



DEPARTMENT OF HEALTH

*Rheynn Slaynt*

# Summary of responses to a public consultation on the draft Health Care Professionals Bill 2014



**Isle of Man  
Government**

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# Background

The Department of Health sought comments on proposed new legislation - the Health Care Professionals Bill - about how certain health care professionals are regulated and related matters.

The main aims of this Bill are to facilitate new arrangements for doctors' revalidation and to update and improve the legislation around the regulation of various health care professionals, including doctors, nurses and midwives, some allied health professionals, chiropractors, and osteopaths.

For various reasons, some legislative, some contractual, and some historical, the Isle of Man is inextricably linked to the United Kingdom (UK) in the area of regulating its health care professionals, and the Department of Health is therefore obliged to closely follow the UK if it is to be able to continue to employ the services of qualified health care professionals on the Island.

## Revalidation of doctors

In the Autumn of 2012 the UK introduced a new system for the General Medical Council (GMC) to review the performance of doctors and to confirm their registration and licence to practise. This is known as revalidation. The first full year of a five year cycle of revalidation started in the UK in 2013.

As part of the new system all health bodies in the UK are required to appoint Responsible Officers (ROs) to manage the process locally. The UK authorities, principally the GMC, have made it very clear that the Isle of Man must do the same and this legislation will facilitate this process.

The GMC has made it clear that appointing ROs other than via legislation would be unacceptable to them, and that the Island would be considered as having not met the standards set for the revalidation system. Under these circumstances the GMC would not then renew doctors' registrations, thus removing their licence to practise, and they would not be able to work in the Isle of Man.

## Responsible Officers

The role of ROs is a new one. Each doctor will be linked to an RO in the area where they principally work (in our case the area is the Isle of Man) and it will be the ROs responsibility to make a recommendation to the GMC every five years as to whether the doctor should be revalidated as fit to practise.

In addition the RO will be responsible for ensuring that appropriate systems of clinical governance and appraisal are in place to enable revalidation to take place for all of the doctors in their area. This includes private doctors as well as those employed or contracted by the Department.

As the RO needs to have enough influence to make sure that organisations (the Department of Health, GP practices etc.) meet the requirements of the scheme, the appointee is usually a senior licensed doctor such as a Medical Director of the local General Hospital.

The principle piece of Isle of Man legislation which relates to the regulation of doctors is the Medical Act 1985 but there is nothing in the Act which would give the Department powers to appoint ROs.

It is currently anticipated that the Island's ROs will be the Department's Medical Director and a local GP.

Discussions with representatives of the GMC have indicated that, whilst they would not require the Isle of Man to have identical legislation in place as the UK, they would need to be satisfied that:

- the Island had legally appointed ROs in place to manage the revalidation process locally;
- that the ROs had the legal authority to carry out the duties required under the UK scheme (as laid down in the UK legislation);
- that the ROs had the legal backing to take appropriate action should a doctor's fitness to practise be questioned;
- that the ROs would get the necessary resource support from the Department to allow the scheme to operate adequately; and
- that the Department had in place appropriate clinical governance and appraisal systems to facilitate revalidation.

The new Health Care Professionals Bill will achieve this.

Although the Isle of Man did not have to start operating the scheme at the same time as the UK, it does need to start as soon as possible to allow all doctors to be revalidated within the first five years of the scheme. There is, therefore, some urgency for this legislation to be introduced.

## Other legislative changes required

In researching how best to introduce the new legislation for revalidation it was identified that the existing legislation governing the regulation of doctors - the Medical Act 1985 - was in need of some updating generally.

In addition, it was identified that some other legislation governing the regulation of other health care professionals would also benefit from an update.

It was also decided that the opportunity should be taken to add the professions of chiropractic and osteopathy to the professions which are regulated on the Island. This will bring the Island into line with the UK, where these professions are already regulated under the Chiropractors Act 1994 and the Osteopaths Act 1993 respectively, and will introduce a consistency of regulation with the other professions.

In the same way that doctors already have to be registered with the GMC and nurses with the Nursing and Midwifery Council, this will mean that chiropractors will have to be registered with the General Chiropractic Council in order to work on the Island and osteopaths will have to be registered with the General Osteopathic Council.

Subsequently, it was decided that it would make sense for all of this legislation to be together in one place, hence the Health Care Professionals Bill.



# The consultation process

The consultation exercise was conducted between 4 November and 2 December 2013.

The purpose of consultation is not to be a referendum but an information, views, and evidence gathering exercise from which the Department can take a more informed decision on the content of the draft Bill. In any consultation exercise the responses received do not guarantee changes to the draft Bill.

## Bodies consulted

As well as making the document accessible to the general public, the Department issued a copy of the document to the following bodies:

- Attorney General
- Chief Officers of Departments, Boards and Offices of the Isle of Man Government
- Chiropractors
- Dental practices
- General Chiropractic Council
- General Medical Council
- General Osteopathic Council
- GP practices
- Health and Care Professions Council
- Isle of Man Association of Optometrists and Registered Opticians
- Isle of Man Chamber of Commerce
- Isle of Man Dental Association
- Isle of Man Health and Care Association
- Isle of Man Health Services Consultative Committee
- Isle of Man Law Society
- Isle of Man Medical Society
- Isle of Man Nursing and Midwifery Advisory Council
- Isle of Man Pharmacy Contractors Association
- Isle of Man Trades Union Council
- Local authorities
- Members of Tynwald
- Nursing and Midwifery Council
- Opticians
- Osteopaths
- Pharmacies
- The Law Commission.

## Code of Practice on Consultation

The Department carried out this consultation in accordance with the Isle of Man Government's Code of Practice on Consultation which is available at [www.gov.im](http://www.gov.im) or upon request. The Code sets out the following six criteria:

- 1) Consult widely throughout the process, allowing a minimum of six\* weeks for a minimum of one written consultation at least once during the development of the legislation or policy
- 2) Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
- 3) Ensure your consultation is clear, concise and widely accessible
- 4) Give feedback regarding the responses received and how the consultation process influenced the policy
- 5) Monitor your Department's effectiveness at consultation
- 6) Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

\* Due to the urgency for this legislation to progress so that the revalidation process for doctors can start, the Minister agreed to a consultation period of four weeks in accordance with criterion 1.4 of the Code.

# The responses

23 written responses were received. All but one were either supportive or offered no comment.

Responses were received from:

- 2 Chiropractors
- 1 Osteopath
- General Osteopathic Council
- Health Services Consultative Committee
- Christian Science Church
- Acting Physiotherapy/Therapy Service Manager (Noble's Hospital)
- Senior Health Promotion Officer (Public Health Directorate)
- 1 Mental Health Nurse (Department of Social Care)
- 1 Dentist
- Chief Inspector of Trading Standards
- Department of Infrastructure (no comment)
- Department of Home Affairs
- Department of Social Care
- Chief Secretary's Office (no comment)
- Marown Parish Commissioners (no comment)
- Douglas Borough Council (no comment)
- Ramsey Town Commissioners
- Patrick Parish Commissioners (no comment)
- 3 Members of the public
- 1 Member of Tynwald

13 responses to comments received were sent on behalf of the Department.

The Department is also aware that more than 400 people signed up to an online petition in support of the Department's proposals around chiropractic registration.

The most significant aspect of this Bill, the legal facilitation of the revalidation process for doctors and the appointment of ROs, received very few comments. Some clarification to confirm that the Island's ROs would be working to the same procedures as UK Officers, and that the ROs themselves would be revalidated, was provided to some responders.

A suggestion that the ROs should have a role in the Department's complaints process was referred to the Director of Health Care Delivery for consideration.

Most comments related to the wording of Clause 6

and the related interpretation of terms within that clause. Clause 6 creates the offence of pretending to be a health care professional and is intended to make it illegal to use the title of any of the professions listed in the Bill unless the person concerned is registered with a regulatory body in the UK. There was a view from some respondents that, as drafted, the clause did not achieve this. This was drawn to the attention of the legislative drafter who has made some minor adjustments to the text.

Several responders made comment that they were concerned that there were currently unregistered health care professionals working on the Island who were giving people the impression they were appropriately trained in order to persuade them to agree to pay for repetitive and inappropriate treatment, some with detrimental effects.

A responder queried why the Bill was restricted only to the professions listed and it was explained that the Department did not, at this time, have the resources to undertake a full inspection and registration process and was, therefore, legally restricted to relying on the bodies which were legally established in the UK to assist with this process. Therefore, the Bill could only include professions which were legally regulated in the UK. A request for spiritual healers to be added to the list of professions covered by the Bill was rejected on this basis.

Another responder asked how the legislation was to be enforced and was advised that this would initially, due to the same resourcing issues mentioned above, only consist of Department staff checking references with the UK regulatory bodies and, if necessary, asking the UK bodies to inspect areas of concern.

A responder queried a reliance on definitions contained in UK legislation and was advised that this was intentional as the imperative was for our legislation regulating health professionals to mirror the UK.

One responder was worried that the new legislation might introduce additional costs and obligations. The response was that there was no intention to increase costs or obligations for professionals who were already properly registered with their UK professional body, the main intention of the legislation being to protect the public from practitioners who were operating without being adequately regulated.

In response to a query about the length of suspensions (mentioned in Clause 11), the responder was advised that this was outwith the scope of this consultation; but they were given some additional information.

Two responders commented on the wording of Clause 9, which relates to the offence of performing the functions of a midwife during a birth, and asked whether this would cover doulas (non-registered labour coaches) who may be present when a lady is 'freebirthing' without a midwife in attendance. Some further guidance was subsequently obtained from the UK Nursing and Midwifery Council on this subject and was referred to the drafter. A small amendment has since been made to clarify this clause to confirm that nobody (including a doula) can accept responsibility for a birth other than a registered midwife.

One responder queried why Social Workers were explicitly excluded from this Bill and was advised that they are included in the Department of Social Care's Regulation of Care Act 2013.

Some responders suggested that the penalties contained in the Bill were lenient, particularly given the penalty levels for similar offences contained in the Regulation of Care Act 2013. The response provided was that the penalties are in line with the equivalent legislation in the UK and the Department was content to maintain this consistency for now.

One responder queried the need for an extensive paper-based consultation, given the Department's compulsion to progress the Bill, as it was felt that other consultations of more importance were now being managed electronically.

The one responder who did not support the Department's proposals mostly expressed opinions, not shared by the Department, about the credibility of the General Medical Council and the English National Health Service generally, and suggested that the Island should go it alone in regulating its health care professionals. This is quite impractical and would not be supported by most, if not all, of the local medical profession.

The Department would like to thank all contributors for their comments, many of which have been very helpful, and some of which have resulted in minor revisions of the legislation. Two contributors, they will know who they are, are to be particularly thanked for the extensive background information which was provided about their particular profession, which will be extremely helpful going forward.

## Conclusion

The Department intends to make minor amendments to the draft Health Care Professionals Bill based on the feedback received.

Once the revised draft has been completed, it will be submitted to the Council of Ministers along with a copy of the consultation document and this summary of responses.

If approved by the Council of Ministers, the Bill will be submitted to the branches of Tynwald in due course.



DEPARTMENT OF HEALTH

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**The information in this document can be provided in large print  
or audio format upon request.**



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