation has two key parts. Firstly, we are consulting on criteria that we will use to decide whether we annotate a post-registration qualification on our Register. We are seeking the views of stakeholders to assist us in shaping the draft criteria which we will use to make decisions about whether a qualification is annotated.
- 1.10 Secondly, we are seeking the views of stakeholders on potentially annotating qualifications in neuropsychology and podiatric surgery on our Registers.
- 1.11 We would welcome your comments on these areas which we are exploring. We will consider your comments carefully and use these comments both to help us to shape our criteria and also to help us to decide whether to annotate these post-registration qualifications.
- 1.12 This consultation will run from **[date]** to **[date]**. The consultation document has been sent to stakeholders with an interest in our work, including professional bodies, education providers and other groups. You can download copies of this consultation document from our website here: <http://www.hpc-uk.org/aboutus/consultations/>
- 1.13 You can find out how to respond to this consultation in paragraphs 1.18-1.21.
- 1.14 In this consultation we raise the prospect of protecting by law titles or functions associated with certain post-registration qualifications. It is important to note that any decision on whether a title or function is protected would require changed to be made to our governing legislation and thus would be a matter for government and not the HPC.

### **About this document**

- 1.15 This document is divided into four sections which are summarised below:

1. Section one provides an introduction to the consultation document.
2. Section two provides background both to our approach to post-registration qualifications and the work that we are consulting on.
3. Section three outlines our proposals related to post-registration qualifications which we are seeking your views on. This includes draft criteria for making decisions on post-registration qualifications and identifies two post-registration qualifications which could be annotated on our Register.
4. Section four outlines the next steps for our proposals following this consultation.

## **Consultation questions**

- 1.16 We would welcome your response to our consultation and have listed some questions to help you. The questions are not designed to be exhaustive and we would welcome your comments on any issue related to post-registration qualifications and the criteria that we are proposing. Please provide reasons alongside your answers where possible.
- 1.17 The questions are incorporated alongside our proposals in section 3 of this document. However, they are also listed below.

### **Overarching questions about the criteria**

1. Do you agree that the criteria proposed are necessary to make decisions about post-registration qualifications?
2. Do you agree with the additional information that is provided?
3. Do you agree with the proposed wording of the criteria and additional information?

### **Questions about specific criteria**

#### **Risk to the public**

4. Do you agree with our approach to risk as outlined in these criteria?
5. Are there any other factors which should be considered when determining risk?

#### **Qualifications and experience**

6. Do you agree that there should be evidence that the post-registration qualification must be essential to carry out a particular role?

#### **Annotation and protected functions or titles**

7. Should we make a policy decision to annotate only where there is a link between a qualification and a protected title or function?

#### **Exclusivity**

8. Do you agree with our approach to access to the post-registration qualification?

## Questions on annotating neuropsychology and podiatric surgery

9. Do you agree we should annotate these qualifications?
10. Do you agree that we should seek legislative change to protect a title or function? If so, what title or function should be protected?
11. What would be the impact of annotating these qualifications on public protection, service provision and other areas?
12. How feasible would it be to annotate these qualifications? Do they reflect the situation, including service provision, within the four countries?

## Your comments

13. Do you have any other comments on any of our proposals?

## How to respond to the consultation

1.18 The consultation closes on **[date]**.

1.19 Please send your response to:

Consultation on post-registration qualifications  
Policy and Standards Department  
Health Professions Council  
Park House  
184 Kennington Park Road  
London  
SE11 4BU

1.20 You may also email responses to [consultation@hpc-uk.org](mailto:consultation@hpc-uk.org) or send a fax to +44 (0)20 7820 9684.

1.21 Please note that we do not normally accept responses by telephone or in person. We normally ask that consultation responses are made in writing to ensure that we can accurately record what the respondent would like to say. However, if you are unable to respond in writing please contact us on +44 (0)20 7840 9815 to discuss any reasonable adjustments which would help you to respond.

## Please contact us to request a copy of this document in an alternative format, or in Welsh.

- 1.22 We will publish a summary of the responses we receive to the consultation and the decisions we have taken as a result on our website.
- 1.23 If you would prefer your response not to be made public, please indicate this when you respond.
- 1.24 We look forward to receiving your comments.



## 2. Background

- 2.1 This section provides some background to our consultation document. It explains the policy context, existing annotations of our Register and the links between post-registration qualifications, education and standards.

### External policy context

- 2.2 There have been a number of recent policy developments which have helped to shape our approach to post-registration qualifications and the proposals that we are consulting on. These developments are outlined below.

### Trust, Assurance and Safety

- 2.3 In 2007, the previous government issued a White Paper 'Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century'. This made a number of recommendations about regulation, including recommendations on post-registration qualifications.
- 2.4 The paper said that for the non-medical health professions: '...post-registration qualifications should be recorded in the register where these are relevant to patient care, risk management and are at a level substantially beyond the requirements for basic registration.' Regulators were also asked to look at what other changes could be made to provide better information for patients, the public and employers when considering post-registration qualifications.<sup>1</sup>

### Extending professional and occupational regulation

- 2.5 Several working groups were established to take forward the recommendations within the White Paper, including the Department of Health Extending Professional and Occupational Regulation working group. This group looked at recommendations on extending the scope of professional and occupational regulation. The working group's report focuses on extending regulation to new groups but makes some more general conclusions which are relevant to our proposals on post-registration qualifications.<sup>2</sup>
- 2.6 The report identifies that the primary purpose of regulation is to ensure safe and effective care for individuals who require it. In addition, regulation

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<sup>1</sup> Trust, Assurance and Safety – The Regulation of Health Professionals in the 21<sup>st</sup> Century, paragraph 6.12.

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_065946](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_065946)

<sup>2</sup> Extending professional and occupational regulation: the report of the Working Group on Extending Professional Regulation (July 2009)

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_102824](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_102824)

should ‘...take account of the wider matrix of regulation and governance systems in order to maximise benefit, whilst minimising duplication’.<sup>3</sup>

2.7 Additionally, the report emphasised that a key principle of regulation is that it should be proportionate to the risk to patients and public. The report identified key factors when assessing the risks posed. These include:

- the type of intervention;
- where the intervention takes place;
- the level of supervision;
- the quality of education, training and appraisal of individuals; and
- the level of experience of the individual carrying out the intervention.<sup>4</sup>

### **Advanced practice project**

2.8 In 2009, The Council for Healthcare Regulatory Excellence (CHRE) published a report providing advice on how regulators handle developments in professionals’ practice after initial registration, particularly ‘advanced practice’.<sup>5</sup> The conclusions relevant to our proposals are outlined below.

- The risks associated with an individual’s professional practice are best identified and managed by the professional, the teams in which they work and their employers. Regulators can then act if there is a need to identify and enforce clear national standards to protect the public and ensure that registrants are fit to practise.
- Before taking action, regulators should establish that their current regulatory systems are not adequately protecting the public and decide how those concerns can be dealt with.
- Regulators cannot require evidence of qualifications or experience for every area of practice that an individual works within.
- Regulators should only restrict a title or function to those with approved qualifications or experience where the public is at risk and where the existing system is not sufficient.
- If a regulator does restrict a title or function, it must ensure that it assures the quality of the qualifications required to demonstrate competence. Where additional standards are necessary, they should be clearly linked to either a protected function or title.<sup>6</sup>

## **HPC and post-registration qualifications**

### **The Health Professions Order**

2.9 We have powers to annotate our Register. These powers are set out in the Health Professions Order 2001 (‘the Order’) and in the Health Professions

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<sup>3</sup> Extending professional and occupational regulation, page 7

<sup>4</sup> Extending professional and occupational regulation, page 8 and chapter 2

<sup>5</sup> Advanced practice: report to the four UK Health Departments  
<http://www.chre.org.uk/satellite/116/>.

<sup>6</sup> Advanced practice: report to the four UK Health Departments, introduction

Council (Parts and Entries in the Register) Order of Council 2003 ('the Parts Order').<sup>7</sup>

- 2.10 Those Orders give us powers around post-registration qualifications. They are the power to:
- record post-registration qualifications or additional competencies in the Register;
  - approve post-registration qualifications for these purposes;
  - approve and establish standards of education and training for post-registration entitlements; and
  - produce standards of proficiency or their functional equivalent.

### **Existing annotations of the Register**

- 2.11 Currently we annotate our Register to indicate where a registrant has undertaken additional training around medicines and has obtained entitlements to supply, administer or prescribe these medicines. We are required to do this by legislation called 'The Prescriptions Only Medicines (Human Use) Order 1997'.
- 2.12 The Register is annotated where:
- A chiroprapist / podiatrist, physiotherapist or radiographer has completed an approved programme enabling them to become a supplementary prescriber.
  - A chiroprapist / podiatrist has completed an approved programme allowing them to sell / supply prescription only medicines and / or administer local anaesthetics.
- 2.13 There is a clear link between the legislation, the annotation on the Register and a function or tasks which an individual carries out. For example, an individual cannot act as a supplementary prescriber unless they have both completed a supplementary prescribing programme and have had their entry on our Register annotated. Individuals who act as supplementary prescribers without doing this could be prosecuted.

### **Education and training**

- 2.14 We visit education providers (including universities and other bodies) to approve pre-registration education programmes against the standards of education and training.<sup>8</sup> The standards of education and training are those standards necessary to ensure that someone who successfully completes the programme is able to meet the standards of proficiency for their part of the Register. There is more information about the standards of proficiency in paragraphs 2.16 - 2.17.

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<sup>7</sup> Those Orders can be found on our website here: <http://www.hpc-uk.org/publications/ruleslegislation/>. In particular Article 19 (6) of the Order says that we can set standards related to post-registration qualifications, whilst 2 (4) of the Parts Order allows us to annotate qualifications or additional competencies.

<sup>8</sup> The standards of education and training can be found on our website here: <http://www.hpc-uk.org/publications/standards/index.asp?id=183>

- 2.15 We approve education programmes that lead directly to an individual's eligibility to register and gain access to the relevant protected title(s) for their profession. The only post-registration programmes which we currently approve are those related to the entitlements to supply, administer or prescribe medicines which are identified above. If we annotate other qualifications on our Register, we would also approve those education programmes.

### **Standards of proficiency**

- 2.16 When we approve an education programme, this means that an individual completing the programme is able to meet the standards of proficiency for their profession. The standards of proficiency are the threshold standards necessary for safe and effective practice.
- 2.17 The majority of standards of proficiency are standards necessary to produce safe and effective practitioners on entry into the profession. We also set a small number of standards which are linked to the entitlements to supply, administer or prescribe medicines outlined in paragraphs 2.11 - 2.13 above. For example, there is a standard of proficiency related to supplementary prescribing. Registrants demonstrate that they meet this standard by successfully completing an education programme which we approve. Approval of the programme allows us to quality assure the programme and ensure that all registrants meet the standards that we set.

### **Standards and advanced areas of practice**

- 2.18 We do not currently set specific standards related to any other areas of advanced or specialised practice. The absence of standards published by us that relate to a particular specialist area (whether or not the area is annotated on the Register) does not prevent the investigation of complaints involving registrants who have an extended scope of practice. Nor does it affect our ability to take appropriate action to protect members of the public. For example, if a complaint was upheld, a panel might consider applying conditions to the registrant's registration to limit their practice in that area.
- 2.19 The absence of standards does not prevent our ability to protect the public but there may be areas where public protection can be further improved. We may want to set standards and quality-assure education related to areas of advanced practice which carry sufficient additional risk to the public. This is one of the reasons why we are consulting on our proposals related to post-registration qualifications.

### **How we have formulated our consultation proposals**

- 2.20 Our proposals for consultation take into account the external policy context outlined above and discussions with stakeholders. As a result of these factors, we have drawn the following conclusions which we are using as the basis for our proposals on post-registration qualifications:

- The Register should be annotated to show more qualifications but only in exceptional circumstances, i.e. only where annotation would improve protection of the public.
- We should directly approve post-registration qualifications and develop standards of proficiency for those qualifications, building on existing systems.
- The annotation of a post-registration qualification should be meaningful for both the public and registrants.
- The annotation should not prevent the development of the professions or development of practice.
- Any policy on post-registration qualifications should apply to all the professions we currently regulate and any professions which might be regulated in the future.

2.21 We have used these conclusions to create draft criteria that we will use to make decisions about whether we annotate a post-registration qualification on our Register. The criteria are outlined in section 3.

FOR DISCUSSION/APPROVAL BY COUNCIL 14/010

### **3. Our proposals on post-registration qualifications**

- 3.1 This section outlines the draft criteria that we are proposing we should use to make decisions about whether a qualification is annotated on our Register. It also identifies two post-registration qualifications which could be considered for annotation.

#### **Criteria for making decisions about post-registration qualifications**

- 3.2 The purpose of the criteria is to ensure that decisions about whether a post-registration qualification is annotated on our Register are made consistently and to provide a clear rationale for the decision.
- 3.3 Our Education and Training Committee would consider whether a post-registration qualification meets any criteria we set and make a recommendation on that qualification to our Council.
- 3.4 We believe that we should annotate our Register where it will improve public protection. Where we annotate a qualification on our Register, we are able to quality assure education and set standards of proficiency. Ideally, only an individual who meets our standards and therefore has a particular annotation should be able to practise in a particular area or use a particular title. However, we recognise that protecting a title or function requires a change in the law and may not always be necessary or feasible.
- 3.5 We will only annotate the Register in exceptional circumstances. We will not annotate a qualification where it is unnecessary for us to develop additional systems to manage the risks posed and where those risks can be managed through the existing governance arrangements. By 'governance arrangements' we mean the systems which registrants work within which help to ensure public protection. These include regulatory systems, but also systems developed by employers, service providers, other organisations or individuals.

#### **Summary of criteria**

- 3.6 We are proposing five draft criteria which we believe are necessary for making decisions about whether a post-registration qualification is annotated. A qualification would be annotated on the Register where:
- there is a clear risk to the public if the Register is not annotated;
  - the risk could be mitigated through annotation of the Register;
  - the post-registration qualification is necessary in order to carry out a particular function or role safely and effectively;
  - there is a link between the qualification in question and a particular function or professional title which could be defined and protected by the HPC; and
  - the post-registration qualification could only be accessed by statutorily regulated individuals.

- 3.7 The section below outlines each of the criteria above and provides an explanation of why we believe the criteria are necessary. We have also given further information against each criterion to explain how we would use it to make decisions about whether a qualification is annotated.

### **Your comments**

- 3.8 We would welcome your comments in response to the proposed criteria and the further information. Alongside the general questions listed below, we have also identified some consultation questions which are specific to each criterion.

#### **Overarching questions about the criteria**

1. Do you agree that the criteria proposed are necessary to make decisions about post-registration qualifications?
2. Do you agree with the additional information that is provided?
3. Do you agree with the proposed wording of the criteria and additional information?

### **Risk to the public**

- 3.9 In line with the principle of 'proportionality' identified within the five principles of better regulation, we believe that we should intervene only when it is necessary.<sup>9</sup> We believe that we should only take action where the risks to the public cannot be managed sufficiently through existing governance arrangements.
- 3.10 Post-registration qualifications are undertaken by individuals who are already statutorily registered and therefore work within a regulatory framework. We believe that we do not need to establish additional regulation to incorporate most areas of practice which registrants access after completing post-registration qualifications. Instead, they can be incorporated within the existing standards and therefore we do not need to annotate the qualification.
- 3.11 However, there will be occasions when a registrant's area of practice changes so much that it moves substantially beyond our standards or broader governance arrangements. Alternatively, we may decide to set standards for a new area of practice where we have identified competencies that are required for that area of practice which are not met through pre-registration training. In these cases, it may be appropriate to develop a system of annotations and set standards linked to those annotations.
- 3.12 In addition, when we annotate a qualification we can ensure the quality of the training associated with the qualification, set standards for that qualification and provide information to the public. Where qualifications are

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<sup>9</sup> Principles of Good Regulation

<http://archive.cabinetoffice.gov.uk/brc/publications/principlesentry.html>

not annotated it is not possible to quality assure training or set standards for practice in these areas. This would not create concern where the risk to be managed is low or where the area of practice does not have a clearly defined post-registration qualification which could be annotated. However, we believe that where the risks posed cannot be managed through existing systems we should then consider annotating the qualification and setting the necessary standards.

- 3.13 There also needs to be evidence that the risk to the public can be mitigated through annotation of the Register. One way of mitigating the risk might be by ensuring that only individuals with an annotation demonstrating that they meet the necessary standards would be able to practice in a particular area. If it is not possible to mitigate that risk through annotation, then alternative systems would need to be considered.
- 3.14 An assessment of risk and how risk is mitigated can be a subjective decision. However, there are a number of sources of information which can be used to identify the levels of risk posed by a particular intervention or role.
- 3.15 The Extending Professional and Occupational Regulation working group report proposed a number of potential factors to consider when identifying the level of risks posed by moving into a new area of practice and also considering whether those risks can be managed through the existing regulatory framework (see paragraphs 2.5 – 2.7). The factors include the type of intervention, where the intervention takes place and the level of supervision.<sup>10</sup>
- 3.16 We have a new professions process which we use to help us make decisions about whether a profession should be recommended for statutory regulation. That process includes criteria for assessing potential risk which can be summarised as:
- invasive procedures;
  - interventions with the potential for harm; or
  - exercise of judgement which can substantially impact on health or welfare.<sup>11</sup>
- 3.17 The criteria identified in the new professions process guidance can be helpful when thinking about risk, particularly when considered alongside the other factors identified above.

## **Our proposal**

- 3.18 We propose the following criteria and additional information should be used to help us to make decisions about whether a post-registration qualification should be annotated.

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<sup>10</sup> Extending professional and occupational regulation, page 8 and chapter 2

<sup>11</sup> Guidance for occupations considering applying for regulation by the Health Professions Council  
<http://www.hpc-uk.org/aboutregistration/newprofessions/forms/>



## Criteria:

- There is a clear risk to the public if the Register is not annotated.
- The risk to the public could be mitigated through annotation of the Register.

## Additional information

3.19 We will use these criteria to determine the level of risk posed by the area of practice related to the post-registration qualification. When looking at the level of risk we would take into account whether there are:

- invasive procedures;
- interventions with the potential for harm; or
- exercise of judgement which can substantially impact on health or welfare

3.20 Any existing governance arrangements should also be taken into consideration. This includes the type of intervention undertaken, the level of supervision; the quality of education, training and appraisal of individuals; and the level of experience of the individual carrying out the intervention.

3.21 We would also consider how the annotation would reduce the risk posed by the intervention. This could be because the annotation would allow the HPC to quality assure the education programmes and also to set standards for the particular area of practice.

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| <p>4. Do you agree with our approach to risk as outlined in these criteria?</p> <p>5. Are there any other factors which should be considered when determining the level of risk?</p> |
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## Qualifications and experience

3.22 A registrant's learning does not finish once they complete their pre-registration education and training. Instead, registrants continue to learn in a variety of ways, both formal and informal, as their practice develops. The learning that they undertake could be through experience, or through training or a formal qualification.

3.23 A registrant's learning is not limited to post-registration qualifications, as they can undertake learning in a variety of different ways. We use the term 'post-registration qualifications' to refer broadly to learning which registrants undertake once they are registered which also contains a validation process. The validation process allows us to check that an individual completing the qualification has the necessary skills. These qualifications do not have to be delivered by higher education institutions, nor do they have to be formal qualifications.

- 3.24 Therefore, there needs to be a clear link between the qualification and either a particular function or a role. It should only be possible to undertake that function or role after completing that post-registration qualification. If there was no clear link the annotation would not be meaningful and might unnecessarily limit a registrant's ability to practice.
- 3.25 There are some qualifications which, whilst necessary for a particular role and required by an employer, are not necessarily relevant to public safety. For example, an employer may ask a registrant managing a department to undertake qualifications in management.
- 3.26 In these cases, there is a distinction to be drawn between our requirements as a regulator setting national standards for practice in a profession and the requirements made by an employer for a particular role. Whilst the qualification may be important for a particular role, we do not need to annotate the qualification or set standards for the qualification because the qualification is not uniformly required to carry out a role or because it is not necessary for public protection.

### **Our proposal**

- 3.27 We propose the following criterion and additional information should be used to help us to make decisions about whether a post-registration qualification should be annotated.

#### **Criteria:**

- The post-registration qualification is necessary in order to carry out a particular function or role safely and effectively.

#### **Additional information**

- 3.28 We will use this criterion to clarify the link between the post-registration qualification and the particular function or role. Only post-registration qualifications which enable an individual to undertake a clearly defined function or role will be annotated on our Register.
- 3.29 We would consider whether the qualification is essential before practising in a particular area. This would include looking at how the qualification and its learning outcomes enable individuals to practise safely in a particular area in which they could not otherwise practice.

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| <p>6. Do you agree that there should be evidence that the post-registration qualification must be essential to carry out a particular role?</p> |
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## Annotations and protected functions or titles

- 3.30 We believe that annotating a qualification on our Register can improve public protection, as outlined in paragraphs 3.9 – 3.17 above. We believe that in most cases where we annotate a qualification, the title or function associated with that annotation should be a protected by law, so that only those who meet the necessary standards are able to practise in a particular area.
- 3.31 When a title is protected by law, only individuals on our Register can use that title, otherwise they may be committing a criminal offence. For example, only someone who is registered with us can use the title 'physiotherapist'. A similar principle applies to a protected function, in that only individuals on our Register are able to carry out the protected function. For example, only someone who is HPC registered as a hearing aid dispenser is able to assess, test or prescribe a hearing aid where that hearing aid is provided to a service user by way of retail sale or hire.
- 3.32 However, protection of a title or function requires a change in the law and such decisions are a matter for government and not the HPC.
- 3.33 We can make decisions about which post-registration qualifications to annotate but can only recommend to government that a particular title or function associated with that qualification is protected by law.
- 3.34 We currently annotate our Register to show where a registrant has completed a post-registration qualification linked to an entitlement to administer or prescribe medicines. We are required to do this by the 'Prescriptions Only Medicines (Human Use) Order 1997'. Successful completion of the programme, combined with annotation on our Register, allows registrants to undertake a particular function, such as supplementary prescribing. Without the legislative requirement, combined with both completion of the programme and the annotation, they would not be able to carry out these functions.
- 3.35 Annotating a qualification and protecting a title or function associated with that qualification has both advantages and disadvantages. The advantages of a protected function or title associated with the annotation would include:
- Clarity for stakeholders about the purpose of the annotation and what it means.
  - Individuals who do not have the qualification or meet the standards required for the annotation would be unable to use that protected title or undertake that specific role. This would create a clear distinction between those registrants who had completed the approved qualification and those who had not.
- 3.36 The disadvantages would include:
- Protecting a function has the potential to limit practice within a profession by defining the boundaries of that profession.

- Protected functions also require clear and precise definition so that practitioners are not inadvertently brought within regulation. This can be difficult to achieve in a way which is easily communicated.
- Where a title is protected, individuals can evade regulation by practising under a different title.

- “3.37 We recognise that if we proposed to annotate a qualification on the basis that it has an associated protected title or function, we would also need to take into account other factors when making our decisions, including communicating the scope of regulation. For example, in recommending to government that a particular title should be protected, we would need to consider whether the title was widely recognised and commonly used.
- 3.38 Similarly, in recommending to government that a function should be protected, it should involve discrete acts which can be easily identified and defined within a profession. As with protected titles, a protected function should not bring into regulation those who do not need to be regulated. In addition, multi-disciplinary working and the lack of clear boundaries between the areas of practice of some professions may mean that there is limited scope for being able to define a protected function in a way which can be easily communicated.”
- 3.39 In some circumstances, it may be appropriate to annotate a post-registration qualification on the Register without protecting a title or function as well. This system offers flexibility when it is not possible to protect a title or function, perhaps because of overlap with the use of a title by other professions or the work of other professions. This approach would also have advantages and disadvantages.
- 3.40 The advantages of annotating a qualification without it having an associated protected title or function would include:
- Established standards for the qualification and area of practice.
  - The education programmes could be quality assured.
- 3.41 The disadvantages of such an approach would include:
- Potential confusion about the purpose and meaning of the annotation.
  - Individuals who had not completed the qualification and therefore may not meet the standards would still be able to use a professional title or carry out certain functions.
- “3.42 We also recognise that annotating a qualification which has an associated protected function can potentially limit practice or bring into regulation unnecessarily those who should not be regulated.

## Our proposal

3.43 We propose the following criteria and additional information should be used to help us to make decisions about whether a post-registration qualification should be annotated.

### Criteria:

- Normally, that there is a clear link between the qualification in question and a particular function or professional title which could be defined in and protected by law.

### Additional information

3.44 We will use this criterion to determine whether there is and should be a link between a qualification and an associated function or professional title which, subject to the necessary legislative changes, could be defined and protected.

3.45 We could consider a number of factors which would demonstrate that completion of a particular post-registration qualification is a requirement before individuals should be entitled to use a particular title or carry out a function. This could include evidence of employer or service provider requirements.”

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| <p>7. Should we make a policy decision to annotate only where there is a link between a qualification and a protected title or function?</p> |
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## Exclusivity

3.46 Post-registration qualifications are undertaken by individuals who are already registered. It is therefore important that any post-registration qualification which is annotated on the Register can only be accessed by individuals who are already working within a regulated profession. Otherwise, there may be confusion about the purpose of the qualification and the need to annotate it on the HPC Register.

3.47 Some post-registration training may be available to professions which are not registered by the HPC. For example, some supplementary prescribing programmes are also available to nurses as well as physiotherapists, radiographers and chiropodists / podiatrists. Most post-registration qualifications that we might approve would only be accessed by HPC registrants. However, it is important that this criteria offers flexibility to approve post-registration qualifications which can be accessed by other professionals where appropriate.

## Our proposal

3.48 We propose the following criteria and additional information should be used to help us to make decisions about whether a post-registration qualification should be annotated.

### Criteria:

- The post-registration qualification could only be accessed by statutorily regulated individuals.

### Additional information

3.49 We will use this criterion to ensure that the qualification is one that is undertaken post-registration and that it is limited to individuals who are already within statutory regulation. We will also use this criterion to ensure that we do not bring individuals into regulation unnecessarily.

8. Do you agree with our approach to access to the post-registration qualification?

## Information for the public

3.50 In addition to the criteria above, we will also consider the role that the annotation of a post-registration qualification has in providing information to members of the public. Stakeholders are encouraged to check our Register to ensure that the professional they are seeing or employing is HPC registered. Our Register plays a very important role in providing information about registrants.

3.51 It is important that there is clarity for members of the public about the purpose of any annotation on the Register and the link between the annotation and the registrant's area of practice. Annotations may be seen to imply that there is a difference in the quality of practice between those who are annotated and those who are not. As a result, there needs to be a link between the qualification, the annotation and the particular area of practice.

3.52 There also needs to be a clear rationale for members of the public about why some qualifications are annotated on our Register and others are not. The Register is designed to provide clear, easily accessible information to members of the public but is not designed to provide detailed information about every registrant's particular area of practice. We believe that too many annotations could cause confusion and reduce the clarity of our Register.

## **Post-registration qualifications which could be annotated**

- 3.53 We have identified two areas of practice with associated post-registration qualifications as potentially eligible for consideration for annotation on our Register. These are neuropsychology and podiatric surgery. These have been identified as priorities for consideration because of the risks that practice in these areas poses and because they meet the draft criteria outlined above. At this stage, we are seeking your views on whether we should annotate these qualifications on our Register. It is important to recognise that these are not the only post-registration qualifications which could be annotated on our Register in the future.
- 3.54 The section below provides more information about the two qualifications. This includes information on the area of practice, entry to the profession and risks posed. It also explains why we have identified these two qualifications as ones we should consider annotating.
- 3.55 We would welcome your comments on the areas we have identified. We have produced some questions which are listed after paragraph 3.95 but would welcome your comments on any other relevant matters as well.

### **Neuropsychology**

#### **What is neuropsychology?**

- 3.56 Neuropsychology involves the assessment and rehabilitation of people with brain injury or other neurological disease. Neuropsychologists may work with traumatic brain injury, stroke, tumours or neuro-degenerative diseases.

#### **Entry into the profession**

- 3.57 Currently, there are two qualifications in neuropsychology which are run by the British Psychological Society (BPS). One qualification is in adult clinical neuropsychology whilst the other is in paediatric clinical neuropsychology.
- 3.58 Candidates can undertake the qualification in adult or paediatric clinical neuropsychology. Alternatively, they can choose to undertake both.
- 3.59 Individuals who want to undertake the adult clinical neuropsychology qualification must be HPC registered as a Clinical Psychologist. Individuals who want to undertake the paediatric clinical neuropsychology qualification must be HPC registered as either a Clinical Psychologist or as an Educational Psychologist.
- 3.60 The BPS offers an independent route which is based on gaining experience within a suitable role under appropriate supervision from a chartered psychologist. Alternatively, individuals can complete qualifications in neuropsychology which are offered at post-graduate diploma (PGDip) or Masters level.

## **Employment**

3.61 Neuropsychologists are employed both within the public and private sector in a variety of areas including the NHS, rehabilitation centres and community services. They are often working with the early effects of trauma, neurosurgery and neurological disease. When working in rehabilitation centres they often work within a multidisciplinary team which aims to maximise recovery and minimise disability.

## **Existing governance and regulation arrangements**

3.62 Many neuropsychologists may already be registered with us as either clinical psychologists or educational psychologists. They must therefore only practise where they have the skills, knowledge and experience to practise safely. Some neuropsychologists may have chosen not to register with us as it was not necessary. They are likely however, to be members of the BPS Division of Neuropsychology and would therefore be subject to those standards.

3.63 Neuropsychologists working within the NHS would also be subject to the NHS's standards and clinical governance frameworks.

3.64 However, not all individuals working as a neuropsychologist within the UK will be registered with the HPC as a clinical or educational psychologist or will be members of the BPS Division of Neuropsychology.

## **Options for annotation**

3.65 In this section we have explored the options for annotating the qualification and then seeking legislative change to protect either a title or function. We have also identified the advantages and disadvantages associated with each approach.

3.66 As outlined in paragraph 3.33 protecting either a title or function requires an amendment to our legislation, which is a decision for government. We are seeking the views of stakeholders on whether to annotate neuropsychologists on our Register. Your comments on the options we have explored below will help us to make our decisions. However, any decision about annotating a qualification and protecting a title is a decision for government.

### **Option 1**

3.67 We could annotate the qualification on our Register and seek legislative change to protect a professional title so that only individuals with the annotation could use the professional title.

### **Advantages**

- We would set standards for the qualification and for the area of practice.
- We would be able to quality assure the education.



- Stakeholders would be able to check whether a registrant had the necessary qualification through the HPC website.
- There would be clarity around the link between the qualification and the protected title.
- Individuals who used the protected title without having the annotation could be subject to criminal prosecution.
- Employers would have clarity when appointing individuals to positions which used the protected title.

### **Disadvantages**

- This model would require a grandparenting period, with associated resource implications.
- Individuals would still be able to practise if they did not use the protected title.

### **Option 2**

3.68 We could annotate the qualification on our Register and seek legislative change to protect a function so that only individuals with the annotation could carry out the function.

### **Advantages**

- We would set standards for the qualification and for the area of practice.
- We would be able to quality assure the education.
- Stakeholders would be able to check whether a registrant had the necessary qualification through the HPC website.
- There would be clarity around the link between the qualification and the protected function.
- Individuals who undertook the protected function without having the annotation could be subject to criminal prosecution.
- Employers would have clarity when appointing individuals to positions where individuals would be carrying out the protected function.

### **Disadvantages**

- The potential to limit development of an area of practice by defining that area of practice in legislation.
- The potential to bring into regulation individuals who should not be regulated because the protected function has not been drafted appropriately.
- The potential to prevent multi-professional working by limiting areas of practice to certain professions.
- Without a protected title there may be a lack of clarity for members of the public.

3.69 We recognise that annotating a qualification and then protecting a function can potentially limit practice or bring into regulation unnecessarily those who should not be regulated. We believe that where we annotate a qualification and believe that a title or function should be protected, we

should seek to protect a professional title, unless this is not possible.  
Protecting a professional title would require a change in our legislation.

## **Podiatric surgery**

### **What is podiatric surgery?**

- 3.70 Podiatric surgery is the surgical management of the bones, joints and soft tissues of the foot and its associated structures.
- 3.71 Normally, surgery is performed as a day case procedure and often but not always under local anaesthetic. Surgical treatment is considered when other approaches have not succeeded. It is often employed to manage persistently painful conditions or where the foot is being affected by deformity. Common problems include hallux valgus, hammer, mallet and claw toes, foot arthritis, plantar corns, neuromas, and plantar fasciitis and flat foot surgery.

### **Entry into the profession**

- 3.72 A person normally qualifies as podiatric surgeon by undertaking the following training:
- HPC approved pre-registration bachelors degree leading to HPC registration as a chiropodist / podiatrist.
  - A minimum of one year post-registration practice.
  - A masters programme in the theory of podiatric surgery.
  - A minimum of two years surgery training following completion of the qualification.
- 3.73 The masters programme in the theory of podiatric surgery is joint validated by the Surgical Faculty of the Society of Chiropodists and Podiatrists and the Royal College of Surgeons, Edinburgh. It includes modules in anatomy, physiology, medicine and pathology, podiatric biomechanics and diagnostic imaging. It is currently taught at three education providers.
- 3.74 The two year training post involves the candidate rotating through NHS podiatric surgery departments supervised by a consultant podiatric surgeon. Candidates undertake the training alongside completing the masters in the theory of podiatric surgery.
- 3.75 Successful completion of the training leads to Fellowship of the Society of Chiropodists and Podiatrists Faculty of Podiatric Surgery. This qualification is recognised by employers in the NHS and elsewhere as a requirement for positions as a podiatric surgeon.
- 3.76 Further training is required in order to be eligible for Consultant Podiatric Surgeon posts. There is therefore a distinction between completion of the qualification conferring fellowship of the Society and becoming a Consultant Podiatric Surgeon.

## Employment

3.77 Podiatric surgeons work both within the NHS and in private practice in private hospitals and elsewhere. There are also a number of podiatric surgery units led by Consultant Podiatric Surgeons. There is some variation in employment and service provision over the four countries.

## Existing governance and regulation arrangements

3.78 As outlined above, all podiatric surgeons will be registered with the HPC as a podiatrist and therefore subject to the standards that HPC sets. This includes the requirement that they must only work in the areas of practice where they have the skills, knowledge and experience to practise safely. All podiatric surgeons working within the NHS are expected to adhere to the NHS's standards and clinical governance frameworks. Podiatric surgeons working in private practice in England may be required to register their premises with the Care Quality Commission (those working in the NHS would already be registered through their employer) and meet their standards.

3.79 Stakeholders have raised concerns about the absence of standards and quality assurance by the HPC and the potential risk to the public.

## Use of the title 'podiatric surgeon'

3.80 The titles 'Consultant Podiatric Surgeon' and 'Specialist Registrar in Podiatric Surgery' have been used by podiatrists with post-registration training in surgery working in the NHS for over 10 years and are similarly also used within the private sector.

3.81 Concerns have previously been expressed about a lack of clarity in the use of the title 'podiatric surgeon', most recently in a BBC London news item.<sup>12</sup> It has been argued that the use of the title 'surgeon' might confuse members of the public into thinking that the podiatric surgeon was medically qualified.

3.82 Under section 49 of the Medical Act 1983 it is a criminal offence for someone who is not registered with the General Medical Council to call themselves a surgeon.<sup>13</sup> The counter argument is that the use of the adjectival prefix 'podiatric' makes clear that the individuals are not claiming to be doctors. In addition, any individual using the title 'podiatrist' would need to be HPC registered.

3.83 However, we understand that there are ongoing discussions around the use of the title 'podiatric surgeon' and that alternative titles, such as 'podiatrist in podiatric surgery', are being considered.

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<sup>12</sup> [http://news.bbc.co.uk/local/london/hi/tv\\_and\\_radio/newsid\\_8400000/8400189.stm](http://news.bbc.co.uk/local/london/hi/tv_and_radio/newsid_8400000/8400189.stm), 7 December 2009

<sup>13</sup> [http://www.gmc-uk.org/about/legislation/medical\\_act.asp](http://www.gmc-uk.org/about/legislation/medical_act.asp)

3.84 If we did decide to annotate podiatric surgery qualifications on our Register, we would need to take into account these considerations. The protected title would need to be clear to members of the public and not create confusion. The government may be reluctant to protect a title which includes a term that is protected under other legislation.

### **Options for annotation**

3.85 In this section we have explored the options for annotating the qualification with an associated protected title or function. We have also identified the advantages and disadvantages associated with each approach.

3.86 As outlined in paragraph 3.33 protecting either a title or function requires an amendment to our legislation, which is a decision for government. We are seeking the views of stakeholders on whether to annotate podiatric surgery on our Register. Your comments on the options we have explored below will help us to make our decisions, but are subject to government agreement.

### **Option 1**

3.87 We could annotate the qualification on our Register and seek to protect a professional title so that only individuals with the annotation could use the professional title.

### **Advantages**

- We would set standards for the qualification and for the area of practice.
- We would be able to quality assure the education programmes.
- Stakeholders would be able to check whether a registrant had the necessary qualification through the HPC website.
- There would be clarity around the link between the qualification and the protected title.
- Individuals who used the protected title without having the annotation could be subject to action by the HPC.
- Employers would have clarity when appointing individuals to positions which used the protected title.

### **Disadvantages**

- Consideration would have to be given to protecting a title which took account of the concerns that had been raised by stakeholders.
- The protected title would have to be carefully considered to reflect varieties in service provision across the four countries.
- This model would require a grandparenting period, with associated resource implications.

## Option 2

- 3.88 We could annotate the qualification on our Register and seek to protect a function so that only individuals with the annotation could carry out the function.

### Advantages

- We would set standards for the qualification and for the area of practice.
- We would be able to quality assure the education programmes.
- Stakeholders would be able to check whether a registrant had the necessary qualification through the HPC website.
- There would be clarity around the link between the qualification and the protected function.
- Individuals who undertook the protected function without having the annotation could be subject to action by the HPC.
- Employers would have clarity when appointing individuals to positions where individuals would be carrying out the protected function.

### Disadvantages

- The potential to limit development of an area of practice by defining that area of practice in legislation.
  - The potential to prevent multi-professional working by limiting areas of practice to certain professions.
  - The potential to bring into regulation individuals who should not be regulated because the protected function has not been drafted appropriately.
  - The lack of a clear protected professional title might result in a perceived lack of clarity in the regulatory structure for members of the public.
- 3.89 We recognise that annotating a qualification and then protecting a function can potentially limit practice or bring into regulation unnecessarily those who should not be regulated. We believe that where we annotate a qualification and believe that a title or function should be protected, we should seek to protect a professional title, unless this is not possible. Protecting a professional title would require a change in our legislation.

### Rationale for choosing these qualifications

- 3.90 We believe that both qualifications meet the draft criteria that we have proposed for consultation. For example, there is evidence that practice in the area poses a potential risk of harm to the public. Podiatric surgery involves invasive surgical procedures which are often carried out under local anaesthetic. Neuropsychologists have contact with vulnerable individuals and are exercising their professional judgement with the potential for harm.
- 3.91 In both cases, the qualification is clearly linked to the function or professional title which could be defined. In the case of podiatric surgery, the qualification in podiatric surgery is recognised within the NHS and

most individuals will have this qualification. As we do not approve the qualification however, there may be some podiatric surgeons practising without the qualification. A similar situation would apply to neuropsychologists.

3.92 Both qualifications are considered to be post-registration qualifications and therefore could be annotated on the Register. The Department of Health consulted on the proposed statutory regulation of practitioner psychologists, noting that neuropsychology was a post-registration qualification. In their analysis of the responses to the consultation they said that it would be up to the HPC to recognise the post-registration qualification in neuropsychology by annotating the individual's entry in the register.<sup>14</sup>

3.93 Both the qualifications in neuropsychology and podiatric surgery can only be accessed by individuals who are already within statutory regulation as registration with us is an entry requirement for the qualification.

### **Questions on our proposals to annotate these qualifications**

3.94 We would welcome your comments on the issues we are exploring. We have listed some questions below but would welcome comments on any relevant area. Please provide reasons alongside your answers where possible.

9. Do you agree we should annotate these qualifications?
10. Do you agree that we should seek legislative change to protect a title or function? If so, what title or function should be protected?
11. What would be the impact of annotating these qualifications on public protection, service provision and other areas?
12. How feasible would it be to annotate these qualifications? Do they reflect the situation, including service provision, within the four countries?
13. Do you have any other comments on any of our proposals?

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<sup>14</sup> Health Care and Associated Professions (Miscellaneous Amendments and Practitioners Psychologists) Order 2009: consultation report, pages 11-12  
[http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH\\_095923](http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_095923)

## 4. Next steps

- 4.1 This consultation closes on **[date]**. After the consultation has closed we will summarise the responses we have received and the actions we will take following the consultation.
- 4.2 We will carefully consider the comments we receive. We recognise that, subject to the outcomes of the consultation, the proposals within the consultation document require ongoing work to implement them and may also require additional stakeholder engagement.
- 4.3 If we did annotate post-registration qualifications on our Register, we would need to set standards for that qualification and approve the qualification against those standards. We would also need to supply publicly available information about the purpose of the annotation and what it meant for the registrant's practice.
- 4.4 In order to protect a title or function which only those with the qualification can access, our legislation would need to change. This would be a matter for the government. In addition, there would also need to be a grandparenting period to allow individuals who use a protected title or carry out a function and do not have an approved qualification to apply for registration.
- 4.5 Any policy on post-registration qualifications would have to be delivered across the UK. As a result, operational implementation would have to consider any differences in training, context or practice in the four countries.
- 4.6 We would welcome your response to our proposals and look forward to receiving your comments.