

UKPHR Response To Healthy Lives, Healthy People

An enhanced risk assessment of action associated with public health practice

Executive summary

Public Health Consultants with a medical or dental background are regulated under the statutory regulatory frameworks of the General Medical Council and the General Dental Council, respectively; both these statutory regulatory bodies come within the regulatory framework that includes overview of regulation by the Council for Health Regulatory Excellence. Currently the Council for Health Regulatory Excellence has statutory responsibility to ensure that the nine statutory health professional regulatory bodies it oversees meet the standards of good regulation that it has defined. Public Health Specialists, other than medical and dental, are regulated under the voluntary and independent regulatory framework of the UK Public Health Register and are currently outside the statutory framework.

In *Equity and Excellence*¹ the Coalition Government sets out, the importance of appropriate regulation in healthcare and its commitment to reducing the burden of regulation across the health and social care sectors, with a view to decreasing statutory regulation and supporting quality assured voluntary regulation. This is set against the backdrop of the publication of the *Review of Regulation of Public Health Professionals*², (hereafter referred to as the Review) in December 2010, which reviewed the need for public health regulation in all four countries of the United Kingdom. The Review recommended that:

“Autonomous voluntary self-regulation at the highest levels of the public health profession would be an unwise regulatory model” and went on to recommend that *“the case for statutory regulation of Defined Specialists is not made at present”* and for Practitioners *“the operation of quasi-regulation or voluntary regulation now seems a logical option to consider”*.

Public Health Consultants and Specialists work directly with members of the public - particularly in health protection roles. Most importantly, poor practice at a population level could have catastrophic implications for public health. Increasingly public health is being led, managed and operationalized in a multi-agency environment, evidenced by the joint appointment of Directors of Public Health between Primary Care Trusts (PCTs) and Local Authorities. This role extension and the changing demands of the role require that those holding the Public Health Specialist posts are held accountable for actions not only at a local level but nationally.

¹ Department of Health (2010) *Equity and Excellence. Liberating the NHS*. Available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353 Accessed 21 February 2011

² Department of Health (2010) *Review of Regulation of Public Health Professionals* Available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_122089 Accessed 17Jan 2011

This enhanced risk assessment is concerned with risk in:

- Practitioner practice, and
- Specialist practice

Risk and professional regulation

The specific, proposed regulatory framework to implement *Equity and Excellence*³ is set out in the Health and Social Care Bill 2011⁴. This approach to regulation was addressed by the Council for Healthcare Regulatory Excellence in *Right-Touch Regulation (2010)*⁵. Right-touch regulation as described by the Council for Health Regulatory Excellence as the minimum regulatory force required to achieve the desired result. Right-touch regulation, whether statutory or voluntary, is an important mechanism via which to manage professional activity but that regulation must be proportionate to the risk posed.

Regulation and public health risk

The Review sets out a risk assessment, the focus of which was Public Health Consultants and Generalist Specialists. This enhanced risk assessment builds on the work already undertaken and enhances it to include further evidence related to Defined Specialists and Practitioners in public health.

In the Review risk was assessed using information from The General Medical Council, The National Clinical Assessment Service, The NHS Litigation Authority, private insurers and indemnity groups, and from major stakeholders. The main risks identified came under the domains of health protection and health service improvement. Using the methodology in the Review very little risk was identified under the health improvement domain. However, public health is by its nature a service designed to prevent ill health at a population level, the outcome of a good public health service and good professional practice is an absence of premature morbidity and mortality.

Risk in Specialist roles

A convenience sample of 54 Generalist and 7 Defined Specialists in the UK identified 59 risks. Of these 19 were health protection risks, 22 were health improvement risks, 18 improving health services risks.

Using the results key risk themes were identified, and linked to the type of Specialist likely to deal with these risks. These are presented in Table 1:

³ Department of Health (2010) *Equity and Excellence. Liberating the NHS*. Available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353 Accessed 21 February 2011

⁴ Department of Health (2011) *Enabling Excellence: Autonomy and accountability for healthcare workers, social workers and social care workers*. DH : London

⁵ Council for Health Regulatory Excellence (2010) *Right-Touch Regulation*. CHRE: London

Table 1: Key risk themes identified by survey

Domain	Specialists who manage this risk			Key Risk theme	Potential outcome
	M	G	D		
Health protection	X	X	X	Immunisation	Risk of infection and associated morbidities
	X	X	X	Identification of contacts of the index case	Risk of premature mortality or infection and associated morbidities
Health improvement	X	X	X	Screening	Risk of premature mortality or morbidity
	X	X	X	Poor evidence base	Risk of premature mortality or morbidity
	X	X	X	Opportunity lost	Risk of not achieving required health outcome
Improving health services	X	X	X	Commissioning (skills)	Risk of premature mortality or morbidity
	X	X	X	Opportunity lost	Risk of not achieving required health outcome

Key: M = Medically qualified, G= Generalist, D= Defined

A full breakdown of the risks identified by Specialists is provided as Appendix B.

Risk in Practitioner roles

Public Health Practitioners form the largest proportion of the public health workforce. They are key members of this workforce and have a large influence on health outcomes. At present many Public Health Practitioners remain unregulated. Public Health Practitioners generally operate under the management of a Consultant/Specialist, however management relationships vary. At Public Health Skills Career Framework level 5 Practitioners begin to work autonomously and assume the responsibilities associated with autonomous practice.

Using the results of the survey key risk themes were identified, these are presented in Table 2:

Table 2: Key risk themes identified by survey

Domain	Key Risk theme	Potential outcome
Health protection	Identification of contacts of the index case	Risk of premature mortality or infection and associated morbidities
Health improvement	Poor evidence base	Risk of premature mortality or morbidity
	Opportunity lost	Risk of not achieving required health outcome
Improving health services	Commissioning (skills)	Risk of premature mortality or morbidity
	Opportunity lost	Risk of not achieving required health outcome

Risk to the public does exist from public health Practitioners' actions; however the severity of the outcome of the risk is generally likely to be significantly less than the outcome of the risks defined for Specialists.

Opportunity lost

One very important responsibility of a Public Health Consultant/Specialist role, and in some cases of a Public Health Practitioner role, is to support the effective and efficient use of resources. The competencies, underpinned by skills and knowledge, that are required to deliver efficient and effective service and minimise opportunity lost are the competencies required for registration.

Assurance of competence at registration and through on-going CPD and revalidation is essential in order to maintain public confidence. In protecting the public the decision to escalate to fitness to practise depends on likelihood and severity of an incident linked to opportunity lost occurring.

Conclusions

Given that the potential risk in some areas of public health is very high e.g. communicable disease, the low incidence of risk events tend to suggest that the current controls are effective. This needs to be balanced against the need to prevent ill health, and the need to have effective systems in place to ensure professional practice is sufficiently robust to deliver this.

Public Health Consultants / Specialists

At a Consultant / Specialist level no public health decision is risk free. This is becoming increasingly so in the changing environment in which Public Health Specialists work, an environment where 'any willing provider' can operate.

Proportionately there is a strong argument that Specialists and Defined Specialists should be regulated. From the outcome of this enhanced risk assessment is clear that both Generalists and Defined Specialists pose the same risk to the population. **Generalists and Defined Specialists should be regulated under the same Right-touch approach, whether this is statutory regulation or quality assured voluntary regulation.**

Public Health Practitioners

At Practitioner level the outcomes of public health risks are likely to be less severe, in most but not all cases, and to be less likely to occur. **The Review suggests that a quasi-voluntary or voluntary regulation system is now a logical option. Such a system is appropriate and already in place under the UK Public Health Register.**

It is essential that there a career progression from Practitioner to Specialist. In future more emphasis might be required on education, standards and conduct that address improved health outcomes and address opportunity lost or failure to bestow benefit for the public. The regulatory structure and systems to achieve this are in place through the UK Public Health Register. The UK Public Health Register working with the Council for Health Regulatory Excellence using the proposed quality assurance process defined in Right-touch regulation are in a strong position to address the need for emphasis on education, standards and conduct that address improved health outcomes.