

Date: 6 June 2001

Venue: Committee Room 3, National Assembly for Wales

Title: Proposals for Health Professions Council and Nursing and Midwifery Council

### **Purpose**

1. To inform and seek the views of HSSC members on the publication of the draft orders for the Health Professions Council and the Nursing and Midwifery Council.

### **Summary**

2. This paper is a follow up to one presented to HSSC on 24th January 2001 (HSS-01-01 p6) when a summary of the proposals for a new regulatory framework for Professions Allied to Medicine - the new Health Professions Council - and the results of consultation in Wales were presented. Following the first consultation draft orders have now been published for both the Health Professions Council and the Nursing Midwifery Council with a consultation period up to 1 June 2001. Major changes following first consultations will be identified along with issues appertaining to Wales.

A paper was also presented to the HSSC on 29 June 2000 (HSS-14-00(p.2)) which set out the proposals for a new Welsh body as a result of the decision to set up a new UK wide Nursing and Midwifery Council.

### **Timing**

3. Draft orders for both Health Professions Council and Nursing & Midwifery Council were published on 2 April 2001 with a consultation period ending on 1 July 2001. It is anticipated that the orders will be laid before parliament either in October 2001.

### **Background**

4. Initial consultation for new legislation to establish a new Health Professions Council and Nursing and Midwifery Council ran from August to October 2000. Draft Orders in Council were published in April 2001 and have a consultation period lasting up to 1 July 2001. It is anticipated that these will be laid before Parliament in October 2001 and come into force in April 2002.

5. During initial consultation on the proposals for a new Health Professions Council key stakeholders

generally expressed a welcoming and positive view towards the proposals. However concern was expressed over lack of guaranteed registrant/professional representation for each of the four countries. Changes proposed in the order address this issue and state that at least one professional member and alternate shall come from each UK country (Schedule 1, paragraph 4). The size and structure of the Council remains the same.

6. Further concern was expressed by some professional groups at the level of individual professional input to the Health Professions Council and statutory committees. The proposed orders include the power for the Council to set up Professional Advisory Committees (Article 3 Schedule 1, paragraph 14).

7. The proposals for the Nursing and Midwifery Council (NMC) have also generated concerns. (Summary of responses attached at Doc 1) The majority of these have been UK reserved issues that are being dealt with by debate between the Department of Health and interested parties throughout the UK.

8. However some issues are specific to Wales, Scotland and Northern Ireland. Currently the nursing regulatory structure includes National Boards in England, Scotland, Northern Ireland and Wales, as well as the overarching UKCC. The principal role of the National Boards is the quality assurance of educational programmes leading to registration as a nurse, midwife or health visitor. The proposal is that the National Boards are abolished, with the new NMC assuming responsibility for quality assurance.

9. We are concerned that quality assurance mechanisms in Wales continue to operate effectively. Whilst consultation was broadly supportive of streamlining the process we do not think it sensible to introduce the change at the same time as the new bodies are being established. We consider that the NMC should fund the existing system for at least two years to allow the NMC to consider how it will wish to take forward this function in the future.

10. Consultation events for the Draft Orders in Council for both the Health Professions Council and the Nursing & Midwifery Council will be held on 8 May in Cardiff, run jointly by National Assembly for Wales and Department of Health. Key stakeholders from professional groups, employers, patient organisations and trade unions have been invited.

## **Consideration**

11. Response to proposals for both Councils from National Assembly for Wales are required by Department of Health by 1 July. Responses from the consultation events and written responses from individuals will inform this response.

## **Compliance**

12. Authority for regulation of health professions and Nurses and Midwives has not been devolved to the National Assembly. The Assembly can comment on the Health Professions Council and the Nursing and Midwifery Council using section 33 of the Government of Wales Act 1998.

## **Cross-cutting themes**

13. No cross cutting themes have been identified.

## **Action for Subject Committee**

14. The Health & Social Service Committee is requested to note the above developments. The committee may wish to reach a consensus view on the proposals for the Orders in Council for both the Health Professions Council and the Nursing and Midwifery Council.

**Jane Hutt**

**Minister for Health & Social Services**

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**Annex 1**

## **NMC CONSULTATION**

### **SUMMARY OF RESPONSES CONCERNING SPECIFICALLY WELSH ISSUES**

**Q1. Do you think that any specific measures are necessary to ensure effective communication and collaboration by the NMC with each part of the UK or should this be left to the Council to determine?**

Respondents generally felt it is not cost effective for the NMC to have an office in each home Country. It is advisable that a senior NMC officer is given responsibility for developing formal links with Wales,

Scotland, NI and the English regions. A physical presence in Wales may not be necessary if practitioners can have confidence in the mechanisms introduced to enable accessibility and immediacy of response in each country. This must be a matter for NMC to agree.

Although regulation of the professions is UK matter, decisions made by NMC will impact upon both health and education, which are devolved matters. There should be safe practice and equal standards of care throughout UK. Many respondents commented that effective communication between the four countries is important so that education is uniform. It was felt that the new Council would itself be best placed to determine appropriate and effective communications systems, although attention must be paid not only to disseminate information but in the formulation of policy which has to address the complexities of devolved administrations. How this is achieved should form part of initial work of new Council.

NMC must take account of implications of devolution when developing policy. It was noted that no was made in the consultation document as to how the NMC will relate to the four health 'departments' - only DoH. The draft legislation appears to us to be very England focused. When National Boards are abolished, responsibility for many of their previous functions transfers to the NMC. The NMC must ensure that Welsh considerations are taken on and seen to be as important as England's.

There should be stated links to the Assembly at every relevant point in the legislation.

It is insufficient for Secretary of State for Health merely to take due note of points of view of other three countries. The legislation should state that on issues relating to the professions in each country NMC will liaise with relevant health department or its agents and report to relevant Minister. If DoH takes lead role, it must consult with devolved bodies. Inclusion in legislation of the Assembly's right to determine the body from which NMC commissions education quality assurance work in Wales would ensure communication and collaboration are at heart of new arrangements.

The linguistic element to service provision within Wales should be afforded specific attention. This is especially important for new measures, policies, initiatives etc. There needs to be robust mechanisms to ensure that the consequences or implications for Wales and provision of bilingual services are fully assessed and that linguistic dimension is properly reflected in advice, standards, policies etc. from the new bodies.

#### **Q6. Do you have any other views on the size and composition of the new NMC?**

Concern was expressed that unless one of each of the health professional from each country is elected then Wales may lose its midwifery voice.

#### **Q8. What is the best way of ensuring that appropriate professional and consumer advice is available to the NMC?**

It was suggested that all home countries and UK representative groups must be involved in consultative exercises. This can be achieved through devolved Government structures. Another respondent stated that there should be constant collaboration with health departments in each country to ensure input of each country's experience. NMC should be asked to demonstrate via its Annual Report how it has ensured appropriate advice has been sought. Reporting on this issue should be to each body responsible for health and education.

**Q13. How do you think the arrangements for the quality assurance of professional education and the statutory responsibilities of the new Council can best be integrated?**

A priority for the new Council should be to establish a strategic framework for professional education. The monitoring of educational establishments and clinical placements need to be carried out at regional level within a strategic framework. Clear lines of accountability are needed. At least one respondent strongly supported a uniform and transferable approach to pre- and post-registration training particularly across all four countries as it is often difficult to transfer credits or post-registration across borders. Individuals should be able to transfer from a training programme in one part of the UK to another at any stage.

Integration may be achieved by setting standards both for the education and quality assurance process that will assess and monitor it and then commission the activity from a local, country based, organisation and requiring partnership working with other stakeholders.

Respondents expressed their disappointment that the expectation in the government's response to the JM Consulting report - that the government would expect the new Council to commission educational quality assurance work in relation to nursing, midwifery and health visiting from body determined by Assembly - had not been expressed overtly. There is extreme disappointed that this is not expressed in draft legislation and it is seen by some as lessening the chances of this happening. This expectation must be stated clearly so that there is legal commitment to the Assembly having this choice.

The new Council will inherit statutory responsibilities for implementing commitments in Welsh Language Schemes until a revised Scheme is agreed for new body. The new legislation should confirm that the NMC will be a 'public body' for Welsh Language Act purposes. The scheme contains important commitments on content and medium of training and education. The NMC would need to make sure that these commitments work effectively.

It is vital that any arrangements, agreements and contracts clearly set out expectations with regard to use of Welsh, the promotion of professional education through the medium of Welsh and linguistic sensitivity training. Clause 4.1(e) of draft Order should also refer to the Welsh language. Many nurses and midwives in Wales will conduct substantial parts of their dealings with patients in that language.

**Q15. What role should the NMC have in developing standards for the preparation, supervision and performance of staff working with registered professionals?**

One Welsh respondent mentioned that no reference was made as to how NMC relates to four health departments - only DoH. It was observed by another that WNB staff have expertise which could be used in taking this development forward in Wales.

**Q16. What are your views about the early establishment of a "Shadow Council"? How should it be constituted and what method of appointment should be used?**

One Welsh respondent observed that the system of appointment by the four departments of health has served well in the past and might be continued.

**Q17. What are your views on the composition and method of appointment to the first (statutory) Council?**

One Welsh respondent mentioned that appointments should be made as for the shadow Council by DoH in consultation with the home countries to ensure best people for the job.

**Q19. Have you any further comments about any of the issues raised?**

The section on the Transfer of Functions fails to recognise that there will be functions transferring from the National Boards to NMC. Under existing TUPE legislation staff involved with work which transfers are eligible to transfer. But there is no mention of the staff of the National Boards. Board staff must be given same level of protection as UKCC staff (as specified in paragraph 1c, d and e). A footnote is insufficient: specific reference must be made to these staff. This is a serious omission and needs to be corrected. Once this section has been amended a clear legal opinion is needed on what it means for future reference.

It is preferred that the original transfer date is adhered to and the process towards new legislation and the creation of the NMC should move forward very swiftly to catch up with lost time. Board staff are working in limbo at the moment. If staff of the existing bodies are to stay to the end, it is reasonable to be clear about when the end is. Given the current slow pace and lack of hard information and arrangements, it is doubted that the September 2001 target date is now realistic and consideration might be given to an extension of the transfer date.