

# Report on the Extending Professional Regulation

Newcastle 18/11/08

The day was fast moving and absorbing. It was run efficiently by a professional management team brought in by the DH which asked about 60 delegates to look at a different aspects of the delegate pack and respond by writing on moveable boards which were then recorded so that we could move on to another topic. The delegates were from a wide range of mostly NH sectors but there were representatives of aspiring professions such as Mike O'Farrell from the BAAC and from the psychotherapy sector. Richard Woodfield of the MHRA was there too as was Marc Seale, CEO of the HPC.

It seems that at the heart of the newly perceived issues determining regulation is the assessment of the potential risk of the activities of any profession. In other words, in future, it is essentially on the basis of risk that statutory regulation as opposed to voluntary regulation of aspirant professions will be decided. Of course, such an assessment is subject to political process too in that the Government perceives that regulation costs money and involves extra administration and so would like to do as little regulation as possible. This so called "light touch" is also in line with Government Policy on "better regulation" that wants to see the minimum of legislation across the board so as not to cause unnecessary burden on the workforce. One effect of this is that perceived risk from a sector such as ours outside the NHS might be seen as "managed" by the simple expedient of the Government putting out warnings (such as those published by the MHRA on its website about the potential risks posed by some unlicensed herbal medicines and failing or fraudulent practitioners) and then declaring "buyer beware!" In this way the job of managing any risk would be seen as done. This, however, would fail to take into account the fact that the public might not really understand the risk despite warnings) and this policy would itself run the risk of the Government being seen as *laissez faire* for failing to provide a framework for a popular therapy to be delivered safely to the public.

[Click here to view the Delegate Pack Final Document](#) and view page 13 onwards regarding risk assessment where the Delegate Pack includes the system used in Ontario, Canada, which utilises the concept of the Controlled Act (Government of Ontario 1997) to identify and measure risk via any one of 15 "controlled acts" done with respect to an individual.

Herbal/ Traditional medicine practitioners certainly undertake item 1 "*Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.*" They also appear to undertake the activities described in item 8: "*Prescribing, dispensing, selling or compounding a drug as defined in the*

*Drug and Pharmacies Regulation Act, or supervising the part of a pharmacy where such drugs are kept.*" (Bear in mind this is based on Ontario legislation).

On this basis it would seem we would qualify for statutory regulation and if you look at the Outline Assessment Procedure on page 13, where it says "*Gatekeeper makes recommendation*", we might consider that the Health Professions Council has recently written to the Health Secretary recommending our statutory regulation, although there is as yet no definition of gatekeeper.

[If you look at the flow chart](#) separately attached as Delegate Pack PG 16 - Regulatory Options - Possible Assessment Process - from Skills for Health, it would seem we qualify as I believe we are level 5 - self operating and independent making diagnoses. The fourth box on the second line says "Level 4 or above on the Career Framework" and this has an arrow going downwards "not currently regulated" that leads to another box "Carry out controlled acts" (discussed above) that goes directly to "National Licensing" that I take to mean Statutory regulation.

On this basis it would appear that there is an excellent case for our statutory regulation.