Shared Functions
(Unique ID: 01/2009)
July 2009

Executive Summary

CHRE explored shared functions with the nine health professional regulatory bodies of the United Kingdom. We note the original commission did not define the functions to be shared, so we have, in this response, taken 'functions' to mean any part of a regulatory body's activities which we divide into business functions, policy functions and regulatory functions.

We posed five questions to the regulators to understand their appetite and vision for sharing functions. All nine regulatory bodies responded. We found within those responses that there were three streams of functions with the potential for sharing: business and support, policy, and regulatory activities. However, it is important to note that there was no complete agreement on exactly what shared functions means, and what constitutes a function.

We have found that with such broadly expressed questions it is not possible to provide a conclusive answer. With a defined set of terms, it would be possible to engage in a more decisive study of shared functions. CHRE does not include business functions within its oversight of the health professional regulators. CHRE is concerned with the outcomes of regulation and considers the way in which regulators manage themselves is for them to decide. There is of course a general public interest in the efficiency of regulators and sharing functions may or may not contribute this.

1. Introduction

1.1 The Council for Healthcare Regulatory Excellence is an independent body accountable to Parliament. Our primary purpose is to promote the health, safety and well-being of patients and other members of the public. We scrutinise and oversee the health professions regulators, working with them in identifying and promoting good practice in regulation, carrying out research, developing policy and giving advice.

1.2 On 20 March 2009, we received a commission from the Department of Health to explore the topic of shared functions with the nine health professional regulatory bodies in the United Kingdom.

1.3 According to the commission received by CHRE:

> ‘The Secretary of State would welcome advice about any steps that DH could take, including legislative change, to enable regulatory bodies to share functions in the interest of improved efficiency and cost to the registrant, whilst maintaining public protection.’

1.4 We were asked to explore two areas. Firstly, we were asked to explore the desire of the regulators for ‘the Department to legislate to enable the sharing of functions,’ and whether ‘there any additional risks to the safety of members of the public from this.’ Second, ‘the role of the regulatory body in identifying and controlling risks arising from use of shared functions.’

1.5 In response to the request of the Secretary of State, we posed five questions to the nine health professional regulatory bodies:

1) Is there any interest on your part to pursue shared functions? If so, how might shared functions impact on the rest of your business?
2) Which specific functions would you be interested in sharing with other regulatory bodies? Why these specific functions?
3) What potential difficulties do you anticipate could prove obstructive to sharing functions amongst regulatory bodies?
4) Would sharing functions provide a cost effective avenue for regulatory practice?
5) What are the potential threats to public protection through sharing functions amongst regulators? How could the risks be managed?

1.6 The GCC responded on the assumption that shared functions were those deemed as ‘back room’ in business terms and did not respond further as these matters are outside of the regulatory remit. This is a view with which CHRE sympathises.

1.7 We did not provide any definition or guidance to the regulators further than assuming shared functions included any or all functions of the regulators’ activities, in the hope that this would lead to an open discussion.

2. Business and Support Functions

2.1 CHRE is concerned with the outcomes of regulation and considers the way in which regulators manage themselves is for them to decide. However, in the responses we received, many regulators discussed business functions. We therefore report on the regulators views about the sharing of business and support functions.

2.2 Business functions are understood as those functions which are part of the day-to-day affairs of the regulatory bodies, but not necessarily part of the regulatory process, or ‘core’ functions. Included in business functions are activities such as procurement, IT, finance, accounting, facilities management, support staff, and other general administration facets. They could also be called support functions. CHRE has no opinion on the business functions of the regulators where there is no direct effect on the regulatory outcomes.

2.3 Amongst some the regulators there is a sense that sharing business functions would prove cost effective. However, there are notable differences of opinion on the matter. The GCC interprets shared functions to mean the business functions; viewing these matters as a matter of operational management, they did not pursue a discussion on the possibility of sharing them. The GOsC noted that sharing business functions was a possibility previously explored to a limited extent, and did not present notable cost savings.

- Human Resources

2.4 One area that could be shared is human resources. Here the regulators could move in a centralized system for recruitment, training, performance evaluation, payroll, employee relations, and development, among other things. This could streamline the individual process across regulators providing one framework for employees and potential employees to access.

2.5 Some regulators suggested that support staff, such as those working in IT, could be shared amongst the regulators. These are areas where there could be both cost benefits and improved service delivery, presumably this would require shared buildings in some cases.

- Financial Management

2.6 Regulators suggested that sharing the financial management processes could be beneficial. Matters such as accounting, could be managed by one regulator for all regulators, by which there might be cost savings.

2.7 The difficulties faced in sharing the business functions come in normalising the processes across the regulators. The process of harmonising support functions would pose the risk of a loss of information and requires a period of adaptation. The GDC stated that financial accountability must be present in any sharing of the business functions, and any arrangement would require appropriate management and governance.

2.8 Some regulators expressed the belief that sharing their business functions could prove cost effective. The NMC suggested that procurement, finance, and facilities management offered the most scope for sharing. As they put it, ‘The volume-based services offered by the regulatory bodies – those transactional, processing, and administrative services – and services delivered to most employees, or to external customers could well be maximised by aligning the economies of scale.’

- Location and Facilities

2.9 Some regulators discussed the possibility of sharing locations and facilities. There are two areas in which this could be done: facility management and security, and shared use of existing facilities.

2.10 Regulators identified that facility management and security were areas that could potentially be shared. The types of activities involved in facility management would include front-desk reception, cleaning services, and related work. The GDC, NMC, and GMC noted the possibility of sharing facilities management.

2.11 Security is large in scope in terms of service delivery, as it would require regulators to share permanent location to have the same security personnel. However, security could include shared contracts with security service providers and shared security policy.

2.12 One area proposed was the shared use of existing facilities, particularly those outside of London and in the devolved countries. PSNI suggested in its response that it, 'sees potential in other regulatory bodies making use of our Northern Ireland based Fitness to Practise structures and premises as a means of both reducing their costs when undertaking activity in Northern Ireland, as well as providing a means for raising their profile regionally.' Additionally, RPSGB suggested that the GPhC could potentially share premises with other regulators in Scotland and Wales.

2.13 It is important to note, that within business and support functions, there is not a consistent definition, amongst the regulators, as to the composition of these functions. In CHRE's view the risk and benefits of sharing functions is a matter for regulators to decide. Our concern would be if sharing these functions impacted upon regulation.

3. Sharing Good Practice

3.1 It was a common theme that the sharing of good practice could be improved amongst the regulators. The GOsC asserted that within the existing structure of regulation there is already a considerable amount sharing of know-how. CHRE is always actively supporting the sharing of good practice across the regulators. We are currently in the process of establishing the CHRE International Regulatory Observatory, which will look at good practice, among other aspects of regulation.

3.2 In terms of information sharing, there is the possibility of creating 'common portals' among the regulators. This would be a place where information from all the regulatory bodies could be made available to the public in a streamlined fashion. The format remains to be defined, but a joint website with relevant information leading to the correct channels is one option. An example of this, given by the GOC, is the possibility of normalizing similar data releases, for example annual reports, across the regulators.

3.3 It has been suggested, by the GOC for example, that joint campaigning and raising awareness, could be an area where regulators collaborate. The terms, target audiences and other details would have to be discussed and developed for these kinds of activities.

3.4 The regulators discussed the possibility of sharing models of service delivery. As opposed to sharing a function, the regulators could simply perform their functions identically. Essentially what is being discussed are 'templates of expertise,' which could be shared. Models that work within one regulator could be applied to the same function by another.

3.5 Innovation by one regulator could influence change in other regulatory bodies. In practice, the regulators would be sharing functions in an indirect manner, by performing functions in similar, if not identical, ways.

3.6 CHRE is committed to promoting good practice across the regulators, and undertakes work to deliver this. We promote good practice through our performance reviews, in sharing learning points arising from fitness to practise cases we review, and through hosting good practice seminars with the regulators. We also promote good practice across the regulators through our policy work, for example, we have developed proposals for greater consistency in sanctions availability and terminology.[1]

4. Regulatory Functions

4.1 Regulatory functions are those which are integral to the regulatory business of regulators. These functions are: standards and guidance, registration, fitness to practise, and education.

4.2 Any move to sharing regulatory functions amongst the regulators would require considerable study, as is noted by the GMC:

> 'A strategic review and impact assessment would need to be carried out with a view to determining potential costs and benefits and the likely achievement of the desired effects. This would include consideration of the likely impact on our charitable status, legislative framework, statutory purpose, fees and funding structure. It would also need to address critical infrastructure and human resources issues.'

4.3 Further, the caution needed in sharing regulatory functions was noted by the GDC: '… any pooling of resources and effort would need to be underpinned by appropriate new governance arrangements.' This underlines the type of shift necessary to share regulatory functions. However, this does not preclude regulatory functions being shared.

4.4 For example, registration is a function that could potentially be shared. The process of registering all professionals could be processed at one location. However, there are some concerns about specialized needs not being addressed within a single registration mechanism. For example, the GOsC noted, 'the risk is that questions from potential registrants that were not of the most straightforward, top line kind, would not be handled effectively from a call centre staffed with basic skills.' Also, there could be systemic differences, such as different renewal periods.

[1] CHRE, 2008. Harmonising Sanctions. Available at: http://www.chre.org.uk/satellite/124/

4.5 In terms of fitness to practise, the Office of the Health Professions Adjudicator will be a shared function. Though not all regulators are participating initially, OHPA for those who are participating is a shared fitness to practise mechanism. However, OHPA is a new independent organisation and as therefore increases rather than reducing the number of bodies involved in regulation.

4.6 If shared functions is taken to include core regulatory activities, it is clear that intensive study would have to be undertaken. This would be necessary to both gauge healthcare professional regulatory body reaction and assess the potential benefits. There would be legislative requirements, as well as pragmatic concerns to consider. This would have to be clearly articulated, that shared functions includes core regulatory activities, such that regulators could assess the potential.

5. Obstacles

5.1 Regardless of a regulator's appetite, or lack thereof, to share functions, there will be obstacles that will complicate the process. Though not insurmountable, there are certain elements in the current regulatory regime that will have to be overcome to make any fundamental changes. Of all the obstacles, it is perhaps most important to consider the possibility that each regulator's culture and system is not necessarily transferable.

5.2 The nine regulatory bodies have gone through individual processes of development and maturation. With this, each has developed its own way of working, and essentially, its own culture. This may cause compatibility issues in establishing function sharing between two or more regulators.

6. Cost Effectiveness

6.1 The Department of Health question, in part, deals with cost effectiveness. Any function to be shared must present itself as something that not only works as effectively for registrants, patients, and the public, it must prove to be a cost-saving measure.

6.2 It is not possible to reach a conclusive finding that shared functions would prove cost effective, except on a case by case basis. According to some of the regulators, that there is a possibility of cost savings through sharing functions. For example, if support functions were shared amongst all nine regulators, then there could potentially be savings based on economies of scale.

6.3 There may cost savings to the registrants, for example, the HPC asserted that costs to the registrant are significantly lower with more professions in the same registration scheme. In fact, the real point is that size generates economies of scale and the larger regulators have lower charges to their registrants. Refer to Annex A of this document for a breakdown of the number of registrants and registrations costs for each regulatory body.

6.4 However, it would be imperative to undertake a cost/benefit analysis to prove that cost savings would result from sharing functions. Particularly, this would have to be demonstrated for the long term, as some regulators pointed to the front end costs of setting up the new structures or merging old ones.

7. Risks

7.1 Risks may outweigh cost effectiveness and the appetite of regulators to share functions. Thus, risks must be considered, and properly planned for, to make sharing functions viable. From the submissions and discussions, the regulatory bodies noted some areas of concern.

7.2 Concerns have been raised about pragmatic issues with sharing functions. In aggregating functions there would be a transfer of a considerable amount of sensitive data. Thus, there is a potential for private data to be lost, or be acquired for unscrupulous uses. Data security measures would have to be taken for the transfer or sharing of any data.

7.3 However, experience suggests the transfer of functions seems to be fairly straightforward, given the right precautions are taken. If one takes the example of the current Hearing Aid Council into the HPC process. The HPC, in relation to this process, noted, 'the risk of transfer is small.'

7.4 Some of the major risks noted seem to be less about infrastructure and more about intangibles key to the regulatory process. There is a sense amongst the regulators that the profession-specific knowledge that is provided by the current regulatory regime could be lost, and that the expertise provided to registrants and the public would not necessarily find its way into a shared scheme between regulators.

7.5 There is a sense that if regulators were to undertake functions to together, the lack of individuality would negate the possibility for change, and growth, as a profession develops. Sharing functions may temper regulators ability to adapt to a new dynamic in the profession it is regulating. As the GMC puts it, 'uniformity may sometimes inhibit innovation.' CHRE believes it crucial that regulation and regulatory bodies are agile and adaptable to changes in its environment.

8. Summary

8.1 For CHRE the topic of shared functions has value in improving regulation if it is defined as something directly related to the outcomes of regulation, and grounded in benefits to patient safety and public protection. The way in which regulators manage themselves is for them to decide, and only become a matter of CHRE's concern if it affects regulation.

8.2 There would be an appetite for sharing functions, as generally expressed by most regulators and there are potential benefits to such measures. However, to ascertain a more definitive answer to questions about sharing

functions, it is necessary to provide a concrete framework. Proper assessment would require defined terms for adequate exploration.

8.3 With defined terms, a cost and service delivery analysis could provide a better indication of what shared functions would entail for the regulators. More importantly, it would allow for a more concrete analysis of the risks involved and how those risks measure up to the potential benefits. With that noted, shared functions could be an avenue for change in service delivery, given the suggestions presented by the regulatory bodies. However, this would require that the concept of shared functions is clearly defined, in order to ascertain a credible evidence base.

Annex A

Regulator	No. of Registrants	Cost of Registration per year
GCC	2,483	£1,000
GDC	92,150	Dental care professionals – up to £96 Dentists – up to £438
GMC	248,287	£410
GOC	19,156	£219
GOsC	4,088	£375 (Year 1) £500(Year 2) £750 (Year 3 onwards)
HPC	183,615	£76
NMC	686,886	£76
PSNI	2,025	£372
RPSGB	56,676	£413

Note: Number of registrants as at the end of 2008. Registration fees checked on regulators website as at June 2009.