

Council meeting, 10 February 2011

Application for the regulation of Sports therapists by the Society of Sports Therapists

Executive summary and recommendations

Introduction

In 2006 the Council considered an application for the regulation of sports therapists made by the Society of Sports Therapists under the HPC's new professions process.

The attached paper outlines the Council's decisions to date in relation to this application, appends further information from the applicant group, and invites the Council to recommend the group to the Secretary of State for Health and to Scottish Ministers.

Decision

The Council is invited:

- a) to agree with the assessment of the Executive that the three issues identified in the letter to the Secretary of State for Health (dated 22 May 2006) have been sufficiently addressed; and
- b) to therefore make a formal recommendation to the Secretary of State for Health and to Scottish Ministers for the regulation of sports therapists under Article 3 (17) (a) of the Health Professions Order 2001.

Background information

Article 3 (17) (a) provides that the Council may make recommendations to the Secretary of State and to Scottish Ministers concerning any professions which in the HPC's opinion should be regulated. Article 3 (17) (b) provides that the Council may give guidance on the criteria to be taken into account in making this decision.

However, the final decision about whether a group should be regulated, how they should be regulated, whom they should be regulated by and when they should be regulated is one for the Government and, ultimately, for parliament in Westminster and Holyrood.

Resource implications

There are no resource implications as a result of the Council's decision.

Financial implications

There are no financial implications as a result of the Council's decision.

Appendices

- New professions criteria
- Additional information provided by the Society of Sports Therapists
- Letter to the Secretary of State for Health dated 22 May 2006

Date of paper

31 January 2010

Application for the regulation of Sports therapists by the Society of Sports Therapists

1. Introduction

- 1.1 The Council considered an application for the regulation of sports therapists made by the Society of Sports Therapists at its meetings on 1 March 2006 and 11 May 2006.
- 1.2 At that meeting the Council identified three issues that needed to be resolved before sports therapists could be formally recommended for regulation.
- 1.3 Since the meeting in May 2006 the Executive has met with the Society of Sports Therapists and other interested parties on a number of occasions to discuss the regulation of sports therapists and the outstanding issues that have been identified.

2. Issues to resolve

- 2.1 A letter was written to the Secretary of State for Health dated 22 May 2006 setting out the Council's discussion and the identified issues. The relevant part of the letter reads as follows:

'Although the Council reached the view that due to the need for public protect **it would be minded in due course to recommend to you that sports therapists should be statutorily regulated**, it determined that three important issues would need to be clarified **before such a recommendation could be considered further.**' (emphasis added)

- 2.2 The issues were as follows:

Degree of support

- The applicant group should be able to demonstrate, in most circumstances, that a sizeable majority of representative organisations and individual practitioners within the profession support the proposal (with the acknowledgment that there may be some circumstances where regulation is introduced in the absence of this).
- The assessment at that time was that the application had not provided adequate evidence that such support exists.
- Further information was requested – the exact evidence to be determined by the Society of Sports Therapists.

Standards of proficiency

- The applicant group should be able to establish that its knowledge and skills base are materially different from the standards of proficiency for an existing profession.

- The assessment at that time was that the application had not demonstrated the differences from those of physiotherapists.
- Further information was requested – in particular, it was requested that standards of proficiency were produced and contrasted to those of physiotherapists.

Standards of education

- The letter notes variation in the qualifications held by existing practitioners.
- The assessment at that time was that bodies representing sports therapists needed to reach a 'consensus on the nature and level of qualification required for admission to the professions and the manner in which those qualifications will be independently assessed'.

3. Assessment of the Executive

- 3.1 The Society of Sports Therapists has submitted further information, appended to this paper. This section briefly outlines the information provided and the assessment of the Executive against the issues identified, having regard to the new professions criteria published by the HPC.
- 3.2 The Council is reminded that the new professions process is largely about whether a profession has the structures and systems in place to enable statutory regulation to take place. The outcome of the Council's consideration is a recommendation. However, for any profession, further work will need to take place to include:
- A decision by Government as to whether it wishes to regulate the group and how, which may include Department Health discussions with stakeholders including the HPC and a public consultation on proposals to regulate the group.
 - Once a final decision is made, the Department of Health will publish and consult upon a Section 60 Order under the Health Act 1999.
 - The legislation will be amended as necessary and published in Westminster and the Scottish parliament. Approval in both parliaments is necessary.
 - The HPC would consult on standards of proficiency which may include establishing a Professional Liaison Group (PLG) in the development / revision process.
 - The HPC would consult on the threshold level of qualification for entry to the Register for the new profession.
- 3.3 Therefore the successful outcome of any application still requires some issues to be resolved later at a later point should the profession become statutorily regulated. (For example, the standards of proficiency and the

standards of education and training are owned by the HPC and published after consultation.) The Executive's assessment of the information provided in relation to the three issues is given below.

Degree of support

- 3.4 The Society of Sports Therapists has described its efforts in engaging with other organisations in the wider field in part C of the additional information.
- 3.5 They have also appended a letter from another representative body, the British Association of Sports Rehabilitators and Trainers, which supports regulation on the basis of a minimum requirement of an honours degree.
- 3.6 The Executive has also discussed with the Society the opening of the 'Sports and Remedial Therapists' register by the Complementary and Natural Healthcare Council (CNHC). The CNHC operate a federal system of voluntary registers in complementary / natural healthcare therapies. Our understanding is that the Register encompasses people using titles such as 'holistic therapist', 'sports massage practitioner' and 'remedial therapist' but that some may use the title 'sports therapist'. This development may be relevant in the future in any Government consideration of regulation.
- 3.7 The Executive's assessment is that the Society of Sports Therapists has carried out reasonable efforts to satisfy this area to the degree expected by the criteria and in the supporting guidance notes. The Council's overall assessment in 2006 was that there was a case for the regulation of the group in any event on the basis of public protection.

Standards of proficiency

- 3.8 The relevant parts of the new professions criteria related to this area are given below:
- 'The occupation must cover a discrete area of activity displaying some homogeneity'. It must be demonstrated that the 'occupation practises activities that: are distinctly its own; are common across the occupation; and are distinct from the scope of practice of other occupations, although there may be some overlap.' (First criterion)
 - 'The occupation must apply defined body knowledge'. 'Frequently, the body of knowledge of a health profession will overlap those of other professions. However...applications will not be successful if the...applicant occupation has not provided sufficient evidence to demonstrate that it...has a distinct body of knowledge.' (Second criterion)
- 3.9 The Society of Sports Therapists has provided standards of proficiency, as requested by the HPC, including illustrating the differences between sports therapists and physiotherapists. The additional information argues that 'whilst there may be an overlap in some of the clinical skills taught' it is the 'specificity of the scope of practice' of sports therapists with regards to sport and sporting contexts that makes it distinct from physiotherapy. The draft standards show that there is some overlap between the standards for

sports therapists and physiotherapists, but this is acknowledged in the guidance as being not uncommon amongst health professions.

- 3.10 The Executive's assessment is that the Society of Sports Therapists has carried out the work necessary to fulfil the HPC's expectations in this area. The information and standards provided in the additional information is consistent with that provided in subsequent applications to the Council that have been judged to meet the relevant criteria.

Standards of education and training

- 3.11 The Society of Sports Therapists contends that the threshold level of qualification for entry to the Register should be set at honours degree level and this is supported by the correspondence from the British Association of Sports Rehabilitators and Trainers. (Please see section on degree of support.)
- 3.12 The Society acknowledges that there may be other degree programmes not currently accredited by the Society. There may also be other training programmes that do not reach this level. This situation prior to statutory regulation is not uncommon and was the case in some HPC regulated professions prior to grandparenting and protection of title.
- 3.13 The Executive's assessment is that the Society of Sports Therapists has addressed this point to a sufficient degree, demonstrating that two representative bodies accrediting degree programmes are in agreement. The threshold level that should be set on an ongoing basis would be finally set following consultation prior to the opening of any future statutory register in any event.
- 3.14 With regards independent assessment of qualifications, the additional information demonstrates professional accreditation, internal validation and external quality assurance mechanisms. The Executive's assessment is that this point has been sufficiently addressed, and this conclusion would be consistent with the scoring undertaken in relation to other applications considered more recently by the Council.

4. Conclusions

- 4.1 The Executive invites to the Council to agree the issues identified in May 2006 have been sufficiently addressed by the Society of Sports Therapists to the extent required by the new professions process.
- 4.2 The Council was clear in May 2006 that it considered that there was a clear basis for recommending regulation on the basis of public protection and therefore the Executive invites the Council to make such a recommendation under Article 3 (17) (a) of the Health Professions Order 2001.

Appendix 1

Each criteria to be addressed (taken from the Guidance Notes)

Part A of the assessment

The Council will first assess whether an occupation is eligible for regulation. Only those occupations involving at least one of the following activities are eligible:

- Invasive procedures
- Clinical intervention with the potential for harm
- Exercise of judgment by unsupervised professionals which can substantially impact on patient health or welfare.

Additionally, occupations where these activities are already regulated by other means will be ineligible. This includes occupations that already have a regulator (such as nurses and medical practitioners) or do not make independent clinical judgments. In general, the Council regulates health workers who are not otherwise supervised, practising autonomously, making professional and independent judgments on treatment, and taking full responsibility for their actions.

Part B of the assessment

The criteria that the Council will apply in Part B of the assessment were settled following a public consultation in the summer of 2002. The criteria will each have equal weight. Each occupation wishing to be regulated will be required to:

- 1) Cover a discrete area of activity displaying some homogeneity
- 2) Apply a defined body of knowledge
- 3) Practise based on evidence of efficacy
- 4) Have at least one established professional body which accounts for a significant proportion of that occupational group
- 5) Operate a voluntary register
- 6) Have defined routes of entry to the profession
- 7) Have independently assessed entry qualifications
- 8) Have standards in relation to conduct, performance and ethics
- 9) Have fitness to practise procedures to enforce those standards
- 10) Be committed to continuous professional development (CPD)

1. The occupation must cover a discrete area of activity displaying some homogeneity

This criterion covers **what a profession's scope of practice is**. The Council will assess applications for evidence that demonstrates that the applicant occupation practises activities that:

- Are distinctly its own
- Are common across the occupation
- Are distinct from the scope of practice of other occupations, although there may be some overlap.

2. The occupation must apply a defined body of knowledge

The *body of knowledge* criterion covers **what a profession does**. Frequently, the *body of knowledge* of a health profession will overlap those of other professions. However, each profession that the Council regulates has its own distinct *body of knowledge* and applications will not be successful if the Council considers that the applicant occupation has not provided sufficient evidence to demonstrate that it, too, has a distinct *body of knowledge*.

3. The occupation must practise based on evidence of efficacy

This criterion covers **how a profession practises**. The Council recognizes the centrality of evidence-based practice to modern health care and will assess applicant occupations for evidence that demonstrates that:

- Their practice is subject to research into its effectiveness. Suitable evidence would include publication in journals that are accepted as learned by the health sciences and/or social care communities
- There is an established scientific and measurable basis for measuring outcomes of their practice. This is a minimum—the Council welcomes evidence of there being a scientific basis for other aspects of practice and the *body of knowledge* of an applicant occupation
- It subscribes to the ethos of evidence-based practice, including being open to changing treatment strategies when the evidence is in favour of doing so.

4. The occupation must have at least one established professional body which accounts for a significant proportion of that occupational group

This criterion covers **how a profession has established itself**. The Council will assess applications for evidence that there is at least one established professional body. The Council will assess the application for evidence that membership of the body or bodies accounts for a significant proportion—at least 25%—of the occupation's practitioners. Suitable evidence for the existence of established professional body or bodies would include:

- A constitution or rules
- Minutes
- Standing Orders for the body or bodies and committees
- Election Rules and results

Where there is more than one professional body or representative organization for an applicant occupation, the Council will additionally seek evidence that all the bodies are involved in, and supportive of, the application process. The Council would welcome evidence of the existence of a steering group with representatives from all the bodies, and that a fair and effective decision-making process is in place. The Council would expect to work primarily with such a steering group and would also expect evidence that the steering group, and not

an individual professional body, was involved in drawing up the application for regulation.

The Council will require an attestation from the applicant that there are no professional bodies or other representative organizations in existence for the profession that have not been informed of the application.

The Council will also seek evidence that practitioners who do not belong to the professional body or bodies or representative organization(s) are also supportive of the application. If any of these practitioners are likely not to have followed the applicant occupation's entry routes as described in sections 6 and 7 below, then the Council will require information about likely grandparenting requirements.

5. The occupation must operate a voluntary register(s)

This criterion covers **how a profession accounts for its members**. The Council's Register is its primary mechanism for protecting the public. The Council will seek to assess whether workers in an applicant occupation have accepted the principles, benefits and obligations of registration, by enrolling on a voluntary register or registers. The Council will require evidence that the voluntary register(s) cover at least 25% of an applicant occupation's workforce. These requirements are a minimum and the Council would consider very favourably evidence of plans to inform an applicant occupation's practitioners of the consequences of regulation by the Council. Such plans should cover issues that will be of particular importance to those members, particularly:

- Regulation of the practice of the profession's members. As explained in the introduction, members of the profession will be subject to the Council's regulatory authority, which it will exercise to protect the public.
- Arrangements for applying for entry to the Council's Register
- Protection of title
- Fees and other potential financial implications

The Council has published leaflets on these topics.

6. The occupation must have defined routes of entry

This criterion covers **how a profession ensures its practitioners have the requisite knowledge and skills on entry**. The Council will assess evidence of how entry to the applicant occupation is controlled. The Council will seek evidence that only individuals who have chosen defined routes of entry are recognized as being practitioners of the profession, in the eyes of educational institutions, employers, professional bodies and (where appropriate) the public at large. The Council will also assess evidence that the applicant occupation either already has a Subject Benchmark from the Quality Assurance Agency or equivalent body, or intends to work towards one as part of the process of becoming a regulated profession.

7. The occupation must have independently assessed entry qualifications

This criterion covers **how a profession ensures its recognized qualifications are valid**. The Council will require evidence that there are qualifications that are recognized as being a necessity for entry to the profession, awarded by recognized educational institutions and independently assessed and monitored through a system of quality control.

8. The occupation must have standards of conduct, performance and ethics

This criterion covers **how a profession ensures high standards**. The Council will assess evidence that an applicant occupation has written standards of conduct, performance and ethics, covering the behaviour it expects of practitioners. The standards should cover similar ground to the Council's standards, and include health, character and competence, among other topics.

9. The occupation must have fitness to practise procedures to enforce those standards

This criterion covers **how a profession polices the behaviour of its practitioners**. The Council will assess evidence that an applicant occupation has a system for disciplining practitioners on its voluntary register (including striking-off) when it is determined that they are unfit to practice by reason of:

- Incompetence
- Misconduct
- Health

The Council will also assess evidence that breaches of the applicant occupation's code of ethics are taken into account when deciding whether a practitioner is unfit to practise. The Council will assess evidence of written procedures covering the administration of the system, and requires applicant occupations to submit anonymised information regarding cases that have been dealt with through the system.

10. The occupation must require commitment to continuous professional development (CPD)

This criterion covers **how a profession ensures its practitioners engage in life-long learning**. The Council is committed to the principles underpinning CPD, and will be requiring all registrants to undertake CPD from August 2005. Many of the currently regulated professions run CPD schemes at present. The Council will therefore be seeking evidence from applicant occupations that they are also committed to the principles of CPD. Suitable evidence would include written details of planned or existing CPD schemes.