The Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015

To: House of Lords Secondary Legislation Scrutiny Committee

Date: 03 March 2015

From: UK Public Health Register

The UK Public Health Register (UKPHR) is pleased to respond to the enquiry from the House of Lords Secondary Legislation Scrutiny Committee. The enquiry arises from the laying before Parliament by the Department of Health of the draft Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015.

UKPHR has previously communicated with the Scrutiny Committee on this matter. For ease of reference, the earlier communication is set out in an Appendix to this response.

UKPHR wishes the Scrutiny Committee to have regard to the points made in the earlier communication and in addition, UKPHR now makes the following additional points:

1. **Protected title**

UKPHR has commented in the earlier communication on the unsatisfactory nature of the consultation by the Department of Health. In its published response to the consultation, the Department announced that it had decided that the protected title should be “registered public health specialist”.

The draft Order establishes a protected title of “public health specialist”. This is different. The change has come about as a result of further discussion between the Department and the Health and Care Professions Council (HCPC) since that formal response was published. This undermines the consultation and the Department’s initial considered response to it.

In its response document the Department stated that “in order to be consistent with other protected titles such as registered medical practitioner and registered nurse, DH has decided that the protected title should be “registered public health consultant”. Omitting “registered” from the protected title is, therefore, by the Department’s own standard inconsistent. There are some who work in public health whose current title is public health specialists where this is a job title and not an expression of professional qualification or professional competence.

2. **Public health specialists who are nurses and pharmacists**

Having considered the responses to its consultation the Department has decided to exempt some registered nurses and registered pharmacists from having to register with HCPC while allowing them to use the new protected title. This is achieved in Schedule 1 Part 1 paragraph 2 by the insertion to 1C of the 2001 Order of new sub-paragraphs (c), (d) and (e).

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The new policy intention here is to mirror the arrangements in (a) and (b) in respect of public health specialists who are already registered, or who will in future become eligible to be registered, by the General Medical Council (GMC) or already listed, or who will in future become eligible to be listed, by the General Dental Council (GDC) respectively as public health specialists.

There is, however, a significant difference. The GMC’s specialist register and the GDC’s specialist list already exists as do the eligibility criteria for being on them. In the cases of the regulators of nurses and pharmacists the “annotation” referred to in the draft Order does not exist and nor are there recognised qualifications or competences attracting such annotation. The draft Order is silent on how these will be established. Unless these provisions are to be interpreted very narrowly (for example, limiting eligibility for annotation only to those nurses and pharmacists on UKPHR’s register of public health specialists at the date of transfer to HCPC) the effect will be that Parliament is creating doubt as to the future qualifications and competences that some regulators of public health specialists will require.

3. Other HCPC registers

HCPC has power to make an entry against the registration of a registrant on one of its registers to evidence that the registrant is also eligible for registration on another of its registers. This power is extended to public health specialists in Schedule 1 Part 1 paragraph 2 by the insertion to 1C of the 2001 Order of new sub-paragraph (f). However, what distinguishes this provision from those preceding it is that this is the only provision that does not require the public health practice to be specialist.

In Article 6 of the 2001 Order HCPC is empowered to make an entry in respect of a “qualification … or competence in a particular field or at a particular level”. It is not clear to UKPHR why the draft Order does not specify a public health specialist qualification and a public health specialist level of practice.

It is possible that there is a typographical error at (f) – perhaps a word such as “whom” or “which” is missing.

4. Grandparenting

A transitional period of two years from the date the transfer of UKPHR’s register is transferred to HCPC (the date specified in the draft Order is 1st July 2016) is provided for those not already registered by UKPHR as public health specialists to achieve registration by HCPC. Criteria for satisfying HCPC are set out in Article 13 of the 2001 Order and may include a “test of competence” to be set by HCPC.

UKPHR is not aware that there has been any announcement yet as to whether a test of competence will be set and if so what this test may comprise. It would be helpful for Parliamentarians to know what is intended by the grandfathering provision before approving the draft Order containing it.
APPENDIX

UKPHR’s earlier communication to the House of Lords Secondary Legislation Scrutiny Committee

UKPHR is directly affected by the proposed Section 60 Order by which the Department of Health intends to transfer our register of public health specialists to the Health & Care Professions Council.

We would hope that the Scrutiny Committee will give consideration to the draft Order.

The two points that cause us concern about the Order are:

1. The Department embarked on a foreshortened consultation of 6 weeks (when for the previous 18 months they had assured us that it would be a 12-week consultation) and then mid-consultation the Department added 4 weeks and two new questions to the current consultation as this statement from the Department’s response to the consultation confirms:

   Following concerns raised shortly after the consultation was published, the consultation period was extended and an additional two questions were added to the consultation.

   We appreciate that a consultation is not a numbers game but of the responses received by the Department more respondents expressed support for retaining UKPHR’s register than supported the Department’s policy of transferring the register to HCPC.

2. UKPHR has been working with partner organisations to design a scheme for revalidation of public health specialists who are not doctors (and thereby required by the GMC to undertake revalidation already). We are able to do this without the need for legislation because of our status as a voluntary register. Public health specialists themselves want there to be revalidation in order for there to be “equivalence between medically qualified specialists and all other specialists. UKPHR’s position on revalidation gained widespread support from respondents – this response by the GMC is typical:

   If the legislative changes go ahead, and given there is a close relationship between many of the public health specialist posts occupied by medics and non-medics, we would like to see a gradual move towards arrangements which enable and support revalidation and CPD. For consistency, we would hope these would reflect the arrangements which already apply to ‘medical’ public health specialists.

   In its response the Department acknowledges that HCPC will not operate revalidation for public health specialists and instead the Department urges the public health partners to work up a voluntary revalidation scheme – surely a contradiction in terms.

   Currently, UKPHR’s ability to apply a requirement for a high standard of CPD (continuing professional development) on its registrants and to be able in due course to require revalidation rests on the fact that employers of public health specialists require them to be registered by UKPHR if they are not subject to statutory registration by GMC or GDC.

ENDS