



Applied Psychology

Enhancing public protection: Proposals for the
statutory regulation of applied psychologists

Policy	Estates
HR/Workforce	Performance
Management	IM & T
Planning	Finance
Clinical	Partnership Working

Document Purpose	Consultation
ROCR Ref:	Gateway Reference: 3701
Title	Applied Psychology. Enhancing public protection: Proposals for the statutory regulation of applied psychologists
Author	Department of Health
Publication Date	10 March 2005
Target Audience	CEs of trusts, SHAs, regulators, professional bodies
Circulation List	Various bodies and individuals with an interest in the draft legislation
Description	This consultation document calls for responses to be submitted by the end of the three month period running from the launch
Cross Ref	N/A
Superseded Docs	N/A
Action Required	Decide whether or not to respond and send any response to DH by 9th June 2005
Timing	Response requested by 9th June 2005
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Introduction

1. Statutory regulation exists to ensure standards of practice by **regulated practitioners** and to protect the public as far as possible against the risk of poor practice. It works by setting agreed standards of practice and competence, by registering those who are competent to practise and restricting the use of specified titles to those who are registered. It can also apply sanctions such as removing from the register any practitioner whose fitness to practise is impaired.
2. The UK health departments take seriously the need to introduce statutory regulation for applied psychologists, whose work has a direct impact on the people to whom they provide professional services. Major professional healthcare groups such as doctors, nurses and allied health professions are already covered by statutory regulation. This document:
 - Proposes to extend the current system of regulation of health professionals to applied psychologists by bringing them under the Health Professions Council (HPC)
 - Encloses a draft section 60 Order under the Health Act 1999, which will provide the legislative means to regulate applied psychologists.
3. Although the statutory requirements are that this consultation exercise is by the Secretary of State for Health and the Scottish Ministers, it has the support of all the UK Health Departments. This is part of a programme to extend regulation to all professions working wholly or partly in healthcare whose work can put their clients at risk if badly done. The intention is that the programme will, at a later date, also include other healthcare professions seeking regulation such as healthcare scientists who have professional qualifications, and in due course psychotherapists and counsellors. This consultation is being run in accordance with the Cabinet Office Code of Practice on Consultation (reproduced at Annex A).
4. We propose to introduce statutory regulation for applied psychologists in advance of psychotherapists, counsellors and other practitioners of ‘talking therapies’ because applied psychologists already have a well-established voluntary regulatory system which includes a register, approved training, a code of conduct, and disciplinary mechanisms which could be easily transferred to a statutory regulator.
5. **This paper seeks your views on the inclusion of applied psychologists in a new part of the HPC Register. We will be seeking your views on other professions separately.**

The HPC and its functions

6. The HPC is an independent, UK-wide statutory body which was established on 1 April 2002, replacing the Council for Professions Supplementary to Medicine (CPSM). The HPC’s new register opened on 9th July 2003 and it currently regulates 13 health professions:
 - arts therapists, biomedical scientists, chiropodists and podiatrists, clinical scientists, dietitians, occupational therapists, operating department practitioners, orthoptists, prosthetists and orthotists, paramedics, physiotherapists, radiographers and speech and language therapists.

7. **The role of the HPC is to:**

- Set standards of proficiency (competence), ethics and conduct for practitioners of a profession.
- Set standards of training which will produce competent, safe and effective practitioners in that profession.
- Keep a register of those who meet the standards and are fit to practise. The HPC is dependent on registrants' fees for its income. The fees are, at present, £60 per year, payable six monthly by direct debit. This is tax deductible. The amount reflects the costs incurred in carrying out the HPC's revised powers in order to provide robust patient protection. Once the HPC opens its register for applied psychologists, those who are registered will need to pay this fee to the HPC.
- Have a mechanism for dealing with registrants who stop meeting the standards and need to be removed or restricted from practice, by investigating complaints and taking any necessary action to restrict their practice.

8. The Health Professions Council has been given a new statutory function of establishing criteria for the extension of statutory self-regulation to new groups. The criteria are at Annex B. Applied psychologists meet these criteria and the HPC has recommended their inclusion within the professions it regulates.

9. The main purpose of regulation is to protect the public against unfit practitioners.

Application of the Health Act 1999 to applied psychologists

10. Section 60 of the Health Act 1999 permits the regulation of 'any other profession which appears... to be concerned (wholly or partly) with the physical or mental health of individuals and to require regulation in pursuance of this section'. The HPC has recommended the inclusion of a list of seven types of applied psychologists within the professions it regulates, some of which operate in educational, occupational, social care, industrial and commercial settings as well as in healthcare. Following discussion with the British Psychological Society (BPS), the Department of Health proposes to introduce statutory regulation for all seven listed branches of applied psychology whether or not they work predominantly in healthcare settings. This is because the professional/client relationship between these applied psychologists and the people to whom they provide services is based on promoting their health, well-being, functioning and effective performance, albeit in a range of contexts. The number of applied psychologists within the seven listed branches who would be brought within statutory regulation is estimated at about 14,000, of whom about 10,000 are currently voluntarily regulated by the BPS.

Background

The role of applied psychologists

11. Psychology is the science that studies behaviour and mental processes. It is both a well-defined scientific discipline and also a profession, the practice of which is based upon research and evidence.
12. Applied psychology is the application of the basic principles of psychology to actual situations and problems.
13. The following are the seven branches of applied psychology, each with different specialist postgraduate qualifications or training, which are covered by these proposals on statutory regulation.
 - (i) **Clinical psychologists:** Clinical psychology involves the application of psychology to health and community care. Clinical psychologists work in specialties. The most common are:
 - a. adult mental health services (including a range of psychological therapy services);
 - b. adult mental health rehabilitation and resettlement services;
 - c. child health care (including paediatric and child and family mental health services);
 - d. services for people with learning disabilities, care of elderly people (including geriatric and psychogeriatric services);
 - e. primary care services, management (including advising purchasers, and consultancy on health care systems);
 - f. general hospital acute services (including acute medical and surgical specialties);
 - g. neuropsychology (including neurological and neurosurgical services and neuropsychological rehabilitation);
 - h. services concerned with substance abuse (including those for people with alcohol and drugs problems);
 - i. forensic services;
 - j. services for people with physical and sensory disabilities (including young disabled people and those described as 'the chronic sick'); and
 - k. HIV/AIDS services.

14. Clinical psychologists also work in educational and social service settings. Clinical psychologists work directly with complex problems involving individuals, couples, families, groups and service systems. Consultancy and training is provided to carers and health-care professionals to maximize the use of their psychological skills.
15. Organisational consultancy is carried out with provider and purchaser organisations on the psychological aspects of health and community care.
16. There are approximately 4,700 clinical psychologists employed by the NHS of which 3,745, at the last count, were registered as chartered clinical psychologists with the BPS. The number of NHS funded training commissions for clinical psychologists has risen year on year by about 10%, an increase which is set to continue in the future.
 - (ii) **Counselling psychologists:** Counselling psychologists work therapeutically with clients with a variety of problems (for example, the effects of childhood sexual abuse, relationship breakdown, domestic violence, major trauma) and/or symptoms of psychological disorder (such as anxiety, depression, eating disorders, post-traumatic stress disorder, psychosis). They offer an active collaborative relationship which can both facilitate the exploration of underlying issues and can empower people to confront change.
17. Counselling psychologists work in NHS services (including primary care, community mental health teams, tertiary settings for psychiatric in-patients, specialist services for older adults, those with eating disorders, personality disorders, learning difficulties, and in general health care settings where psychological services are offered); in prison and probationary services, social services, voluntary organisations, employee assistance programmes, occupational health departments, student counselling services and in independent practice. They may work with individuals, couples, families or groups.
18. Some of the most common activities of counselling psychologists include the provision of psychological therapy.
19. This involves:
 - a. assessment, whereby the psychologist seeks to gain an understanding of the difficulties from the client's perspective, taking into account the wider context;
 - b. developing a psychological explanation of how and why the particular difficulties have arisen and are experienced by the client;
 - c. planning and implementing a course of psychological therapy; and
 - d. evaluating the outcome of the therapy;
 - e. management of services in the NHS, public and private sectors;
 - f. supervision and training of other counselling psychologists, applied psychologists, psychology assistants and related professionals;
 - g. multidisciplinary team work and team facilitation;
 - h. service and organisational development;
 - i. audit and evaluation;

j. research and development.

20. Counselling psychology is a relatively new branch of applied psychology and there are comparatively few such practitioners at present and, at the last count, 517 were registered with the BPS as chartered counselling psychologists. Numbers are expected to rise in future.

(iii) **Educational psychologists:** Educational psychologists are applied psychologists working both within the educational system and in the community. They are concerned with children's learning, well-being and development. They have skills in a range of psychological and educational assessment and intervention techniques and methods for helping children and young people who are experiencing difficulties in learning or social adjustment. They are involved in trying to help prevent children's learning, social, emotional and behavioural difficulties where this is possible and ameliorating them where it is not. They have a central role in the assessment and intervention work in relation to children's difficulties from an early stage. They have a statutory role under current educational legislation in the assessment of children's Special Educational Needs. Under Scottish legislation, educational psychologists also have a statutory role with respect to the Children's Hearing System. They have a role and function in improving or optimising the learning and development of all children. Much of the work of educational psychologists is with children and young people from 0-19 years in different educational contexts though they also work extensively with parents/carers, teachers and other professionals. They offer a service to young people and adults in further and higher education. Educational psychologists work with and within systems, applying different psychological knowledge and skills as appropriate at an individual, group or organisational level. Some of their work will be with individuals or with groups of children; other work is with adults in institutions and organisations.

21. Most educational psychologists in the UK work within the public sector and every parent/carer and child and all state-maintained schools are entitled to access to their service. A number of educational psychologists work in private practice and take direct referrals from parents, schools, doctors and others. These educational psychologists usually work outside the school system as sole practitioners or as members of a private service. Although much of their work is with individual clients and families, educational psychologists offer consultation and research to groups and institutions, particularly schools. This includes staff training and development, systems analysis and evaluation.

22. They are employed in both the public and private sector. There are over 2,500 educational psychologists in the UK of whom 1,256, at the last count, were registered as chartered educational psychologists with the BPS.

(iv) **Forensic psychologists:** Forensic psychology involves the application of psychology across the Criminal and Civil justice systems, ranging from crime prevention through to the rehabilitation and resettlement of offenders in the community. Forensic psychologists undertake assessment and intervention work with a range of clients across forensic settings. These include:

- a. National Offender Management Services in both prisons and community settings
- b. Forensic mental health settings including high security psychiatric hospitals, medium secure settings and community services, including rehabilitation and resettlement services
- c. Young Offender Institutions and Prison primary and secondary healthcare services
- d. Social care settings including adult mental health and children's services

- e. Services for people with learning disabilities at risk of offending
 - f. Services for people with substance abuse problems
 - g. The Criminal Courts
 - h. The Civil Courts
 - i. The Family Courts
 - j. Children's Panels
23. Forensic psychologists may also operate in social services and educational settings where they will work directly with complex problems using a variety of psychological approaches. This includes individual and family based assessments and interventions, group based assessments and interventions and consultancy and training with a range of staff across criminal and civil justice.
24. Organisational consultancy work is carried out with a range of stakeholders across criminal and civil justice fields.
25. There are approximately 700 forensic psychologists of which 597, at the last count, were registered with the BPS. The number of forensic psychologists has increased very markedly in recent years. The provision of training places funded by the Home Office has increased by over 10% per year for the past 5 years.
- (v) **Health psychologists:** Health psychology provides an integrated biological, psychological and social approach to the understanding of physical health and illness. It is the practice and application of psychological research to the prevention, treatment and management of disease, promoting and maintaining health, identifying key factors in the causation of illness, the improvement of the health care system and with a direct involvement in health policy formulation. This training in advanced health methods and statistics underpins their scientist-practitioner approach to clinical practice and enables them to provide expert advice and consultancy.
26. Health psychologists work from a strong, multidisciplinary research base and are trained to create and use evidence to benefit physical health, as in the evaluation of new treatments in clinical trials, e.g. the self-management of arthritis. Such interventions are used to address some of the management problems of chronic physical conditions, e.g. adherence in diabetes. They are also designed to change lifestyles by modifying risk factors with the aim of preventing major illnesses like coronary heart disease, renal failure, lung and bowel cancers. Health psychologists can provide new psychological methods to assess and improve health and health care, e.g. quality of life measures for trials, audit and clinical governance. They work in primary care, health promotion and public health, as well as in secondary and tertiary care settings.
27. Psychological principles in health often apply to the management of a range of disease groups, e.g. in pain management, rather than limiting them to a single medical speciality. Health psychologists work with adults and children in families, institutions, communities, organisations and populations, e.g. preventing teenage pregnancy. They use special methods and theory to design, implement and evaluate health promotion and education interventions, e.g. in smoking cessation, exercise uptake and dietary control. They are employed to teach lifestyle skills to patients and also to train other health professionals in psychological care. Health psychologists are engaged with the delivery of health care and have analytical skills that are valued in health management, administration and policy formation. At an organisational level, they might be working on staff development, audit or how best to promote the implementation of clinical guidelines.

28. Like public health officials, health psychologists can provide a strategic overview of factors influencing the health of the general population. There were, at the last count, 510 chartered health psychologists registered with the BPS.
- (vi) **Occupational psychologists:** Occupational psychologists apply psychological knowledge, theory and practice to work in its widest sense. How work tasks and the conditions of work can affect people – developing them or constraining and stressing them – and also with how people and their characteristics determine what and how work is done. Some of the broad areas are, for example:
- a. management and management development;
 - b. change management;
 - c. organisational structure and development;
 - d. training and development;
 - e. team development;
 - f. career guidance, coaching and counselling;
 - g. stress, well-being and work-life balance;
 - h. rehabilitation and vocational rehabilitation;
 - i. unemployment;
 - j. new technologies such as e-learning, portfolio working and virtual team working;
 - k. how people's environment affects their work (ergonomics);
 - l. development and interpretation of psychometric instruments;
 - m. recruitment and selection.
29. Some occupational psychologists specialise in specific areas, such as personnel selection and recruitment, vocational rehabilitation, training and development, or how the environment in which people work affects them.
30. Occupational psychologists work in-house for some organisations, or provide their expertise via occupational or business psychology companies/consultancies, or work in the academic field.
31. They apply their knowledge and expertise to identify and resolve organisational issues, bringing with them an appreciation of the global, organisational, team and individual levels of working. Occupational psychologists have expertise in organisations, culture and climate, structure and values.
32. There were, at the last count, 1,213 chartered occupational psychologists registered with the BPS.

(vii) **Sport and exercise psychologists:**

33. Sport and exercise psychologists apply psychology as a science in:
 - a. sport, both competitive and non-competitive, at individual and team level;
 - b. the exercise domain, encompassing individual and group training for health, fitness and enjoyment; and
 - c. the field of motor skill research and human performance.
34. Sport psychologists may be involved in scientific research or practical, applied work into psychological aspects of sport, exercise and human performance.
35. The science of psychology can be applied to a whole range of sporting activities including educational, information and research services to teachers, coaches, trainers, clubs, groups and individual participants in sport and exercise.
36. Sports and exercise psychology was accepted as a separate sub-discipline within the BPS in April 2004.
37. **These seven above form the categories of applied psychologist who will be regulated by the HPC under these proposals. Included within them are:**
38. Chartered psychologists with an additional post registration qualification in the field of neuropsychology. These applied psychologists will be registered by the HPC by virtue of their primary applied psychology qualification. The HPC will not include details on its register of their specialist post-registration qualification in neuropsychology. Employers and others wishing to identify an applied psychologist with a qualification in neuropsychology should apply to the BPS, which holds details of those applied psychologists with this qualification.
39. There were, at the last count, 504 neuropsychologists registered with the BPS.

Supervisors of professional training programmes and managers of psychological services

40. Training programmes for applied psychologists are led by and include staff who supervise those in training, who are themselves applied psychologists and therefore required to maintain involvement in professional practice. Consequently they will also be subject to statutory regulation and required to maintain registration.
41. Managers of psychological services will normally themselves be applied psychologists and therefore required to maintain involvement, consequently they will also be subject to statutory regulation and required to maintain registration.

Who will not be regulated:

Emerging specialisms

42. When an area of applied psychology develops to the point that it is distinguished by a defined course of education and training, a new protected title could be added at a later date to those proposed.

Research and experimental psychologists

43. These proposals do **not** include the statutory regulation of research or experimental psychologists and other psychologists in academic roles, some of whom may sometimes describe themselves as applied psychologists. These are those engaged in, using or teaching specialist post-graduate degrees, which are not designed to train practitioners as described in paragraph 10 of this consultation, but which do develop the skills of applying psychological concepts to real problems and issues (rather than to patients or clients).

Current education and training of applied psychologists

44. All psychologist practitioners have a common basic scientific qualification in psychology plus specialist postgraduate qualifications. The common basic qualification is typically a single or joint honours degree from a United Kingdom university approved by the BPS as providing the Graduate Basis for Registration (GBR). In addition to this common core, specialist postgraduate training of a minimum of 3 years duration is undertaken. Each postgraduate programme covers a specialist area of expertise such as clinical, health, educational or occupational psychology. However, all postgraduate awards share common features such as approaches to ethical practice. The BPS's Membership and Professional Training Board has the responsibility to accredit all postgraduate routes and ensures consistency between programmes and across specialisms. It also ensures consistency between accredited programmes and the Society's own postgraduate awards which provide the core curriculum standards for accredited programmes.
45. All applied psychologists must achieve the Graduate Basis for Registration and successfully complete a BPS accredited postgraduate training route, which includes the assessment of knowledge and skills and periods of supervised practice, before being entered onto the BPS' register of chartered psychologists. This requires a minimum of six years.

The British Psychological Society

Background:

46. The BPS is the learned and professional body for psychologists in the United Kingdom. It was founded in 1901 and incorporated by Royal Charter in 1965. It is charged with the task of overseeing, in the public interest, psychology and psychologists. The Society is not a trade union.
47. The Charter states that the principal objective of the Society is 'to promote the advancement and diffusion of knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of Members of the Society by setting up a high standard of professional education and knowledge'.
48. There are currently over 40,000 members (including students and affiliates) of the BPS. In order to improve public protection, the Society's Royal Charter was amended in 1987 to allow the setting up of a register of chartered psychologists. There are now 10,611 chartered psychologists registered with the BPS who are fully qualified and judged 'fit to practise psychology without supervision'.
49. Under the present proposals this public protection role will transfer to the HPC, but the BPS's Royal Charter and original objectives will remain.

50. Before being admitted to the BPS register of chartered psychologists individuals must:
- hold a recognised first degree in or including psychology
 - have recognised postgraduate qualifications or
 - have undergone approved postgraduate training and supervision
 - have been judged 'fit to practise' independently and
 - have agreed to follow the BPS Code of Conduct and be answerable to a disciplinary system (in which non-psychologists form the majority).
51. The term 'chartered psychologist' is legally recognised and only chartered psychologists are entitled to use this title and the abbreviation C.Psychol. Only those qualified in the particular specialism are eligible to use one or more of the following titles:
- chartered psychologist
 - chartered clinical psychologist
 - chartered counselling psychologist
 - chartered educational psychologist
 - chartered forensic psychologist
 - chartered health psychologist
 - chartered occupational psychologist
 - chartered sport and exercise psychologist
52. Chartered psychologists who wish to offer services to the public are required to hold a practising certificate to indicate that they have been judged competent to offer services. Some chartered psychologists do not offer psychological services (for example, those who are not in employment of any kind, or those whose employment is entirely concerned with teaching and research) and these chartered psychologists are exempt from the need to hold a practising certificate. Psychologists who hold practising certificates are required to undertake continuing professional development.

Why the Health Professions Council?

53. The Health Act 1999 specified that relevant professions were those that dealt wholly or partly with individuals' physical and mental health and that required regulation. This allows the whole of applied psychology to be included, not just those elements which are exclusively concerned with health. The Government has made clear its support for the statutory regulation of applied psychologists by the HPC. This will enable applied psychologists to share in a common framework with other professions, promoting consistency and sharing costs.

Issues for discussion:

Regulation: The purpose of regulation and how it will apply to applied psychologists in the future

54. At present there are no statutory requirements for applied psychologists to register with a professional or regulatory body.
55. In the NHS, appointment to psychology posts requires eligibility for the appropriate grade of membership of the BPS in the vast majority of cases. However, it has been open to others to employ individuals who do not possess approved training and are not BPS registered and therefore not subject to the Society's disciplinary procedures.
56. The powers of the BPS Investigatory Committee and Professional Conduct Board are limited to members and disciplinary committee decisions cannot prevent a practitioner who has committed a serious offence from continuing to practise.
57. There has been growing pressure for the regulation of healthcare professionals whose work has a direct impact on patient care. Regulatory reform underpins the successful development of a modern, patient-centred NHS by aiming to reinforce public confidence that those who treat them are safe and competent to do so.
58. The Society estimates that around 90% of practising clinical psychologists are registered as chartered psychologists. Many counselling psychologists work solely within the private sector but, the majority of those working within the NHS are BPS registered. The Society estimates that about 50% of all educational psychologists are currently members of its register. Registration figures for other specialist categories of applied psychology are not as clear but the Society estimates that between 50 and 80% of practitioners in other specialist categories are registered.
59. Most chartered psychologists will have acquired rights to join the applied psychology part of the HPC register. When the applied psychology part of the HPC register opens, all those who have practising certificates will automatically transfer to the HPC register, unless their BPS registration is suspended or they are the subject of proceedings that could lead to their removal or suspension from the BPS register (such individuals will be dealt with on a case by case basis). The registrants who transfer to the HPC will continue to be eligible for registration with the BPS as chartered psychologists.
60. There is no scope for any form of conditional or limited registration within the framework of the Health Professions Order 2001 as this could cause confusion and undermine public safety. If there were two types of registration within one profession a conditionally registered practitioner could, for instance, be erroneously employed in a role requiring full training and registration. Psychology graduates who are employed as psychology assistants or as trainees before or during applied psychology training will not be registered by the HPC.

61. **Q: Do you agree that applied psychologists currently registered with the BPS should transfer to the HPC register if they wish to continue to practise?**

Part of register:

62. It is proposed that a new part of the HPC register be opened and named 'applied psychologists'. This will cover the seven branches of applied psychologists listed above. However, it is proposed that the name 'applied psychologist' should not itself be protected. Proposals for protected titles are as in paragraph 65 below.

Protection of title:

63. One method of achieving better public protection is to define exactly what members of a regulated profession may call themselves. Protection of title ensures that only practitioners who are registered with the statutory regulatory body may use a particular title. The public can be assured that a professional using a particular title is appropriately educated, trained and complies with relevant guidelines for that profession. A professional using a protected title is thus entitled to do so by virtue of having met the standards of proficiency necessary for the safe practice of that profession.
64. Practitioners, employers and stakeholders need to be aware that registration under statutory regulation carries with it protection of title by law. Anyone calling him/herself by a protected title who was not registered would be committing an offence subject to prosecution and a substantial fine of up to £5,000.
65. The offences are:
- falsely representing himself to be registered in the register, or a particular part of the register;
 - using a title to which he is not entitled;
 - falsely representing himself to possess qualifications in the relevant profession.
66. The proposed protected titles are those which are currently in use by practitioners and most likely to be recognised by members of the public and the service alike:
- clinical psychologist
 - counselling psychologist
 - educational psychologist
 - forensic psychologist
 - health psychologist
 - occupational psychologist
 - sport and exercise psychologist

Why not protect the title of 'psychologist', 'applied psychologist', 'practising psychologist' or similar?

67. We do not propose to protect the generic name of the part of the register “applied psychologist”, since it is not generally used by practitioners of applied psychology. They generally use the titles relating to the branch in which they practise, as listed above. On the other hand the term is apparently used by some research, experimental or academic psychologists despite the fact that they do not practise in a branch of applied psychology. The intention is not to criminalise these non-practitioners, so the term “applied psychologist” will not be restricted in law to those practising applied psychology. The research and experimental psychologists might however consider adopting a title which would avoid confusion with practitioners of applied psychology. Consideration has been given to naming the part of the register “practising psychologist” or “psychologist practitioner” instead. But the first could be similarly unacceptable to any psychologist practising in research or teaching, and the second might in time be needed to describe an advanced practitioner role. Also neither has the authority of current usage.
68. Psychology is both an academic subject and a profession. If, for instance, the generic title of ‘psychologist’ were protected it would be a criminal offence for anyone to call themselves by that title unless they were registered with HPC. All graduates with psychology degrees would find themselves at risk of prosecution if they chose to call themselves ‘psychologists’ and were not registered with the HPC. It is therefore proposed to limit regulation to the current range of practitioners who have the potential to cause harm to the public through their application of psychology. This will avoid the unnecessary criminalisation of academics, research psychologists, experimental psychologists and also professionals working in evolving specialisms which are not yet sufficiently well defined and do not meet the HPC criteria for regulation. These proposals aim to strike a balance between the need to protect the public by providing a workable system of regulation while not stifling academic research which provides an invaluable contribution to the development of the profession.
69. It may be that over time the development of national occupational standards for applied psychology will demonstrate that the various branches of applied psychology consist of largely the same competences, knowledge and skills practised in different contexts. This may lead to less difference in training and title between the seven branches of applied psychology than currently exists. At that stage there might be merit in reconsidering the protected titles to avoid creating unnecessary barriers to employment and career development. The seven proposed protected titles reflect current usage. If any change to these is made in future it will be subject to full consultation beforehand.
70. **Q: Do you agree that the titles protected in law should be: clinical psychologist; counselling psychologist; educational psychologist; forensic psychologist; health psychologist; occupational psychologist; and sport and exercise psychologist?**

Chartered Psychologists:

71. The BPS is governed by Royal Charter which gives it the power to operate a system of chartered psychologists being those who meet BPS requirements as follows:
72. A chartered psychologist is someone who is entered on the *Register of Chartered Psychologists*. This means that the individual:
- has successfully applied to join the BPS Register;
 - has successfully completed a first qualification in psychology accredited for the Graduate Basis for Registration by BPS;

- has undergone a further course or period of supervised training accredited by the BPS in a specific area of psychology;
- has agreed to abide by the Code of Conduct, and is subject to a disciplinary procedure which permits removal from the BPS Register by a Disciplinary Board on which non-psychologists make up the majority of members;
- has been judged fit to practise psychology.

73. The BPS's Register of Chartered Psychologists includes both applied psychologists and a minority of psychologists who are researchers or teachers and who are qualified for chartered status but do not provide psychological services to the public. The BPS will continue to operate its Register of Chartered Psychologists for this group, who do not hold practising certificates, and for any other chartered psychologists who wish to continue to use it. The large majority of chartered psychologists will be required to register with the HPC when the applied psychology section of the register opens. Some chartered psychologists are likely to choose to be on both registers as 'chartered psychologist' is a BPS qualification given to those eligible that may only be used by those members on its register. In addition some chartered psychologists, who are not eligible for any of the protected titles, may remain on the BPS Register of Chartered Psychologists without joining the HPC register. In future, when statutory regulation has passed to the HPC, the BPS role is likely to change and may become largely focussed on representing professional interests particularly through professional development.

Restrictions on employment:

74. There are currently no legislative restrictions on the employment of unregistered health professionals (i.e. those working in the capacity of a health professional, even if they cannot use the protected titles) in the private sector, but there are Regulations and Directions restricting their employment in the public service, including the NHS, Local Education Authorities, the Home Office, the Prison Service and other statutory bodies. As statutory regulation carries with it protection of title both public and private sector employers should be aware that anyone who is not HPC registered but calls themselves by one of the proposed protected titles when the applied psychology part of the HPC register opens may be liable for prosecution and a fine of up to £5,000.

75. All UK employers will need to satisfy themselves that their employees are competent to do the jobs for which they are employed. They may wish to ensure that employees are encouraged to apply for HPC registration. In the interests of public safety and to satisfy their own clinical governance requirements, employers will wish to ensure that posts which require one of the following seven branches of applied psychologist are filled by those who are HPC registered or have applied for HPC registration:

- clinical psychologist
- counselling psychologist
- educational psychologist
- forensic psychologist
- health psychologist
- occupational psychologist

- sport and exercise psychologist

76. The need for HPC registration does not apply to research psychologists who are undertaking research only.
77. Employment within the NHS and by local authorities is a devolved matter and separate arrangements to implement restrictions on employment will be made by each administration within the UK.

Standards of proficiency:

78. In order to be registered with the HPC all applicants need to meet the HPC's threshold standards of proficiency and continue to meet them in order to maintain registration. These will be developed for applied psychologists by the Education and Training Committee of the HPC which will include an applied psychologist member. These standards are a vital tool for the Council as it seeks to protect the public by ensuring that its registrants are safe and effective in their practice. The standards of proficiency include generic elements which all HPC registrants must meet and profession specific elements which are relevant to professions for which the HPC is responsible. The specific elements will be further refined to reflect the different branches of applied psychology. It is expected that the initial standards of proficiency for applied psychologists will be very similar to those required by the BPS.
79. **Q: Do you agree with the proposals for the standards of proficiency for applied psychologists?**

Grandparenting:

80. 'Grandparenting' is the commonly used term for the transitional arrangements which will allow practitioners who do not possess an approved qualification to demonstrate they meet HPC standards. They can therefore achieve HPC registration provided that they meet certain criteria. These criteria are designed to ensure that despite not entering a profession by an approved route, such practitioners have nonetheless acquired the experience, education and training necessary to enable them to meet the HPC's requirements for safe and effective practice.
81. With the opening of a new part of the HPC register for applied psychologists it is proposed that there should be a transitional or grandparenting period of three years from the date the applied psychology part of the HPC register opens. This period allows a person who does not hold an approved qualification and who was never registered under the BPS's register, in certain circumstances, to be treated as if he or she satisfies the requirement to hold an approved qualification for registration. Those circumstances are set out in article 13(2) of the Health Professions Order 2001 and require the applicant to satisfy the Council's Education and Training Committee ("the Committee"), possibly following a test of competence, that either:
- he or she has been wholly or mainly engaged in the lawful, safe and effective practice of the profession in respect of which he or she is seeking registration ("the relevant profession") for three out of the five years prior to the opening of the register (or its part time equivalent), or
 - where the applicant cannot meet that "three out of five years" test, that he or she has undergone additional training or experience (in the UK or overseas) to satisfy the Council's standards of proficiency for the relevant profession.

82. In practice, people without the Graduate Basis for Registration will not be eligible for grandparenting. This ineligibility includes some people with a first degree in psychology, since not all psychology degrees confer the Graduate Basis for Registration.
83. In the majority of cases 'grandparenting' applications are scrutinised by two assessors from the relevant branch of the profession-one practitioner and one academic. Additionally the Committee may require the applicant to take a test of competence.
84. The additional scrutiny fee for grandparenting applicants registering with the HPC is £200.
85. An applicant who begins practising before the new part of the register opens can continue to use the protected professional title for three years after the opening of the applied psychology part of the register, or longer if he or she applies for registration under the grandparenting provisions and his or her case has not been finally resolved. Those who begin practising after the register opens cannot use a protected title unless they are on the HPC register. After all the applications brought in the three year grandparenting period have been finally disposed of, only applicants with an approved qualification will be eligible for registration (but see below for international applicants).
86. **Q: Do you agree to these grandparenting arrangements?**

International applicants for registration:

87. For those applying for registration who were trained outside the UK the HPC uses registrant assessors who work in pairs to ensure that if an applicant is approved for regulation they will be competent to practise within the UK scope of practice for that profession. The assessors use the level of competence required of a newly qualified UK registrant as a benchmark.

EEA applicants:

88. The BPS is currently the designated authority approved by the European Union and UK government to conduct these checks on applicants trained overseas. Responsibility for this task will pass to the HPC under these proposals.
89. It is worth emphasising that prospective registrants coming from within the EEA will have the rights to practise in the UK conferred by Council Directive 89/48/EEC, which are not time-limited to the grandparenting period. Amendments to the UK legislation implementing this Directive will place two main obligations on the HPC. Firstly, it will need to ensure that practitioners with applied psychology qualifications obtained elsewhere in the EEA are not excluded from practice as an applied psychologist in the UK, and although there are no such qualifications at present, other Member States may of course introduce such qualifications in the future. Secondly, and more pertinently, where EEA migrants have relevant qualifications or experience, but there is a substantial difference between these and the full (chartered) applied psychology qualification, the HPC will advise on the additional training or adaptation period that might be required, assessing each application on an individual basis as described above.

International applicants from outside the EEA:

90. As there are no directly equivalent qualifications elsewhere, it is proposed that HPC applied psychologist registrant assessors will consider each application on an individual basis and look at a number of

elements – the level of training, the content of the training course, the type of clinical practice, post qualification training and post qualification experience. Applicants outside the EEA will need to supply an International English Language Testing System (IELTS) certificate where English is not the first language. The HPC currently requires a IELTS score of 7 for most of its applicant registrants. Level 8 is required for speech and language therapists and it is proposed that this would also be required for applied psychologists.

Fitness to practise:

91. The BPS currently operates a system for examining and dealing with cases where registrants fall short of its standards. The HPC has developed its own system for this purpose. The two systems are very similar. Attached is a comparison of the two (Annex C).
92. Under the new system, the HPC will take over assessing the fitness to practise of applied psychologists. If the BPS has any fitness to practise cases outstanding when the transfers from the BPS register to the HPC register take place, it will ultimately be for the HPC to decide if the person's name should transfer. Accordingly, the Council will generally take over these cases itself. However, where it is in the interests of fairness to do so, some cases will be brought to a conclusion under the BPS system. The HPC will adopt a cut-off point when existing cases which have already progressed through the BPS system, to the point where a first decision on handling has been made, will continue under the BPS system but new ones will be dealt with by the HPC.
93. The HPC has already had the experience of undertaking the fitness to practise caseload of the CPSM, which was abolished in July 2003, and also of the Association of Operating Department Practitioners which was transferred to the HPC on 18 October 2004. It is anticipated that the HPC will follow similar procedures when it takes over the disciplinary and fitness to practise caseload of the BPS.
94. **Q: Do you agree with these proposals for the transfer of responsibility for fitness to practise cases?**

Code of conduct:

95. In future applied psychologists will be subject to the Code of Conduct, Performance and Ethics to which the HPC requires all its registrants to adhere.

Comparison between the BPS Code of Conduct and the HPC Standards of Conduct, Performance and Ethics:

96. The HPC Standards of Conduct, Performance and Ethics is a detailed document which describes each individual aspect of the standards (Annex D).
97. Under the terms of its Royal Charter the BPS is required to maintain a Code of Conduct, Ethical Principles and Guidelines for Practice with which all members must comply. A chartered psychologist is someone who is entered on the BPS's Register of Chartered Psychologists.
98. Chartered psychologists are bound by the BPS code of conduct which requires them to:
 - act ethically
 - respect client confidentiality

- work only in those areas where they are competent, or they will refer on to a practitioner competent in that field
 - obtain informed consent
 - not damage the interests of their clients
 - maintain and develop their professional competence.
99. The remaining sets of BPS guidelines include ethical principles for conducting research with human participants, sexual harassment at work and the ethics of dual relationships.
100. Chartered psychologists are subject to BPS disciplinary procedures which permit removal from the BPS Register by a Disciplinary Board.
101. The BPS sees no conflict between its Code of Conduct and the HPC Standards of Conduct Performance and Ethics. Such differences that exist reflect the greater focus of the former on applied psychology, together with more detailed guidance compared with the more generic nature of the latter, which must be relevant to all professions regulated by the HPC. The BPS, as the learned and professional society with a Royal Charter, will continue to maintain and develop its own Code of Conduct and Ethical Guidelines for practice.
102. Chartered psychologists who wish to use one of the 7 titles that it is proposed should be protected by the HPC will need to obtain HPC registration. They may also choose to be entered on the BPS's Register of Chartered Psychologists and will be required to meet both HPC and BPS codes.
103. Those wishing to use the sole title of 'chartered psychologist' and who do not practise one of the seven branches of applied psychology will need to maintain BPS registration in order to continue using the title of 'chartered psychologist' but they do not need to be HPC registered as they are not practising using a HPC protected title.
104. **Q: Do you agree that the branches of applied psychologists should adopt the HPC Code of Conduct, Performance and Ethics?**

Continuing Professional Development (CPD):

105. Practitioners need to ensure that they maintain and develop their skills in the interests of public safety and to make sure that they meet the current and evolving needs of the service. The HPC has consulted on its own requirements for CPD for all those professions it regulates. Once responses have been analysed feedback will be published and it is likely that the HPC will build on or accommodate existing CPD schemes required by the professions it regulates.
106. A CPD policy was approved by a vote of the BPS's membership in 2000 and this makes CPD mandatory for all chartered psychologists holding a practising certificate. The BPS system will need to merge with the HPC's system in due course – and applied psychologists registered with the HPC will all be bound to follow the HPC system or lose their registration.

Proposed legislation: the Health Professions (Applied Psychologists etc.) Order 2005:

107. We propose legislation enabling applied psychology to become a “relevant profession” that is regulated by the HPC. We suggest a new part of the Register be opened for applied psychology. As a consequence, there will also need to be new registrant, alternate and lay members of the Council. This will increase the membership of the HPC from 13 practitioner members and 12 lay members to 14 practitioner members and 13 lay members with a resultant increase in alternate members from 13 to 14. By-elections will need to be held for the registrant and alternate members, but the lay member will be appointed by the NHS Appointments Commission under powers transferred by the Privy Council from 7 March 2005. Their terms of office will be coterminous with the rest of the members of the HPC. There will also be a need to increase the membership of the HPC’s Education and Training Committee, but this will be conducted through the Council’s standing orders.
108. A copy of the draft Order is attached. It also contains some consequential changes that flow from the proposals set out above, such as consequential changes to other legislation, and powers to make arrangements for the transfer of staff or property from the BPS to the HPC. The BPS and the HPC will also be required to enter into prior arrangements to ensure that the necessary transfer of names from the BPS register to the HPC register takes place. It is expected that these will include financial arrangements to ensure that registrants who transfer from the BPS to the HPC are not required to pay registration fees in respect of professional regulation twice for the same registration period, while ensuring that the HPC receives a proportion of funding from the BPS to cover the cost of functions which it will be taking over. The draft Order also provides for the HPC taking over the assessment of outstanding fitness to practise cases.
109. The draft Order contains an Explanatory Note setting out the purpose and aim of the legislation.
110. **Q: Do you agree with the proposed legislative changes, including the opening of a new part of the HPC register for applied psychologists and the resultant increase in membership of the HPC?**

Devolution:

111. Whilst the HPC is a UK wide regulatory body, bringing currently unregulated health professionals within the legislative framework operated by the HPC is a matter for the devolved administrations in Scotland and Northern Ireland (in the latter case, interim arrangements are in place pending the restoration of devolved government). Employment of health professionals in the NHS is a devolved matter in Scotland, Wales and Northern Ireland. Different patterns of service delivery may impact on changing roles within the workforce in each country of the UK. In setting standards of education and training, the HPC will also need to have regard to the different education systems in place in the UK countries, as indeed it already does for the professions it currently regulates. However, there are mutual advantages for all four countries to share a common framework of competence standards to allow staff mobility and aid recruitment and redeployment of staff across the UK. Regulation should not inhibit the free movement of staff around the UK and must continue to support the flexibility of the workforce to respond to the changing service needs in different demographic and geographic locations.
112. This proposal is formally a joint consultation by the Department of Health and the Scottish Ministers, as is required by the Health Act 1999, but it has the support of all UK Health Departments. A Partial Regulatory Impact Assessment of the proposals is included.
113. **Q: Do you agree with the provisions of the draft Order?**

Summary of Consultation Questions

- Q1: Do you agree that applied psychologists currently registered with the BPS should transfer to the HPC register if they wish to continue to practise?
- Q2: Do you agree that the titles protected in law should be: clinical psychologist; counselling psychologist; educational psychologist; forensic psychologist; health psychologist; occupational psychologist; and sport and exercise psychologist?
- Q3: Do you agree with the proposals for the standards of proficiency for applied psychologists?
- Q4: Do you agree to these grandparenting arrangements?
- Q5: Do you agree with these proposals for the transfer of responsibility for fitness to practise cases?
- Q6: Do you agree that the branches of applied psychologists should adopt the HPC Code of Conduct, Performance and Ethics?
- Q7: Do you agree with the proposed legislative changes, including the opening of a new part of the HPC register for applied psychologists and the resultant increase in membership of the HPC?
- Q8: Do you agree with the provisions of the draft Order?

Consultation and next steps

The process for consultation and making of the Order

This Draft Order is published for consultation under section 62(10) of the Health Act 1999. Following consultation, UK Health Ministers may wish to make some amendments to the draft Order before it is laid before the UK Parliament and the Scottish Parliament with a report on consultation. The report about the consultation will be posted on the Department of Health's website.

The Order is subject to the affirmative procedures under which it must be the subject of debates in both Houses of Parliament at Westminster. Subject to the approval of both Houses, and of the Scottish Parliament, the Order will be presented to Her Majesty in Council for the Order to be made.

Individuals and organisations are therefore invited to submit comments on any of the issues dealt with in the draft Order.

Replies to public consultation:

Responses to this document should be received no later than 9 June 2005. This document is available on the Department of Health website at <http://www.dh.gov.uk/Consultations/LiveConsultations/fs/en>

Or

In writing to:

Christine Holmes

Department of Health
Room 2N35B
Quarry House
Quarry Hill
Leeds
LS2 7UE

More information about the HPC and its functions can be obtained from its website at www.hpc-uk.org or from

Health Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU

Telephone: 0207 582 0866

The British Psychological Society can be visited via its website at www.bps.org.uk

Or contacted at:

The British Psychological Society
St Andrews House
48 Princess Road East
Leicester
LE1 7DR

Telephone: **0116 254 9568.**

Anybody wishing to address a particular point to Scottish Ministers should write to:

Andy Kerr MSP
Minister for Health and Community Care
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

The information you send us may need to be passed on to colleagues within the UK Health Departments and/or published in a summary of responses to this consultation. We will assume that you are content for us to do so unless you specifically include a request to the contrary in the main body of your reply. If you are replying by email, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

Consultation draft: February 2005

Draft Order in Council laid before Parliament and the Scottish Parliament under section 62(10) of the Health Act 1999, for approval by resolution of each House of Parliament and of the Scottish Parliament.

STATUTORY INSTRUMENTS

2005 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

HEALTH PROFESSIONS

The Health Professions (Applied Psychologists) Order 2005

Made - - - - - 2005

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999(a):

And whereas the period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament:

And whereas a draft of this Order in Council has been approved by resolution of each House of Parliament and approved by resolution of the Scottish Parliament in accordance with section 62(10) of that Act:

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4) of that Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

(a) 1999 c.8.

PART 1

INTRODUCTORY

Citation, commencement, extent and interpretation

- 1.—(1) This Order may be cited as the Health Professions (Applied Psychologists) Order 2005.
- (2) This article shall come into force forthwith upon the making of this Order, and the other provisions of this Order shall come into force on such days as the Secretary of State may specify.
- (3) Different days may be specified under paragraph (2) for different purposes, and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that day^(a).
- (4) The extent of any amendment of any enactment or instrument contained in this Order is the same as that of the enactment or instrument amended.
- (5) Where the Secretary of State specifies a day under paragraph (2) for the coming into force of an amendment of the 2001 Order, that day need not also be specified under article 1(2) of the 2001 Order in respect of that amendment for that amendment to come fully into force, unless it is an amendment to a paragraph in a Schedule that is not yet in force.
- (6) In this Order—
- “the 2001 Order” means the Health Professions Order 2001^(b);
- “BPS register” means the aggregate of the entries in the register maintained by the British Psychological Society^(c) that relate to holders of practising certificates in respect of the following branches of applied psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology^(d);
- “the Council” means the Health Professions Council established under article 3 of the 2001 Order; and
- “HPC register” means the register maintained under article 5 of the 2001 Order.

PART 2

REGULATION OF APPLIED PSYCHOLOGISTS

Amendment of the 2001 Order

- 2.—(1) In paragraph (1) of article 13 of the 2001 Order (transitional provisions relating to admission to the register)—
- (a) for sub-paragraph (c) substitute—
- “(c) who has never been registered in respect of that profession—
- (i) under the 1960 Act or this Order,
- (ii) in the case of an operating department practitioner, in the AODP register, or
- (iii) in the case of an applied psychologist, in the BPS register; but”; and
- (b) in sub-paragraph (d), after “two years” add “, or in the case of applied psychologists three years,”.
- (2) In article 39 of the 2001 Order (offences)—

^(a) A table of provisions that have come into force is available from the Department of Health, Room 2N35A, Quarry House, Quarry Hill, Leeds, West Yorkshire, LS2 7UE.

^(b) S.I. 2002/254; as amended by S.I. 2003/3148 and 2004/2033.

^(c) The British Psychological Society is at St Andrews House, 48 Princes Road East, Leicester, LW1 7DR.

^(d) As a consequence of this Order, the BPS register is to be transferred from the British Psychological Society to the Health Professions Council at Park House, 184 Kennington Park Road, London SE11 4BU.

- (a) in paragraph (1)(a), after “particular part” insert “(including a part that is a sub-division of another part)”; and
 - (b) in paragraph (2)(a), for “13(1)(b)” substitute “13(1)(d)”.
- (3) In Part I of Schedule 1 to the 2001 Order (the Health Professions Council)—
- (a) in paragraph 1(1)—
 - (i) in paragraph (a), for “13 members” substitute “14 members”,
 - (ii) in paragraph (b), for “12 members” substitute “13 members”, and
 - (iii) in paragraph (c), for “13 members” substitute “14 members”;
 - (b) in paragraph 3, for “or the AODP register” substitute “, the AODP register or the BPS register”;
 - (c) after paragraph 8, insert the following paragraph—

“**8A.** The vacancies for a first registrant member and a first alternate member in respect of the part of the register which relates to applied psychologists, which are to arise after the coming into force of article 2(3)(a) of the Applied Psychologists Order, shall be filled in a like manner as a vacancy arising after the resignation of a registrant or alternate member.”; and
 - (d) in paragraph 9—
 - (i) in sub-paragraph (1), before “Each member s” insert “Subject to sub-paragraphs (1A) and (1B) and paragraph 6 of Schedule 2,”; and
 - (ii) after sub-paragraph (1) insert the following sub-paragraphs—

“(1A) The terms of office of—

 - (a) the first registrant member and the first alternate member appointed in respect of the part of the register which relates to applied psychologists; and
 - (b) the additional lay member appointed after the coming into force of article 2(3)(a) of the Applied Psychologists Order,

shall, subject to subject to sub-paragraph (1B), be of such duration as the Privy Council shall determine.

(1B) A term of office set under sub-paragraph (1A) shall—

 - (a) end on an anniversary of the end of the second transitional period, and for these purposes “the second transitional period” has the meaning given in paragraph 2 of Schedule 2; and
 - (b) be for a period of not less than one year but not more than four years.”.
- (4) In paragraph 1 of Schedule 3 to the 2001 Order (interpretation)—
- (a) insert each of the following definitions at the appropriate place in the alphabetical order—

““applied psychologists” means clinical psychologists; counselling psychologists; educational psychologists; forensic psychologists; health psychologists; occupational psychologists; and sport and exercise psychologists;”;

““the Applied Psychologists Order” means the Health Professions (Applied Psychologists) Order 2005;”;

““BPS register” means the aggregate of the entries in the register maintained by the British Psychological Society that relate to holders of practising certificates in respect of the following branches of applied psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology;”;
 - (b) in the definition of “relevant professions”, after “means” insert “applied psychologists;”.

Transitional arrangements

3.—(1) Subject to paragraph (3), if on the day before this article comes into force a person's name is included in the BPS register, he shall be registered in the part of the HPC register which relates to applied psychologists with effect from the day this article comes into force.

(2) If on the day this article comes into force there is an outstanding application for a person's name to be entered into the BPS register (including an application for restoration to that register), the Council—

- (a) may determine that his name is to be entered in the part of the HPC register which relates to applied psychologists; and
- (b) shall dispose of the matter in such manner as it considers just.

(3) If on the day before this article comes into force a person's name is included in the BPS register but his registration is suspended (whether temporarily or permanently) or he is the subject of proceedings which, but for the closure of the BPS register, could have led to his removal or suspension from the BPS register, the Council—

- (a) may determine that his name is not to be entered in the part of the HPC register which relates to applied psychologists; and
- (b) shall dispose of the matter (including any proceedings) in such manner as it considers just.

(4) Where a person is registered in the HPC register pursuant to paragraph (1) or (2), his home address shall not be published in the HPC register without his consent.

(5) The Privy Council may by order provide for the transfer from the British Psychological Society to the Council of—

- (a) subject to paragraph (6), any person who is, or any class of persons who are, employed under a contract of employment with the British Psychological Society; and
- (b) any property (which for these purposes includes rights and interests of any description) or liabilities,

and any order under this paragraph may include such supplementary, incidental or consequential provisions as the Privy Council considers appropriate.

(6) No order under paragraph (5)(a) shall provide for the transfer of any person or class of persons in circumstances where, for a reason connected with the transfer, a person—

- (a) is or will be unfairly dismissed; or
- (b) would, if he terminated his contract of employment, be taken to be unfairly dismissed,

in contravention of his right under section 94(1) of the Employment Rights Act 1996^(a) (that is, the right not to be unfairly dismissed).

(7) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

(8) The powers to make orders under paragraphs (5) and (7) are exercisable by statutory instrument, and—

- (a) a statutory instrument containing an order under paragraph (7), but not paragraph (5), shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) for the purposes of section 1 of the Statutory Instruments Act 1946^(b) (definition of “Statutory Instrument”), this paragraph shall have effect as if contained in an Act of Parliament.

(9) The powers vested in the Privy Council to make orders under paragraph (5) and (7) may be exercised by any two or more of the lords and others of the Council.

^(a) 1996 c.18.

^(b) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.

Arrangements for transfer of applied psychologists to the HPC register

4.—(1) The Council and the British Psychological Society shall enter into arrangements (which may include financial arrangements) to ensure that all the names in the BPS register which are to be entered in the HPC register with effect from the day article 3 comes into force are so entered.

(2) If—

- (a) the Council has determined, pursuant to the arrangements mentioned in paragraph (1), that a person whose name is entered in the BPS register is to be entered in the HPC register; and
- (b) solely as a consequence of that determination that name has been removed from the BPS register,

then notwithstanding that removal, that person's name is to be entered in the HPC register pursuant to article 3(1) on the day article 3 comes into force.

PART 3

CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

Amendment of the Data Protection Act 1998

5. In section 69 of the Data Protection Act 1998(a) (meaning of “health professional”), in subsection (1)(i) omit “clinical psychologist or”.

Amendment of the Powers of Criminal Courts (Sentencing) Act 2000

6. In the Powers of Criminal Courts (Sentencing) Act 2000(b)—

- (a) in the following provisions, for “chartered psychologist” substitute “registered applied psychologist”—
 - (i) paragraph 5(2), (3)(c), (6) (twice) and (8)(a) of Schedule 2 (additional requirements which may be included in community rehabilitation orders), and
 - (ii) paragraph 6(2)(d) of Schedule 6 (requirements which may be included in supervision orders);
- (b) for sub-paragraph (10) of paragraph 5 of Schedule 2, substitute the following sub-paragraph—

“(10) In this paragraph, “registered applied psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to applied psychologists.”; and
- (c) for sub-paragraph (5) of paragraph 6 of Schedule 6 (requirements which may be included in supervision orders) substitute the following sub-paragraph—

“(5) In sub-paragraph (2) above, “registered applied psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to applied psychologists.”.

Amendment of the Income Tax (Earnings and Pensions) Act 2003

7. In section 343 of the Income Tax (Earnings and Pensions) Act 2003(c) (deduction for professional membership fees), in the Table in subsection (2) omit paragraph 2.

(a) 1998 c.29; section 69(1) has been amended by S.I. 2002/253 and 254 and 2003/1590.

(b) 2000 c.6; Schedule 2 to the Act is to be repealed by the Criminal Justice Act 2003 (c.44), Schedule 37, Part 7.

(c) 2003 c.1.

Amendment of the Criminal Justice Act 2003**8.** In the Criminal Justice Act 2003(a)—

- (a) in the following provisions, for “chartered psychologist” substitute “registered applied psychologist”—
 - (i) subsection (1) and (2)(c) of section 207 (mental health treatment requirement), and
 - (ii) subsection (1) and (3)(a) of section 208 (mental health treatment at place other than that specified in order); and
- (b) for subsection (6) of section 207 substitute the following subsection—

“(6) In this section and section 208, “registered applied psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to applied psychologists.”.

Amendment of the Gender Recognition Act 2004**9.** In the Gender Recognition Act 2004(b)—

- (a) in subsection (1)(b) and (2)(b) of section 3 (evidence), for “chartered psychologist” substitute “registered applied psychologist”;
- (b) in section 25 (interpretation), omit the definition of “chartered psychologist” and insert the following definition at the appropriate place in alphabetical order—

““registered applied psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to applied psychologists,”;
- (c) in section 27(5) (applications within two years of commencement), in the substituted section 3(1)(b), for “chartered psychologist” substitute “registered applied psychologist”; and
- (d) in paragraph 1(2)(b) of Schedule 1 (gender recognition panels), for “chartered psychologists” substitute “registered applied psychologists”.

PART 4**CONSEQUENTIAL AMENDMENTS TO SECONDARY LEGISLATION****Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975****10.** In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(c) (excepted professions, offices, employments, work and occupations)—

- (a) in Part I (professions), omit paragraph 13; and
- (b) in Part IV (interpretation), omit the definition of “chartered psychologist”.

Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 1991**11.** In Schedule 1 to the European Communities (Recognition of Professional Qualifications) Regulations 1991(d) (professions regulated by law or public authority)—

- (a) in Part 1 (professions regulated by law or public authority)—
 - (i) in the column headed “profession”—

(a) 2003 c.44.

(b) 2004 c.7.

(c) S.I. 1975/1023; the relevant amending instrument is S.I. 2002/441.

(d) S.I. 1991/824; the relevant amending instruments are S.I. 200/9160, 2002/880, 881 and 3051 and 2004/2033.

- (aa) before “ARTS THERAPIST” insert “APPLIED PSYCHOLOGIST (that is to say, a clinical psychologist, counselling psychologist, educational psychologist, forensic psychologist, health psychologist, occupational psychologist or sport and exercise psychologist)”, and
- (bb) omit “CLINICAL PSYCHOLOGIST”,
- (ii) in the column headed “Designated Authority” omit “The British Psychological Society”; and
- (b) in Part 2 (professions regulated by professional bodies incorporated by Royal Charter)—
 - (i) In the column headed “Professional Title (where applicable)” omit “CHARTERED PSYCHOLOGIST”,
 - (ii) in the column headed “Designatory Letters” omit “C Psychol”, and
 - (iii) in the column headed “Designated Authority” omit “The British Psychological Society”.

Amendment of the Life Sentences (Northern Ireland) Order 2001

12. In Article 3 of the Life Sentences (Northern Ireland) Order 2001(a) (Life Sentence Review Commissioners)—

- (a) in paragraph (2)(c), for “chartered psychologist” substitute “registered applied psychologist”; and
- (b) in paragraph (6), for the definition of “chartered psychologist” substitute the following definition—

““registered applied psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to applied psychologists;”.

Amendment of the Care Homes Regulations 2001

13. In paragraph (1) of regulation 2 of the Care Homes Regulations 2001(b) (interpretation), in the definition of “health care professional” omit “clinical psychologist or”.

Amendment of the Private and Voluntary Care (England) Regulations 2001

14. In paragraph (1) of regulation 2 of the Private and Voluntary Care (England) Regulations 2001(c) (interpretation), in the definition of “health care professional” omit “clinical psychologist or”.

Amendment of the Care Homes (Wales) Regulations 2002

15.—(1) In paragraph (1) of regulation 2 of the Care Homes (Wales) Regulations 2002(d) (interpretation), in the definition of “health care professional”, omit “clinical psychologist or”.

(2) [Welsh language version]

Amendment of the Private and Voluntary Care (Wales) Regulations 2002

16.—(1) In paragraph (1) of regulation 2 of the Private and Voluntary Care (Wales) Regulations 2002(e) (interpretation), in the definition of “health care professional” omit “clinical psychologist or”.

(a) S.I. 2001/2564.

(b) S.I. 2001/3965; regulation 2(1) has been amended by S.I. 2004/664, 865 and 1770.

(c) S.I. 2001/3969; regulation 2(1) has been amended by S.I. 2004/664 and 865.

(d) S.I. 2002/324; the relevant amending instrument is S.I. 2004/1314.

(e) S.I. 2002/325.

(2) [Welsh language version]

Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003

17. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003^(a) (excepted professions, offices, employments, and occupations)—

- (a) in Part 1 (professions), omit paragraph 13; and
- (b) in Part 4 (interpretation), omit the definition of “chartered psychologist”.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates applied psychologists as a profession regulated under the Health Professions Order 2001 (“the principal Order”). A number of amendments are made to the principal Order and related legislation as a consequence of this.

Part 1 contains introductory provisions. Part 2 contains the measures relating to the regulation of applied psychologists. Applied psychologists of the listed types (that is to say, clinical psychologists, counselling psychologists, educational psychologists, forensic psychologists, health psychologists, occupational psychologists, and sport and exercise psychologists) will be required to register in the register maintained by the Health Professions Council (“HPC”) under article 5 of the principal Order (“the HPC Register”). The effect of adding “applied psychologist” to the list of professions in the definition of “relevant profession” in Schedule 3 to the principal Order is that this includes applied psychologists as one of the professions regulated under the regulatory scheme established by the principal Order (article 2(4)).

Arrangements are to be made so that applied psychologists of the listed types who hold practising certificates and are registered in the existing voluntary register maintained by the British Psychological Society (“BPS”) are, except in certain circumstances, to be transferred to the HPC Register, although their home addresses are not to appear in the HPC Register without their consent. The HPC is to deal, in such manner as it considers just, with any outstanding fitness to practise proceedings brought by the BPS against applied psychologists of the listed types (article 3(1) to (4)). The HPC and the BPS will be under a duty to enter into prior arrangements to ensure that the necessary transfers take place (article 4, which is to come into force before article 3).

There are also transitional arrangements for the benefit of current practitioners who were not in the BPS register. They will, for a three year period, be able to seek registration on the basis of relevant qualifications and experience, without needing qualifications specifically as an applied psychologist (article 2(1)). Persons who call themselves an applied psychologist of one of the listed types but who are neither registered in the HPC register nor seeking registration on the basis of these transitional arrangements may be committing an offence, and the offences provisions of the principal Order have been adjusted to ensure that all the listed titles are protected (article 2(2)).

The membership of the HPC is expanded to include an applied psychologist registrant member. As a consequence, the HPC is also to have an extra alternate member and an extra lay member, and special arrangements are made for appointing the new members and for the duration of their terms of office (article 2(3)).

^(a) S.S.I 2003/231.

Powers are also taken so that the Privy Council may provide by order for the transfer of employees, property and liabilities from the BPS to the HPC and may make such further transitional provisions as it considers appropriate (article 3(5) to (9)).

Part 3 contains consequential amendments to primary legislation and Part 4 consequential amendments to other secondary legislation. Many of these changes are simply to update references in legislation from “chartered psychologist” (i.e. accredited by the BPS) to “registered applied psychologist” (i.e. registered with the HPC), with some consequential changes to related definitions provisions (articles 6, 8, 9, 10, 12 and 17). Other changes are to take account of the fact that clinical psychologists and forensic psychologists are now regulated under the principal Order (articles 5, 13, 14 15 and 16). The new registration arrangements for applied psychologists have also led to a consequential change to the arrangements for the tax deduction of their professional membership fees (article 7).

In addition, as a consequence of the listed types of applied psychologists, apart from clinical psychologists, becoming part of a regulated profession for the first time – and of clinical psychologists becoming regulated by the HPC rather than the BPS – the HPC has become the designated authority responsible for according to applied psychologists who are migrants the rights to practise in the United Kingdom conferred by Council Directive 89/48/EEC on a general system for the regulation of professional education and training^(a), as adapted and amended^(b) (article 11).

^(a) OJ No. L No. L209, 24.7.1992, p.25.

^(b) Council Directive 89/48/EEC was last amended by Annex II to the Act annexed to the Treaty relating to the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the Adjustments to the Treaties on which the European Union was founded signed at Athens on 16th April 2003 (Cm 6171).

Partial Regulatory Impact Assessment

Title of Proposal

1. 'Enhancing Public Protection: Proposals for the Statutory Regulation of Applied Psychologists'

Purpose and intended effect of measure

The objective

2. The Government's intention is to protect as far as possible members of the public – patients, clients, their families and colleagues – from harm caused by treatment from applied psychologists who are unfit to practise safely and effectively. Those affected will be individual applied psychologists who will be required to register with the Health Professions Council and meet legally enforced standards of competence, training and conduct in order to practise using one of the protected professional titles. Although there will be no direct impact on the businesses or organisations in which they are employed, it is anticipated that it will become increasingly rare for employers to employ an unregistered person in a position where that person is working in the capacity of a registered applied psychologist.

Background

3. There has long been concern from members of the public, employers of healthcare staff, and their professional colleagues that a large proportion of healthcare is delivered by practitioners who are not statutorily required to meet national standards of training, competence and conduct. In 1996 the Department of Health commissioned JM Consulting to carry out reviews of the regulation of allied health professionals. They recommended the introduction of streamlined Councils with wider powers to make regulation of healthcare professions more effective and thereby improve public protection. This independent review was accepted by Government and endorsed in the NHS Plan and the Kennedy Report *'Learning from Bristol: the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary 1984 -1995'*. The recommendations were welcomed by public and professionals alike.
4. After public consultation in 2000 and 2001 and debate in the Scottish and English Parliaments in 2001 the Health Professions Council (HPC) was established in April 2003 and currently regulates the following 13 professions:
 - arts therapists;
 - biomedical scientists;
 - chiropodists and podiatrists;
 - clinical scientists;
 - dietitians;

- occupational therapists;
 - operating department practitioners;
 - orthoptists;
 - paramedics;
 - physiotherapists;
 - prosthetists and orthotists;
 - radiographers;
 - speech and language therapists.
5. The HR (Human Resources) in the NHS Plan 2002 included the Government's intention to extend statutory regulation to all healthcare professionals whose work has a direct impact on patient or client care. Applied psychologists work in a range of settings, often dealing with particularly vulnerable clients and damage within that professional/client relationship can have longstanding and wide ranging repercussions.
6. The Mental Health Bill published on 7 September 2004 extends the 'clinical supervisor' role under the Act to clinical and other appropriate applied psychologists. Statutory regulation for applied psychologists is expected to be a pre-condition for implementing the new Act and a failure to proceed with it would result in significant changes in the way the Act would need to operate.
7. The profession's learned and professional body, the British Psychological Society, supports the view that all applied psychologists should be regulated together. The Government's policy and legal requirement is that the Health Professions Council (HPC) should consider professions' eligibility and readiness for statutory regulation before recommending them for this regulation. After hearing an application from the BPS on 4 June 2003 the HPC recommended to the Secretary of State the statutory regulation of applied psychologists. These fall into seven branches:
- **clinical psychologist**
 - **counselling psychologist**
 - **educational psychologist**
 - **forensic psychologist**
 - **health psychologist**
 - **occupational psychologist**
 - **sport and exercise psychologist**

Details of each psychologist's work area is covered in Appendix A.

8. The proposals on which we are now consulting are that there should be a statutory regulatory system to ensure that all applied psychologists using one of these seven recognised professional titles who practise psychology with people are trained to a minimum standard, meet standards of competence and conduct, and are subject to an investigation and fitness to practise procedure if allegations (complaints) about their practice are made. It will also be a criminal offence for people to claim falsely that they are registered with the HPC, possess qualifications they do not have or to use titles such as “clinical psychologist” which will be restricted by law to registered practitioners. This should, in most cases, restrict employment as an applied psychologist to those who are properly fit to practise. At present there is a voluntary regulatory system which, because practitioners can choose not to submit to it, allows those who wish to evade the fitness to practise procedures to carry on practising, using one of the recognised professional titles, unsafely.
9. These proposals will include regulation of those academic psychologists who practise in the fields of applied psychology by working with people. They may for instance be teaching students training to become applied psychologists, or carrying out research related to treating people through applied psychology. They would themselves need to be registered applied psychologists to perform these roles. The proposals do not include statutory regulation of other academic and research psychologists plus graduates of approved first degree courses covering the theory of psychology. These psychologists do not have postgraduate training in applied psychology and should not be offering psychological services to people, so should not therefore pose a public safety risk as applied psychologists do.
10. The accompanying consultation document and draft section 60 Order have been shared with the BPS, HPC, DfES, Home Office (Prisons Service), and health, education and home office officials in the devolved administrations. All are supportive of the proposals. This is a joint consultation with Scottish Ministers and has the support of all UK Health Departments. The public consultation will involve all relevant stakeholders including psychologists, employers, professional bodies, trade unions and patients’ organisations.

Risk Assessment

11. Applied psychologists provide services promoting the health, well-being, functioning and effective performance of their clients in a range of contexts including health, education, employment, prisons and the courts. Any active treatment with beneficial effects has the capacity to cause harm if wrongly or incompetently applied. Therapy which causes a deterioration in a client’s condition is a well-researched phenomenon and examples include:
 - Inappropriate treatment
 - Incompetent treatment
 - Unethical behaviour (financial or sexual abuse)
12. Although information is not collected centrally regarding the number of clients affected, the Department of Health receives correspondence averaging one complaint per month about applied psychologists whose fitness to practise has given clients or their families grave cause for concern. Since correspondents contact the Department of Health usually only to protest that no legal sanctions exist against these practitioners, having already taken the cases up with patient protection campaign organisations such as the Prevention of Professional Abuse Network (POPAN), this is probably a small proportion of total complaints.

13. Service users are often particularly dependent on those treating them professionally, or may be inexperienced or unable to identify or avoid inappropriate behaviour and leaving regulation as voluntary adds to the risks to service users from unfit practitioners. The following are examples of risks associated with unfit practitioners:
 - a practitioner who exploits the power of the professional's position over a patient with anxiety problems may increase the patient's anxiety and make them less able to cope with life than they were before, and the deterioration in their condition may cause worry in their family or colleagues
 - a patient's lack of confidence or low feelings of self-esteem will be increased by becoming emotionally or sexually dependent on an applied psychologist who may exploit the patient/professional relationship for his/her own gratification
 - a patient with anger management problems may have these problems exacerbated by a practitioner who is unable to control his/her own anger during treatment sessions, to the point of losing control and becoming violent
 - in extreme cases inappropriate unsafe practice can lead to patients' suicide or homicide or violent attacks on others.
14. Due to the nature of psychological intervention any inappropriate or poor quality treatment can result in the need for remedial treatment which may extend to families or groups as well as the original client, and may be more prolonged than the original treatment.
15. Although the majority of NHS, Local Education Authority and Prison Service appointments to psychology posts require eligibility for the appropriate grade of membership of the BPS, it has been open to others, **in particular in private and voluntary organisations**, to employ individuals who may not possess approved training and are not BPS registered and who are therefore not subject to the Society's disciplinary procedures. There are estimated to be up to 4,000 practising applied psychologists who are not members of the BPS and so are currently unregulated and not therefore subject to the BPS's fitness to practise procedures. This estimate is based on the comparison between numbers of applied psychologists known to be practising in the public sector and those estimated to be in private practice (14,000), with numbers of BPS registered practitioner members (10,000).
16. By failing to address the issue of preventing poorly performing practitioners from presenting themselves as members of the profession, one consequence is that, of the 4,000 or so applied psychologists who are not on the BPS voluntary register, up to 2% (80) may be unsafe to practise. Current complaints to BPS run at about 100 per year, about 1% of their 10,000 applied psychology members. It is likely that a higher proportion of unregistered practitioners will be unfit to practise than registered, since they may avoid registration or let it lapse on purpose to escape fitness to practise procedures, if complaints arise about their practice. Our estimate is therefore that there may be 2% (80) unregistered practitioners who may be unsafe to practise.
17. Our estimate of the costs of allowing these practitioners to practise unchecked is as follows. **It should be noted that these are indicative costs only since the length, type and complexity of treatment in individual cases varies greatly.**
18. Based on an average caseload of 25 patients and bearing in mind the effect on family members and others of damage to individual patients, there could be up to 6,000 members of the public being harmed by unsafe practice by these practitioners. This is based on 80 practitioners x 25 patients/clients x 3 people affected per case. Remedial treatment by applied psychologists alone could cost £9.6m: this is

the cost of 6,000 patients divided by 25 in an average caseload needing treatment by 240 practitioners at an average salary, on-cost and overheads package of £40,000 per practitioner per year. If in patient treatment were needed for 20% this could add £12m, assuming an average cost per inpatient episode of £10,000 – in practice the length and complexity of treatment needed will vary so widely as to make an accurate estimate impossible. The benefit of preventing unsafe practitioners from harming the public could therefore be to save in the region of £20m per year.

Quantification of Benefits and Costs of each Option

Options

19. Three options have been identified:

Option 1: To do nothing and continue to rely on the current system of voluntary regulation with the BPS

Option 2: To introduce statutory regulation by making the BPS the statutory regulator

Option 3: To introduce statutory regulation by an independent UK wide regulator, the Health Professions Council

Benefits

Option 1

20. The BPS operates a voluntary system of regulation for those who choose to take out membership with it. The system comprises registration of those who have undertaken accredited training to meet BPS standards of competence; adherence to a code of conduct and ethics; and operation of disciplinary procedures to investigate and de-register those who are found not to be competent to practise. However because this is non-statutory there is nothing to stop unsafe practitioners from continuing to practise without BPS membership or registration.
21. The safety of the public would not be improved as the powers of the BPS Investigatory Committee and Professional Conduct Board would remain limited to those who chose to join. This would continue to allow potentially unfit practitioners who elect not to join the BPS at liberty to practise in the knowledge that they cannot be subjected to the BPS's fitness to practise procedures.

Option 2

22. This would provide some benefits in terms of providing public protection in that applied psychologists who wanted to use one of the recognised professional titles would be required to meet standards of competence, conduct and ethics to register and would be subject to disciplinary procedures if their practice fell short of standards.

However there would be significant disadvantages attached to this option:

- the regulatory burden in terms of mandatory requirement to register would be just as great as via the HPC and this would require the same need for legislation as for the HPC;

- BPS registration fees are higher than those of the HPC (its membership is 40,000 as opposed to the HPC's 150,000 so it cannot achieve the same economies of scale), so would place a greater burden on currently unregulated practitioners than is currently proposed (£95 per year instead of £60). In addition fees might have to rise to cover the cost of an 80% increase in fitness to practise cases if those went up from 100 per year to 180;
- BPS as the professional body would have a conflict of interest. Any professional body in the position that the BPS would find itself, might set higher standards for registration than are actually needed for practice in the interests of increasing the profession's claims for higher pay and status and this could apply a greater regulatory burden on prospective registrants than if such standards are set by an independent statutory regulator. This potential risk is the main reason for using independent statutory regulators instead of professional bodies. The Kennedy Report also called for independent regulators in the interests of public protection; and finally
- it would also risk the BPS applying regulatory standards and practice which were different from and inconsistent with those applied by the other health and social care regulators. Government policy since 2000 has been to reduce the number of statutory regulators by extending the use of existing ones rather than setting up new ones: this promotes consistency and public confidence that regulation has the same effect on all professions, and also allows economies of scale to be achieved by one regulator covering many professions in a common framework.

Option 3

23. This would provide benefits in terms of the most comprehensive public protection as the role of the HPC is to:
- set standards of proficiency, conduct, performance and ethics
 - set standards of training
 - keep a register of practitioners who meet the standards
 - restrict by law the use of professional titles to those on the register
 - require registrants to provide evidence of continuing professional competence in order to remain registered, reinforced by random sampling
 - operate fitness to practise procedures (a disciplinary/complaints system) to deal with those registrants who become unfit to practise.
24. These provisions would bring applied psychologists in line with major professional healthcare groups such as doctors, nurses, allied health professionals and teachers who are already covered by statutory regulation.
25. The HPC has a duty to co-operate with other regulatory bodies and with employers and organisations such as the Commission for Health Audit and Inspection. This will allow professional standards of education and training, practice and conduct to reflect the needs of the health service. The new regulatory bodies will also be able to work together more to ensure consistency of approach across the professions.

26. Since, in a statutory system, practitioners cannot use protected titles (nor can they claim to be registered or possess qualifications they do not have) unless they are registered with the statutory regulator, if they are unregistered they cannot lawfully continue practising under that title. If anyone tries to do so the HPC can prosecute them and they face a substantial fine imposed by the courts and prevention from practice in future (see paragraph 51). Statutory (as opposed to voluntary) regulation is designed to reduce this danger as far as possible. There may always be practitioners who try to avoid registration but statutory regulation provides the most effective means of tackling this in the interests of public safety.

Compliance Costs

Option 1

27. Registration with a voluntary regulatory body is by definition voluntary. It would therefore remain up to individual practitioners whether they wished to join the BPS. Chartered psychologists who wish to offer a service to the public are required to be BPS registered and hold a practising certificate. The cost of BPS registration is an initial one-off payment of £40, a BPS membership fee of £70 per year and an annual practising certificate which costs a further £25 per year. Those who choose to pay this already do so.
28. The cost of not strengthening public protection could be in the region of £20 million per year as the estimated cost of dealing with patients harmed by unsafe practitioners.

Option 2

29. The cost of compliance with this option for those 4,000 estimated practitioners who are currently unregulated is £380,000 per year. This is 4,000 (practitioners) x £95 (£70 membership fee plus £25 practising certificate fee). In addition the 4,000 would need to pay the one-off £40 initial registration fee, adding an extra £160,000 in the first year. Of those, probably less than 100, might need some additional training to meet registration requirements but this is impossible to quantify.
30. However since this could mean an increase of 80% in the fitness to practise cases dealt with by BPS, the level of registration fee would almost certainly have to increase to deal with this activity and would be spread round about 15,000 BPS members (those who are chartered and registered – including about 1,000 who are not within the 7 branches of applied psychologists, and also the 4,000 new registrants). The cost to be passed on to existing and new registrants could be an additional £460,000 (an additional 80 cases at an average indicative cost of £7,000 per case, minus £100,000 extra income from 4,000 new practising certificates at £25 each). This could mean increasing registrants' total fees from £95 to £126 (adding £460,000/15,000 = £31). These are indicative only since the increased level of activity and impact on BPS are not possible to quantify exactly. The total yearly cost of this option would be £840,000 (£380,000 + £460,000) plus a one-off payment of £160,000.
31. There would be the cost of bringing in legislation to give the BPS statutory powers, and in addition primary legislation to bring BPS within the remit of the Council for Health Regulatory Excellence (CHRE).
32. Over time there could be additional costs related to legal challenge if BPS standards or practice appeared to be not in accordance with those required for other healthcare professionals or the needs of public protection.

Option 3

33. As an independent regulatory body, the HPC is dependent upon registrants' fees for its income. The proposed regulation will mean that applied psychologists would be required to pay the HPC annual registration fee of £60. This may be paid in six monthly instalments by direct debit. That sum is tax deductible. Grandparenting (the term given to the assessment of existing practitioners' competence through training and experience other than by approved qualifications) applicants and overseas applicants will be required to pay a £200 application fee in addition to that registration fee. These fees are fixed in accordance with the HPC's assessment of the actual costs incurred in carrying out the related activities and are set by Statutory Instrument 2003/1572: The Health Professions Council (Registration and Fees) Rules Order of Council 2003.
34. The cost of compliance for those 4,000 estimated practitioners who are currently unregulated is £240,000 per year (4,000 practitioners x £60 fee) with potentially 100 needing to pay an additional grandparenting scrutiny fee (100 practitioners x £200 = £20,000), making a total of £260,000. Of those 100 some might need some additional training to meet registration requirements but this is impossible to quantify.
35. Regulation by the HPC would cost less than the current registration fee charged by the BPS, which under this option would not be required for practising using one of the protected titles. Registration with the HPC instead could save about £350,000 per year for existing BPS registrants (10,000 registrants x £35 saving). They could choose to continue membership with BPS as a professional body but this would not be a requirement for practising using one of the protected titles.
36. It is possible that the increase in fitness to practise cases might have an impact over time on HPC registration fees. This will impact less on the HPC than on the BPS as the number would be a smaller proportion of cases heard by the HPC, whose financial projections assume this increase in activity could be absorbed by the increase in fee income arising from the increase in membership.
37. The net effect of this option could therefore be a saving of up to £90,000 per year.

Impact on the British Psychological Society

38. The Society's Royal Charter was amended in 1987 to allow the setting up of a register of chartered psychologists. Under the present proposals this public protection role in respect of the branches of applied psychologists who practise psychology on members of the public will transfer to the HPC but the BPS's Royal Charter will remain. It would be a matter for individuals to decide whether to join or retain their BPS membership to benefit from its services as a learned professional body. The BPS has been actively campaigning for 20 years to improve public protection through statutory regulation of applied psychologists.

Impact on the Health Professions Council

39. The HPC currently regulates 13 health professions. The regulation of applied psychologists will increase that total to 14.
40. When the applied psychology part of the register opens, HPC membership will increase from 13 practitioner members (and alternates) and 12 lay members to 14 practitioner members (and alternates) and 13 lay members.

41. This increase in size will still allow the HPC to remain a compact, responsive regulator able to perform its regulatory function. There will also be a need to increase membership of the HPC's Education and Training Committee, but this will be dealt with through Council's standing orders. The HPC has the administrative systems in place to meet the demands of regulating applied psychologists. It was designed to take on the statutory regulation of currently unregulated professions and has received start-up funding from DH to ensure it is equipped to do so. This public funding will give less than maximum value for money if statutory regulation of these groups did not proceed via the HPC.

Equity and Fairness

42. Major professional groups such as doctors, nurses and allied health professions are already covered by statutory regulation. In the interests of fairness and consistency, as well as public protection, applied psychologists should also be statutorily regulated
43. The proposed measures would impact equally on applied psychologists whether they are employed in the public or private sector or self-employed as all would have the same obligations to be on the HPC register, if they wanted to use the protected titles, and pay the same registration fees.
44. A Race Equality Impact Assessment has been carried out on these proposals, as has a Rural Impact Assessment. There is no reason to believe that the introduction of statutory regulation would:
- Affect people differently, according to their racial group, for example in terms of access to a service, or the ability to take advantage of proposed opportunities
 - Affect organisations differently, for example those with high proportions of any racial group
 - Discriminate unlawfully, directly or indirectly, against people from some racial groups
 - Impact on the provision of applied psychologists in rural areas.

We would welcome views from consultees if they consider this is not the case.

Health Assessment

45. A Health Assessment has been carried out on these proposals. The results of the health benefits of the proposals are as described in paragraphs 11 to 18.

The Small Firms' Impact Test

46. There are few small businesses involved in applied psychology and they will not be affected by these proposals. It should be noted that the payment of registration fees and the completion of registration application and renewal forms falls to individual practitioners, not to their employers. Some employers could choose to pay registration fees on behalf of their employees, for instance if they have difficulty recruiting them, but they are not expected or required to do so since the remit of the HPC is confined to the regulation of individual practitioners, not organisations. Employers may substitute checking their employees' HPC registration, which includes guarantee of competence, for some of their current checks about their employees' competence within their existing recruitment procedures.

47. The small businesses involved account for a small minority of affected practitioners – those applied psychologists who are self-employed or working for agencies or other small businesses. We estimate these may be fewer than 500 out of 14,000. These individuals will need to register under these proposals with the HPC equally whether they work in a small business or in a large organisation, in any sector. Many will already be paying a larger fee to the BPS than they would be required to pay to the HPC and it is open to them to discontinue BPS membership if they cannot afford both fees. The cost of registration with the HPC at £60 per year is less than the average revenue from two hours' practice. Our assessment is that this is a very small financial burden. In discussions with the profession and with employers both self-employed and in the public sector over the last 18 months this has never been raised as a reason for not proceeding with statutory regulation which psychologists themselves have been pressing for for over 20 years. Similarly the administrative burden consists of the individual practitioner filling in a registration application or renewal form every two years with declarations of good health, good character and evidence of continuing professional development. Our judgement is that this burden is very small since it uses information already collected by practitioners and is fully justified by the attendant gains in public protection. We would welcome views from consultees if this is not the case.
48. Neither option 2 or option 3 is likely to deter many currently practising applied psychologists from practice since almost all have trained via the same routes as those registered with the BPS. These are the standard entry routes to the profession and are well established over several decades. It takes 6 years to train and qualify as an applied psychologist – a 3 year degree followed by 3 years post graduate training. It is unlikely that practitioners having made that investment would decide against practice because of the cost of a £60 annual registration fee. At present, any self styled practitioner who might have no qualifications can call themselves by one of the 7 titles and offer services to the public. If there are any such, it would be well worth deterring them from practising as they cannot be doing so safely. It is possible that there are a few applied psychologists whose training was incomplete but the proposals include grandparenting provisions which allow their overall experience as well as training to be taken into account, so if they can demonstrate compliance with statutory competence standards they will not be prevented from registering and continuing to practise. In future, statutory regulation would ensure all practitioners were fully competent thus closing this loophole in public protection.

Competition Assessment

49. A competition assessment has been carried out. Since the proposals are designed to apply equally to all practitioners in the profession regardless of where they work it is judged that there will be no adverse or discriminatory impacts on competition.

Enforcement and Sanctions

50. In a continuing voluntary system there would be no possibility of enforcing compliance or applying sanctions other than to those who chose to submit to them.
51. The proposed statutory regulator will enforce its powers by carrying out its statutory duties of setting standards; approving education and training; registering practitioners who meet its standards; and operating a fitness to practise system. This is the official term for a regulator's disciplinary or complaints system and it consists of investigating allegations (complaints) and dealing with cases where there is a case to answer regarding a registrant's fitness to practise. The regulator may require a registrant to undergo further training or practise under supervision until competence is re-established; or may suspend registration or remove a practitioner from the register altogether. The legal framework applied by the HPC has been approved by both the Westminster and Scottish Parliaments and is compliant with Human Rights legislation. The regulator may also prosecute practitioners who falsely claim to be

registered, possess qualifications or who use legally-protected titles to which they are not entitled. Successful prosecution by the HPC carries with it a fine of up to £5,000.

Monitoring and Review

52. This partial regulatory impact assessment will be reviewed following the close of the consultation period. There will be a review of the effectiveness of the regulation of applied psychologists after 3 years of the implementation of the Order.

Consultation

53. The draft Section 60 Order will be the subject of a three month UK- wide public consultation period during which comments will be invited from all relevant stakeholders.
54. This will be a joint consultation by the Secretary of State for Health and Scottish Ministers, as required by the Health Act 1999.

Summary and Recommendations

55. The assessment has indicated that option 3 would deliver the benefits sought by maximising public protection from damage by poorly performing applied psychologists. By enforcing compliance with competence standards and through a comprehensive legal fitness to practise (complaints) process it is the most effective option. It has the lowest compliance costs. We recommend option 3.

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
1 Do nothing: continue to use partial voluntary system	Potentially up to £20 million (para 18)	None
2 Confer statutory powers on BPS	£840,000 plus one-off payment of £160,000. (para 30). Plus one-off costs of legislation to increase BPS powers plus additional primary legislation to increase BPS accountability	Potentially up to £20 million (para 18)
3 Add to HPC statutory remit	Potential saving of up to £90,000 plus one-off costs of legislation to increase HPC powers (para 37)	Potentially up to £20 million (para 18)

Appendix A

Clinical Psychologists:

Clinical psychologists work in a range of specialties including adult mental health services, child health care, services for people with learning, physical and sensory disabilities, HIV/AIDS services primary care and general hospital acute services, neuropsychology and forensic services. They provide psychological assessment, treatment and evaluation.

Counselling Psychologists:

Counselling psychologists work therapeutically with clients with a variety of problems (for example, the effects of childhood sexual abuse, relationship breakdown, domestic violence, major trauma) and/or symptoms of psychological disorder (such as anxiety, depression, eating disorders, post-traumatic stress disorder, psychosis).

Educational Psychologists:

Educational psychologists work within the educational system and in the community and are concerned with children's learning, well-being and development. Most educational psychologists in the UK work within the public sector and every parent/carer and child and all state maintained schools are entitled to access to their services. They have a statutory role under current educational legislation in the assessment of children's Special Educational Needs. Under Scottish legislation, educational psychologists also have a statutory role with respect to the Children's Hearing System.

Forensic Psychologists:

Forensic psychology involves the application of psychology across the Criminal and Civil justice systems, ranging from crime prevention through to the rehabilitation and resettlement of offenders in the community. These practitioners may also work in social services, health and educational settings.

Health Psychologists:

Health psychologists apply psychology to the prevention, treatment and management of disease, promoting and maintaining health, identifying key factors in the causation of illness, the improvement of the health care system and with a direct involvement in health policy formulation. Like public health officials, health psychologists can provide a strategic overview of factors influencing the health of the general population.

Occupational Psychologists:

Occupational psychologists apply psychological knowledge, theory and practice to work including areas such as recruitment, vocational rehabilitation, training and development and how the environment in which people work affects them. Occupational psychologists work in-house for some organisations, or provide their expertise via occupational or business psychology companies and consultancies, or work in the academic field.

Sport and Exercise Psychologists:

Sport psychologists may be involved in scientific research or practical, applied work into psychological aspects of sport, exercise and human performance. The science of psychology can be applied to a whole range of sporting activities including educational, information and research services to teachers, coaches, trainers, clubs, groups and individual participants in sport and exercise.

Annex A

Code of Practice on Consultation

The six consultation criteria

Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

Ensure that your consultation is clear, concise and widely accessible.

Give feedback regarding the responses received and how the consultation process influenced the policy.

Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Annex B

Health Professions Council criteria for admission

The Health Professions Council will expect any group applying to it for consideration for statutory regulation to have in place or otherwise meet the following criteria:

- Discrete and homogeneous area of activity
- Defined body of knowledge
- Evidence-based practice
- An established professional body
- Voluntary register/list of eligible practitioners
- Defined entry routes
- Independently assessed entry qualifications
- Standards of conduct, performance and ethics
- Disciplinary procedures to enforce those standards
- Commitment to CPD.

Annex C

Overview of BPS and HPC Complaints Processes

Complaints made to the BPS about its members may go through a three stage process as detailed in the left hand column below. A case may be closed at the end of any of the three stages. The right hand column shows the equivalent stages in the HPC process.

BPS	HPC
Stage 1 Complaint received and referred to member for response Complaint and response referred to Investigatory Committee for consideration Decision made – no case / formal disciplinary letter / appoint formal investigatory panel to consider further (Stage 2) / full conduct hearing (stage 3) Decision reviewed by independent, non-psychologist member of Professional Conduct Board	Stage 1 Complaint received and referred to registrant for response Investigation Panel formed to investigate complaint
Stage 2 ‘Conduct’ or ‘Fitness to Practise’ Panel appointed to carry out appropriate enquiries and make recommendations to Investigatory Committee: no case / formal disciplinary letter / full conduct hearing (stage 3)	Stage 2 Panel recommends a number of options to the Investigation Committee: 1) No case to answer (case closed) 2) Case goes to mediation (if this fails then option 3 is followed) 3) Formal Hearing convened
Stage 3 Hearing convened. Member invited to attend with legal representation. Decisions available: <ul style="list-style-type: none"> • No case to answer (case closed) • Formally caution the registrant • Set conditions that the registrant must follow in their practice • Suspension from the Register of members for a maximum period of three years • Expulsion from membership of the Society 	Stage 3 Hearing convened. Decisions available: <ul style="list-style-type: none"> • No case to answer (case closed) • Recommend that both parties try mediation to close the case • Caution the registrant • Set conditions that the registrant must follow in their practice • Suspension from the Register for up to two years • Strike the registrant off the Register

Annex D

Health Professions Council

Standards of conduct, performance and ethics

As a health professional, you must protect the health and wellbeing of people who use or need your services in every circumstance. This means that you must always keep high standards of conduct.

You must always:

1. act in the best interests of your patients, clients and users;
2. respect the confidentiality of your patients, clients and users;
3. maintain high standards of personal conduct; and
4. provide any important information about conduct, competence or health.

Also, you must always keep high standards of performance. You must always:

5. keep your professional knowledge and skills up to date;
6. act within the limits of your knowledge, skills and experience and, if necessary, refer on to another professional;
7. maintain proper and effective communications with patients, clients, users, carers and professionals;
8. effectively supervise tasks you have asked others to carry out for you;
9. get informed consent to give treatment (except in an emergency);
10. keep accurate patient, client and user records;
11. deal fairly and safely with the risks of infection; and
12. limit your work or stop practising if your performance or judgement is affected by your health.

Finally, you must always keep high standards of ethics. You must always:

13. carry out your duties in a professional and ethical way;
14. behave with integrity and honesty;
15. follow our guidelines for how you advertise your services; and
16. make sure that your behaviour does not damage your profession's reputation.



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267122 1p 750 Mar 05 (CHE)

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