

## Sharing Information at First Entry to Registers September 2008

### 1. Background

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<sup>1</sup>, work with them to identify and promote good practice in regulation, carry out research, develop policy and give advice.

1.2. In 2007 CHRE was asked by the Department of Health to consider the issue of sharing information between regulatory bodies and employers at first entry to the register. This intention was announced in the White Paper, *Trust, Assurance and Safety*:

*6.4 The Government will also take forward the recommendation to ensure closer co-operation and co-ordination between regulators and employers when a health professional enters employment for the first time. The differing but overlapping requirements of each can present a new entrant to the profession with a daunting and complex set of requirements; these need to be simplified and harmonised as far as possible. As 'The regulation of the non-medical healthcare professions' noted, the complexity stems in part from legal requirements on the regulators to collect information, and simplifying these arrangements represents a significant programme of work.*

*6.5 The Department of Health will ask CHRE to lead a programme of work with regulators and employers from across the UK to investigate the feasibility and practicability of these proposals, reporting to ministers by April 2008. This work should encompass recommendations on recording essential data about staff and ensuring that their registration, qualifications and other relevant issues are easily accessed by those with a legitimate interest in that information..<sup>2</sup>*

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<sup>1</sup> General Chiropractic Council, General Dental Council, General Medical Council, General Optical Council, General Osteopathic Council, Health Professions Council, Nursing and Midwifery Council, Pharmaceutical Society of Northern Ireland, Royal Pharmaceutical Society of Great Britain

<sup>2</sup> Department of Health (2007) *Trust, Assurance and Safety: the regulation of health professionals in the 21st century*.

1.3. As indicated above, the 2006 review, *The regulation of non-medical healthcare professions*, referred to the same issue:

*... we should streamline the collection mechanisms so that the professional provides the information only once, where possible. It ought to be possible to arrive at a package of information and evidence which a person can provide just once to a single organisation, whether employer or regulator, who then assures others who need it that the information has been received and validated as necessary. ...*<sup>3</sup>

1.4. In attempting to address this question CHRE sought the views of a wide range of organisations with an interest. We received responses from regulatory bodies, devolved administrations, and representatives of registrants and employers. Their views and experiences have informed our response.

1.5. Our main finding, in contrast to the White Paper, is the absence of shared concern or a clearly identified problem at this point in a registrant/employee's career. Consultation with regulators, employers and unions did not reveal the extent of detriment that had been suggested and we have yet to see documented evidence that a lack of wider information sharing is a problem in practice. To be effective, any policy solution needs to address an adequately described problem. It is has proved difficult to do this in terms of sharing information at first entry to the register. As such, this makes proposing any potential solution, and accompanying legislative change difficult at this point.

## **2. Sharing information at the point of employment**

2.1. Before exploring the possibility of future developments, it is helpful to consider the current nature of information sharing between employers and regulators at the point of first employment. These arrangements reflect the contingent nature of employment on registration.

2.2. Guidance issued in the NHS across the UK highlights a range of mandatory checks that should be carried out before employment. These include checks on identity, right to work, references, registration and qualifications. The following is taken from NHS Employers Employment Check Standards:

*These standards are mandatory for all applicants for NHS positions (prospective employees) and staff in ongoing NHS employment. This includes permanent staff, staff on fixed-term contracts, temporary staff, volunteers, students, trainees, contractors and highly mobile staff supplied by an agency. Trusts appointing locums and agency staff will need to ensure that their providers comply with these standards.*<sup>4</sup>

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<sup>3</sup> Department of Health (2006) *The regulation of non-medical healthcare professions*.

<sup>4</sup> NHS Employers (2008) *NHS Employment Check Standards*

The NHS Employers guidance is in line with that outlined in the 2008 guidance produced by the Centre for the Protection of National Infrastructure.<sup>5</sup>

2.3. In England, adherence to employment check standards is a core standard assessed by the Healthcare Commission in the Annual Health Check, and it is intended to be the case under the new registration regime adopted by the Care Quality Commission.<sup>6</sup>

2.4. The PIN (Partnership Information Network) in Scotland publishes *Safer Pre and Post Employment Checks – Policy for NHSScotland*. The Scottish Government Health Directorates told us:

*The PIN on Employment Checks outlines the minimum Scottish Government policy requirements for NHSScotland employers which organisations can develop further to meet local needs. The standard policy contents clearly state that Boards must verify the necessary qualifications and registration with appropriate regulatory body for all health professionals and support staff. In order to strengthen this minimum standard the PIN policy stresses that for professional registration the Board must contact the statutory professional regulator to ensure ongoing registration. The PIN policy also states that any educational certificates must be original and provides general guidance on how to detect fraudulent certificates.*<sup>7</sup>

2.5. Among the pre-employment checks is a requirement that registrants' registration status is confirmed with the relevant regulatory bodies. The purpose of registration and qualification checks is to ensure that a prospective employee is recognised by the appropriate regulatory body and that they have the right qualifications to do the job. NHS Employers guidance for England states:

*Before NHS employers appoint any health professional they must always check the following three areas:*

- *that the applicant is registered to carry out the proposed role*
- *whether the registration is subject to any current restrictions which might affect the duties proposed*
- *if the applicant has investigations against them about their fitness to practise that the regulatory body has a duty to disclose.*<sup>8</sup>

Similar guidance applies for NHS Scotland, in Northern Ireland and Wales.<sup>9</sup>

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<sup>5</sup> Centre for the Protection of National Infrastructure (2008) A good practice guide on pre-employment screening. 2nd edition.

<sup>6</sup> Department of Health (2008) The future regulation of health and adult social care in England: a consultation on the framework for the registration of health and adult social care providers Consultation on registration standards – DH 2008

<sup>7</sup> SGHD submission to CHRE

<sup>8</sup> NHS Employers (2008) NHS Employment Check Standards

<sup>9</sup> Partnership Information Network. Safer Pre and Post Employment Checks – Policy for NHSScotland; Welsh Health Circular (2005)071 Safer Recruitment – a guide for NHS Employers; Welsh Health Circular (2005)029 Mandatory Criminal Records Bureau (CRB) checks for all new NHS staff; NHS Employers (2007) Agenda for Change. Terms and Conditions of service handbook

2.6. Registration of health professionals is a key function of the health professions regulators. In 2007/08 performance reviews, CHRE found that:

*Generally, the regulators' processes for registration are effective and efficient, although ... practices vary, particularly in relation to how they try to ensure against fraudulent entry to the register and take action where someone is fraudulently using a protected title.<sup>10</sup>*

2.7. The approach to registration differs across the regulatory bodies, both in terms of the nature of checks and references and in the point at which an individual joins the register.

- Some register students
- Some provisionally register during the final year of qualification
- Some register post-qualification
- Some register after initial employment and a registration exam

2.8. Regulatory bodies are not aware of registrants' employment aspirations. Each regulator has made provision for employers to check the registered status of a potential (or existing) employee. These arrangements are open to all employers, not only the NHS. For example:

The General Medical Council:

*We do not liaise with employers about individual doctors when they first obtain registration. However we do publish advice for employers on our website at [www.gmc-uk.org/register/employing](http://www.gmc-uk.org/register/employing) ... Employers have access to the online List of Registered Medical Practitioners and can use the Occupational Health Smart Card scheme to obtain information about a doctor's registration status. In the unlikely event of an employer not having access to the internet, they can use the GMC's faxback service, which sends a fax to the employer confirming the doctor's registration detail. Alternatively, employers can telephone our Contact Centre with their enquiries.<sup>11</sup>*

The Royal Pharmaceutical Society of Great Britain:

*The Society's registers are freely available to access online by all, including employers:  
[www.rpsgb.org/registrationandsupport/registration/searchourregisters/](http://www.rpsgb.org/registrationandsupport/registration/searchourregisters/)  
Entries relating to Registrant's conditions of registration are listed and linked to the relevant determination. Information relation to Registration Appeals Committee cases, including transcripts of determinations, is also available on the Society's website.  
Specific information requests from employers relating to registrants are dealt with on a case-by-case basis.<sup>12</sup>*

The General Osteopathic Council:

*The question [of sharing information between employers and regulators] is more relevant to those bodies which regulate health professionals who*

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<sup>10</sup> CHRE Performance Review 2007/08

<sup>11</sup> GMC submission to CHRE

<sup>12</sup> RPSGB submission to CHRE

*are employed in the NHS. The osteopathic profession is predominantly self-employed and therefore this question rarely applies. However, if the circumstances did arise, we would share what information we could on request by an employer.<sup>13</sup>*

2.9. The effectiveness of employers' pre-employment checks on overseas staff was examined following the security incidents in Glasgow and London in July 2007. The Scottish Government Health Departments told us:

*... Audit Scotland were asked by the Cabinet Secretary for Health and Wellbeing to review whether NHSScotland Boards were following their own procedures on pre-employment screening.*

*A total of 235 files of employees from overseas were selected from a sample do five of the larger Boards and looked at checks on Identity, References, Qualifications and Regulatory Body checks, Work Permits, Residence Permits, Highly Skilled Migrant Programme and Disclosure Scotland checks.*

*Overall these Boards achieved a high accuracy level of 97% - the remaining 3% did not necessarily mean that these checks were not carried out it may have been that there was evidence missing from the file.*

*In terms of checks with qualifications and regulatory bodies the 220 files that required such a check scored an impressive 99% accuracy.<sup>14 15</sup>*

### **3. Prospects for greater information sharing**

3.1. Reflecting on the call in the White Paper, we sought to understand respondents' views on wider sharing of information at the point when an individual joins a register and first enters employment, mindful that as not all registrants go into employment this point in a career is not common to all registrants of all regulatory bodies, and that regulators are not usually aware when a registrant becomes employed for the first time.

3.2. The White Paper, and the review of the regulation of non-medical healthcare professions that preceded it, emphasised the administrative burden on would-be registrants/employees at the point of first registration and first employment. However, we have found it immensely difficult to establish a clear sense that this is an issue for aspiring registrant/employees, employers or regulators ahead of other concerns and it is far from clear that this is the most pressing and urgent problem that needs attention around information sharing between regulators and employers.

3.3. Furthermore, concern was expressed by respondents that changes to current practice in sharing of information may directly or indirectly lead to fresh problems and concerns, such as maintaining data security and confidentiality

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<sup>13</sup> GOsC submission to CHRE

<sup>14</sup> Audit Scotland (2007) Overseas staff in the NHS – pre-employment checks. [http://www.audit-scotland.gov.uk/docs/health/2007/nr\\_071129\\_overseas\\_staff\\_nhs.pdf](http://www.audit-scotland.gov.uk/docs/health/2007/nr_071129_overseas_staff_nhs.pdf) accessed 20 August 2008

<sup>15</sup> SGHD submission to CHRE

of information, or inadvertently adding to the burden of self-employed registrants:

*Our main concern relating to the flow of information when a health professional enters employment for the first time is the safeguarding of personal information. Data security needs to be of a high standard and strict guidelines should be developed on handling such data.<sup>16</sup>*

3.4. Where concerns were expressed about the current practice of sharing information between employers and regulators this focused on fitness to practise issues:

*It is recognised that not every regulatory body discloses fitness to practise proceedings openly or online and do not make changes to the registrant's details until proceedings are complete and the individual is found guilty of misconduct. The PIN policy therefore stresses the importance of not just relying on published information on regulatory body's website to confirm fitness to practise. It may be necessary to contact the regulatory body direct.<sup>17</sup>*

CHRE acknowledged the variation in the availability of fitness to practise information on registers in the Performance Review of health professions regulators in 2007/08.<sup>18</sup> CHRE will work with regulators to see whether a harmonised approach to the availability of fitness to practise outcomes can be reached in the 2008/09 performance review.

However, this aspect of information sharing issue lies outside our remit here and is being considered elsewhere by the Tackling Concerns Locally subgroup on information management.

3.5. In terms of the information required of registrant/employees at the start of their career by regulators and employers, on the surface there appears some overlap, for example in health and character references, and checks of identity. However, the extent to which such information could be shared reliably in its current form is questionable, as the time limited nature of health statements (often only considered valid by regulators for 30 days – 3 months) restricts their longer utility. Checks of identity vary between regulators and are different to approaches demanded by NHS guidance. Perhaps the most stringent, GMC's face to face identity checks, are not claimed to be a substitute, but are seen as assisting with employers' own checks:

*A certificate of registration or confirmation that a doctor is registered with the GMC is not evidence of a doctor's identity. You must undertake your own identity checks when employing a doctor, for example asking for their original passport or an original EEA identity card.<sup>19</sup>*

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<sup>16</sup> BMA submission to CHRE

<sup>17</sup> SGHD submission to CHRE

<sup>18</sup> CHRE (2008) Performance review of health professions regulators 2007/08: helping regulation to improve.

<sup>19</sup> GMC website [http://www.gmc-uk.org/register/employing/employing\\_a\\_doctor.asp#7](http://www.gmc-uk.org/register/employing/employing_a_doctor.asp#7)

3.6. Where a regulator registers employed and non-employed registrants, any change to their processes would be difficult to justify if it increased registration fees. Cross-subsidisation of a project that benefits employed, or only NHS employed registrants by non-employed registrants would not be proportionate or targeted.

#### 4. **Conclusion**

4.1. CHRE has not found evidence to suggest that there is a significant problem at the point of registration and first employment in an individual's career, therefore proposing changes to current practices would be neither proportionate nor targeted. Even if evidence were available, we would need assurance that wider sharing of information would be a response that would neither interfere with patient safety or public protection, nor add to costs for self-employed registrants. Given the current range of approaches to registration, the varying patterns of employment of different groups of registrants, the changing security situation, and the necessity of pre-employment checks, we do not see any satisfactory way of meeting this need.