Health and Social Care Alliance Scotland (the ALLIANCE)

Call for member input: Consultation on Regulating Healthcare Professionals, Protecting the Public
15 June 2021

Introduction

The Health and Social Care Alliance Scotland (the ALLIANCE) welcomes the opportunity to respond to this consultation on Regulating Healthcare Professionals, Protecting the Public.

We also welcome the UK Government's reform of professional regulation. We know from previous consultation with our members that the UK model of regulation can be a complex and bureaucratic system to navigate.[1] To create a fairer, more flexible system for people accessing the UK regulatory system, a human rights based approach (HRBA) should be adopted, for example through the prism of the five-point PANEL Principles of participation, accountability, non-discrimination and equality, empowerment, and legality.[2] This would ensure that the rights and needs of people – including disabled people, people with long term conditions, and unpaid carers – are respected, protected and fulfilled. This consultation response aims to outline ways in which human rights can be considered and prioritised in the introduction of new regulatory procedures and processes.

Governance and Operating Framework

Q.1 - Do you agree or disagree that regulators should be under a duty to co-operate with the organisations set out above? Please give a reason for your answer.

Agree.

Participation in decision making is a fundamental human rights principle. The ALLIANCE supports a duty for regulators to co-operate with the organisations set out in the consultation document, including organisations concerned with the provision of health and care services, employment, education and training of healthcare

[1] The ALLIANCE, *'ALLIANCE response: Consultation on the role of a Patient Safety Commissioner for Scotland'* (26 May 2021). Available at: https://www.alliance-scotland.org.uk/blog/news/alliance-response-consultation-on-the-role-of-a-patient-safety-commissioner-role-for-scotland/

[2] Scottish Human Rights Commission, *'Human Rights Based Approach'.* Available at: https://www.scottishhumanrights.com/projects-and-programmes/human-rights-based-approach/

professionals, and regulation of healthcare professionals and health and care services. This should extend to meaningful co-operation and partnership working with third and independent health and social care organisations, who are key partners in the planning and provision of care, and in improving its quality and sustainability.

Silo working in health and social care poses negative consequences for people accessing services, organisations and employees due to communication barriers and disjointed processes. Joint working and co-operation is key to advancing the health and social care integration agenda and should be underpinned by collaborative leadership and relationship building. Closer collaboration between regulators – and with the broader health and care system – is therefore conducive to improving better public protection and creating consistency within the regulatory system.

Q.2 - Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and these related duties? Please give a reason for your answer.

Agree.

Transparency is a fundamental human rights principle, and vital to securing and maintaining public confidence in the regulation of healthcare professionals. We believe that duties to publish information relating to regulatory functions on an annual basis, and to hold open Board meetings and hearings in public and have records available to the public, are positive steps to maintaining public trust and confidence. However, in fulfilling these duties, caution must be taken to ensure that any sensitive or confidential personal information is handled with care and sensitivity. Robust data protection processes and safeguards should be applied consistently across regulators to ensure sensitive information is adequately secured.

Duties to consult on significant changes to rules and standards should include consultation with third and independent sector organisations, and members of the public, including people with protected characteristics and other marginalised groups.

Q.3 - Do you agree or disagree that regulators should be required to assess the impact of proposed changes to their rules, processes and systems before they are introduced? Please give a reason for your answer.

Agree. We welcome the explicit duty to assess impact prior to the introduction of rules, processes and systems. By assessing impact at the outset of institutional decision making, regulators will be able to fully consider, and mitigate any negative or discriminatory effect that a new rule, process or system may have. In carrying out

this practice, regulators should not only aim to combat discrimination, but should actively seek to promote equality, human rights and foster good relations between population groups.

The ALLIANCE recommends that a thorough and robust Equality Impact Assessment (EQIA) and a Human Rights Impact Assessment (HRIA) on the impact of new rules, processes and systems is carried out at the earliest opportunity. This will help to achieve better outcomes for all relevant stakeholders, demonstrate transparency, accessibility, accountability, and ensure compliance with human rights and equality legislation.

Assessment should be evidence led, based on meaningful involvement of communities and people with lived experience, including people accessing services and the public; current and prospective health and care professionals; and other relevant stakeholders across the health and care system, including third sector health and care organisations. These assessments should explicitly address the impact on intersectional population groups.

Q.4 - Do you agree or disagree with the proposal for the consultation on appointment arrangements to the Board of the regulators? Please give a reason for your answer.

The consultation document states that “there will no longer be a requirement to appoint professional and lay members” to the Board of the regulators. While it is accepted that members will still be appointed on merit, this has raised some concern with our members as it risks eliminating the voice of lived experience. More detail would be welcome on how members would be appointed, and the criteria for selection. Measures should be taken to ensure that Boards have a diverse representation, including disabled people, people with long term conditions and unpaid carers.

Q.8 - Do you agree or disagree that regulators should be able to charge for services undertaken on a cost recovery basis, and that this should extend to services undertaken outside of the geographical region in which they normally operate? Please give a reason for your answers.

The ALLIANCE broadly agrees that regulators should be able to charge for services they provide to third parties on a cost recovery basis. However, more explicit detail would be welcome on the specific services that regulators would be able to charge for. In the interests of human rights principles like transparency and accountability, a robust financial process should be established to account for regulatory revenue and to ensure that fees only cover the activity carried out.

We agree that it should not be permitted to charge third parties for services in respect of fitness to practise functions. Measures should be taken to ensure that this is clear to third parties, and that they are not discouraged to lodge a fitness to practise concern due to incurring fees.

Q.10 - Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above? Please give a reason for your answer.

Agree. The consultation document proposes to provide regulators with the power to obtain, process and disclose information to or from any organisation or person where it is required to fulfil their statutory objectives. This will include: another regulator and the Professional Standards Authority; education and course commissioning bodies and providers; professional bodies; bodies representing students and registrants; employers and contractors of services; law enforcement bodies; and government agencies including those in the devolved nations.

The ALLIANCE supports the introduction of a power allowing regulators to require data from and share data with the relevant groups and organisations. As noted in the consultation document, this power would be useful for research purposes, and could help to identify areas for improvement as well as good practice in the health and care sector. This would be conducive to achieving better outcomes for people accessing services and staff, as well as improving performance in the delivery of services. Similarly, it will contribute to improving transparency and accountability, and maintaining trust and public confidence in the regulators. However, it is important that the acquisition and sharing of data is carried out within a robust and consistent data protection framework, particularly when concerned with sensitive personal or health information.

Q.11 - Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which it operates? Please give a reason for your answer.

Agree. Although the regulation of most healthcare professional groups is reserved, health and social services matters are devolved to the Scottish Government, along with regulation for new groups of healthcare professionals which entered regulation after the passing of the Scotland Act 1998. The ALLIANCE therefore supports a mechanism to ensure accountability to devolved administrations. It is important that regulators are accountable to each of the countries in which they operate. Regular reporting to the Scottish Parliament would help to ensure consistency, clarity, and common standards across all four UK nations.

Q.12 - Do you agree or disagree that the Privy Council's default powers should apply to the General Dental Council and GPhC? Please give a reason for your answer.

Agree. The Privy Council currently has 'default powers' to direct most of the regulators where they have failed to carry out their statutory functions. These do not currently apply to the General Dental Council and the General Pharmaceutical Council (GPhC).

The ALLIANCE supports the application of default powers to all regulators. This would create clarity and consistency, meaning all regulators are subject to the same powers of the Privy Council. While it is recognised that these powers have not been used to date, applying them consistently to all regulators provides greater public protection and confidence across the healthcare landscape and ensures accountability where any of the regulators fail to carry out their statutory functions.

Education and Training

Q.13 - Do you agree or disagree that all regulators should have the power to set:

- standards for the outcomes of education and training which leads to registration or annotation of the register for individual learners;
- standards for providers who deliver courses or programmes of training which lead to registration;
- standards for specific courses or programmes of training which lead to registration;
- additional standards for providers who deliver post-registration courses of programmes of training which lead to annotation of the register; and
- additional standards for specific courses or programmes of training which lead to annotation of the register?

Please give a reason for your answer.

Agree. Currently, there is considerable variation in the regulators' powers to set education and training standards. The introduction of the powers set out above would create consistency across all regulators.

Continuous education and training is vital for healthcare professionals in enabling them to deliver safe and effective care, and in maintaining public trust and confidence. The ALLIANCE welcomes the proposal to introduce a set of broadly consistent powers for all regulators. However, as set out above, it is important that the impact of any new powers on people who access services and other stakeholders is meaningfully assessed through an equalities and human rights lens, including direct consultation with people and groups who may be affected by any proposed change.

Q.14 - Do you agree or disagree that all regulators should have the power to approve, refuse, re-approve and withdraw approval of education and training providers, qualifications, courses or programmes of training which lead to registration or annotation of the register? Please give a reason for your answer.

Agree. It is important that regulators can inspect and approve education and training providers and/or courses or programmes of training to ensure it meets the required standards. However, there is currently variation in approval powers between regulators. This would create consistency between regulators and would maintain public trust and confidence in the quality of training and education provided across the professional healthcare landscape.

Q.15 - Do you agree that all regulators should have the power to issue warnings and impose conditions? Please give a reason for your answer.

Agree. As above, providing all regulators with the power to issue warnings and impose conditions would be beneficial to maintaining public trust and confidence and creating consistency between regulatory bodies.

Q.23 - Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements? Please give a reason for your answer.

Agree. As mentioned above, continuing professional development (CPD) is essential for public protection to ensure that healthcare professionals are equipped with the skills and knowledge required for them to carry out their roles safely, effectively and efficiently. We therefore support the proposal to give all regulators a new power to set standards for CPD and to continue to have a broad legislative basis for all regulators to require healthcare professionals to undertake CPD, to set out standards for CPD and/or revalidation, and procedures for dealing with non-compliance. We agree that individual regulators are best placed to determine the standards that registrants need to demonstrate to prove that they remain safe to practise.

We also welcome the flexible approach for individual regulators to set out the precise detail of their CPD processes in rules and guidance, rather than in legislation. This will allow regulators to respond to changes in the health and care landscape, and to make changes as required. However, changes to the current CPD processes should involve meaningful engagement and consultation with key stakeholders, including healthcare professionals and people who access services. This will ensure that any changes are evidence led and informed by lived experience. We recommend that

this should be reviewed periodically to ensure CPD requirements reflect the needs of stakeholders as required.

Registration

Q. 24 - Do you agree or disagree that the regulators should hold a single register which can be divided into parts for each profession they regulate? Please give a reason for your answer.

Agree. Currently, all regulators have a duty to hold a register (or registers) of professionals they regulate and to make this available to the public, which provide vital information for the public, employers, and service users on qualified professionals who are capable of safe and effective practice, and detail certain sanctions that may have been imposed on a professional because of fitness to practise proceedings. However, regulators currently hold their registers in different ways. The ALLIANCE supports the proposal that all regulators should hold a single register, which can be divided into parts. This would create transparency and greater consistency between regulators.

Q.25 - Do you agree or disagree that all regulators should be required to publish the following information about their registrants:

- Name
- Profession
- Qualification (this will only be published if the regulator holds this information. For historical reasons not all regulators hold this information about all of their registrants)
- Registration number or personal identification number (PIN)
- Registration status (any measures in relation to fitness to practise on a registrant's registration should be published in accordance with the rules/policy made by a regulator)
- Registration history

Please provide a reason for your answer.

Agree. In the interests of strengthening accountability, transparency and public trust, it is important that regulators are required to publish information about their registrants. However, it is important that rights to privacy and safety are upheld. Information must not be used outside of its intended use and access to information must be securely controlled. Robust data protection processes and systems should be put in place to ensure personal information about registrants is used appropriately

and securely stored. Registrants should also be provided with clear messaging outlining what information is held on the register, why the information is required, and how it will be used, stored, and protected.

Q.26 - Do you agree or disagree that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data? Please give a reason for your answer.

Agree. Regulators should be able to request specific information from registrants which may be published on a public register. However, there must be clear statutory objectives outlining the circumstances in which this power can be used. These should be outlined in guidance, including examples for regulators to refer to if considering using the power in practice. Generally, the power to request information should be in the interests of the public and proportionate to the stated aims or objectives given. Explicit and informed consent must be acquired, and measures should be in place to ensure adherence to GDPR 2018.

Q.28 - Do you agree or disagree that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection? Please give a reason for your answer.

The ALLIANCE broadly supports this proposal in the interests of transparency, public confidence and safety. The power to annotate (including the power to amend, remove or restore annotations) is useful to provide further information about the specific skills, knowledge and experience of registrants. Currently, regulators have developed their own policies on annotations; a consistent approach across all regulators would be beneficial to ensure safety for people and transparency. However, it is unclear what constitutes grounds for annotation for the 'purpose of public protection'. More detail and guidance would be welcome outlining the circumstances in which annotation is possible. We recommend this should include instances where registrants have a particular area of expertise, and where restrictions have been placed on their scope of practice or registration (e.g. where a registrant only holds temporary or provisional registration rather than full registration).

Q.29 - Do you agree or disagree that all of the regulators should be given a permanent emergency registration power as set out above? Please give a reason for your answer.

Agree. We know that emergency registration of health professionals was critical during the COVID-19 pandemic in easing the pressure on services and enabling delivery of essential healthcare services in the emergency period. A permanent

emergency registration power would ensure that healthcare services are equipped with the necessary measures if a similar event were to occur. However, appropriate assessment protocols, monitoring and evaluation safeguards should be put in place to ensure emergency registrants are fit to practise and to maintain accountability. This should be made clear in accessible guidance to all people accessing services including disabled people, people with long term conditions and unpaid carers.

Q.30 - Do you agree or disagree that all of the regulators should have the same offences in relation to protection of title and registration within their governing legislation?

Agree. Safety for people should be prioritised, equally, in all aspects of health and care. To create different offences in relation to protection of title and registration potentially introduces a hierarchal system across safety in the healthcare sector. The ALLIANCE therefore supports the proposal that all regulators should have the same offences in relation to protection of title and registration. This creates consistency across regulators, is important for public trust and confidence, and mitigates opportunities for fraud and/or deception.

Q.33 – Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance? Please give a reason for your answer.

Agree. We believe that regulators are best placed to determine detailed requirements for registration to their individual professions. We therefore welcome the proposal for legislation to set out a basic level of criteria including: evidence of identity; the possession of relevant knowledge, skills and expertise; and to have passed qualifying examinations and/or assessments. This sets out a clear and consistent framework for registration processes, while allowing a degree of flexibility for individual regulators to set out their registration processes, rather than a blanket set of requirements for all healthcare professions.

Q.34 – Should all registrars be given a discretion to turn down an applicant for registration or should applicants be only turned down because they have failed to meet the new criteria for registration? Please give a reason for your answer.

We agree with the proposal for all registrars to have a consistent registration framework. This would mean that all regulators have the same criteria within their legislation, and all regulators would set out in guidance their standards for meeting the criteria. We agree that all registrars should be given a discretion to turn down an applicant for registration. However, the instances in which this is possible should be

outlined clearly and accessibly in guidance: for example, for public protection reasons.

Q.36 – Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them? Please give a reason for your answer.

We agree with the proposal that all regulators should be given a new power allowing them to suspend registrants from their register for reasons such as, failure to pay any relevant fees and failure to maintain an effective means of contact. This offers a more proportionate course of redress than immediate removal. However, regulators should continue to be able to remove registrants for fitness to practise and administrative reasons. This is important for public protection and accountability purposes. Clear, accessible guidance should be published on the use and proportionality of suspension and removal powers.

Q.37 – Do you agree or disagree that the regulators should be able to set out their removal and readmittance processes to the register for administrative reasons in rules, rather than having these set out in primary legislation? Please give a reason for your answer.

Agree. As set out above, we believe that regulators are best placed to develop specific processes, rules and guidance, which may vary between the individual professions. We welcome the encouragement for regulators to work together to develop their rules so that they are broadly consistent. Additionally, having a broad, legislative framework would create general consistency across regulators, while allowing individual regulators greater autonomy to set out the precise detail. Discussion around proposed changes should involve meaningful co-production with all relevant stakeholders, including staff and people accessing services.

Q.42 - Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation? Please give a reason for your answer.

Agree. International healthcare professionals play a key role in the delivery of UK healthcare. Implications of EU withdrawal, in addition to the COVID-19 pandemic and associated restrictions, has created considerable strain on the UK's health and social care workforce.[3] Ending the free movement of has introduced a new barrier to

[3] The King's Fund, *'Brexit and the end of the transition period: what does it mean for the health and care system?'* (11 January 2021). Available at:

recruiting staff from the European Economic Area to the UK. It is important that other obstacles and levels of bureaucracy are minimised. The ALLIANCE therefore welcomes the proposal to remove the prescriptive detail on international registration requirements. This would make the process for international registration fairer, less bureaucratic, and more flexible.

Fitness to Practise

Q.43 - Do you agree or disagree with our proposal that regulators should be given powers to operate a three-step fitness to practise process, covering:

- 1: initial assessment
- 2: case examiner stage
- 3: fitness to practise panel stage?

Please give a reason for your answer.

Agree. The current fitness to practise process obliges regulators to assess concern and take action to protect the public where necessary. However, there is considerable variation in the fitness to practise powers available to individual regulators. Introducing the powers to operate a three-step fitness to practise process creates a clearer, more consistent process between regulators. In turn, this creates quicker, more efficient resolution for people accessing services, families and professionals.

Clear and accessible guidance should be given by each regulator about their criteria for onward referral at the first stage of initial assessment. Similarly, guidance should be available relating to the measures available where it is determined that a registrant's fitness to practise has been impaired, when to use these measures, and information about proportionality of each measure.

Q.44 – Do you agree or disagree that:

- All regulators should be provided with two grounds for action – lack of competence, and misconduct?
- Lack of competence and misconduct are the most appropriate terminology for these grounds for action?
- Any separate grounds for action relating to health and English language should be removed from the legislation, and concerns of this kind investigated under the ground of lack of competence?

https://www.kingsfund.org.uk/publications/articles/brexit-end-of-transition-period-impact-health-care-system

- This proposal provides sufficient scope for regulators to investigate concerns about registrants and ensure public protection?

Please give a reason for your answers.

The ALLIANCE broadly agrees with the proposals relating to grounds for action. Having consistent grounds for action across all regulators makes it clearer to all parties – including people accessing services, families, and employees – what action can be taken and in what circumstances.

However, we are concerned that reducing the grounds for action to just two grounds (misconduct and lack of competence) could have unintended consequences. The proposals in the consultation document means that the current grounds of action, which include lack of knowledge of English, adverse health, and criminal convictions, would be regarded as either misconduct or lack of competence. This would mean that regulators would need to risk waiting until concerns become a performance issue before they can act, therefore inhibiting their ability to act proactively to protect the public where there is a potential risk to the public but where harm has not yet occurred. The proposal also creates uncertainty about how such cases would be treated under the new regulatory model.

Clearer definitions would also be welcome regarding the terminology used in the grounds for action. The consultation document states that 'lack of competence' means '*the registrant is either unable to or has failed to provide care to a sufficient standard'.* The Health and Care Professionals Council website provides a comprehensive and accessible list of examples of the types of issues that would be investigated. This is a useful approach and should be replicated consistently across all regulators.[4] Similarly, the consultation document refers to 'serious or persistent' misconduct. Greater clarification is needed about what test should be undertaken to satisfy this requirement. More detailed guidance should be created to supplement the grounds for action, providing a clear framework, and working examples of case studies which fall under the two grounds. This will help to ensure they are being used proportionately to protect the public and maintain accountability.

Q.45 – Do you agree or disagree that:

- all measures (warnings, conditions, suspension orders and removal orders) should be made available to both Case Examiners and Fitness to Practise panels; and
- automatic removal orders should be made available to a regulator following conviction for a listed offence?

[4] Health and Care Professions Council, *'Fitness to practise'*. Available at: https://www.hcpc-uk.org/concerns/what-we-investigate/fitness-to-practise

Please give a reason for your answers.

Agree. Case Examiners are only able to conclude a case through an accepted outcome, where the registrant accepts the findings of the case and the proposed measure. Where a registrant does not accept the findings and/or the proposed measure, the case will proceed to the Fitness to Practise panel stage. It makes sense, therefore, that all measures are made available to both Case Examiners and Fitness to Practise panels. However, as outlined above, measures must be used appropriately and proportionately to the circumstances in hand.

The consultation document states that an automatic removal order should be used where a registrant is convicted of a listed offence, based on the list in Schedule 3 of the Social Work Regulations 2018. We agree that these are appropriate offences for automatic removal. However, it is important to note that the Social Work Regulations 2018 do not apply in Scotland.[5] Therefore, the listed offences should be referenced clearly and explicitly, rather than just the legislation itself.

The consultation document also notes that regulators will be required to publish decisions and measures made by Case Examiners and Panels, including the reasons that a particular outcome was reached and why a particular measure was imposed. We welcome this proposal in the interests of accountability, transparency and building public confidence. However, it is important that the use and storage of any sensitive data does not infringe on an individual's right to privacy and is afforded adequate protection in line with the GDPR 2018.

Q.46 – Do you agree or disagree with the proposed powers for reviewing measures? Please give a reason for your answer.

Agree. The consultation document outlines that regulators will have the power to review a measure at any point before its expiry. Individual regulators will be required to set out in rules the process they will follow in reviewing a measure. We welcome the proposal to offer regulators more autonomy in this respect. However, it does raise some concern that the review process could vary considerably between individual regulators and is potentially counter-intuitive to the previous proposals which aim for consistency between regulatory bodies. In line with the aim to encourage partnership working, regulators should be encouraged to work

[5] Social work in Scotland is underpinned by the Regulation of Care (Scotland) Act 2001. See: Legislation.gov.uk, '*Regulation of Care (Scotland) Act 2001'*. Available at: https://www.legislation.gov.uk/asp/2001/8/contents.

collaboratively when setting out the process for review to ensure the process is as clear and consistent for all stakeholders.

Furthermore, the consultation document outlines that a registrant may request an early review of a measure imposed at any point before its expiry. More detail would be welcome here to create consistency across the regulators, including more guidance on what kind of things the rules should cover, for example: whether there are specific grounds for early review; whether there is a limit on the number of times a review can be requested; whether there is a time limit for when a review should be completed after the request is lodged.

Q.47 – Do you agree or disagree with our proposal on notification provisions, including the duty to keep the person(s) who raised the concern informed at key points during the fitness to practise process? Please give a reason for your answer.

Agree. The consultation document outlines a proposal for regulators to set out the process for notifying registrants and the person(s) who raised the concern in rules. This will involve informing the person(s) who raised the concern at key points throughout the fitness to practise process, including where a substantive decision has been made, unless the person(s) who raised the concern does not wish to receive these updates. This is a welcome proposal, in the interests of transparency, public protection and accountability. However, robust data protection measures are important here to ensure that confidentiality is not breached. This should be considered at the outset and is particularly important when handling sensitive personal data.

Q.49 – Do you agree or disagree that the current restrictions on regulators being able to consider concerns more than five years after they came to light should be removed? Please give a reason for your answer.

Agree. In the interests of public protection, we agree that regulators should be able to consider concerns more than five years after they came to light. We know from consultation with our members that time barring can create restrictions for people accessing services who are seeking redress. More clarity would be welcome on whether a time limit would still exist in any capacity (e.g. to consider concerns more than ten years), or if it would be removed entirely.

Q.51 – Do you agree or disagree with our proposed approach for onward referral of

a case at the end of the initial assessment stage? Please give a reason for your answer.

Agree. We support a tiered approach to the fitness to practise process. As outlined above, this creates a more consistent and clear process. However, it is important that interim measures are used if needed for public protection. Furthermore, clear and accessible guidance and training plans should be implemented about when to onward refer cases, and when to use measures proportionately.

Q.55 – Do you agree or disagree that regulators should be able to determine in rules the details of how the Fitness to Practise panel stage operates? Please give a reason for your answer.

Agree. The ability for regulators to determine in rules the details of how the Fitness to Practise panel stage operates would provide greater autonomy. However, we this should be informed by a broad, overarching framework to ensure general consistency across regulators. This would prevent an overly bureaucratic and complex process and would prevent significant variability and inconsistency across the regulatory healthcare landscape.

Q.56 – Do you agree or disagree that a registrant should have a right of appeal against a decision by a case examiner, Fitness to Practise panel or Interim Measures panel? Please give a reason for your answer.

Agree. A right of appeal is important in terms of ensuring a fair and due process. However, grounds of appeal should be outlined clearly. While the consultation document states that appeal rights will apply in certain circumstances, it is unclear if these will be laid out in statute (therefore applying consistently to all regulators) or in regulators' individual guidance or rules. Clarity would be welcome on this point.

Q.61 – Do you agree or disagree that the proposed Registrar Review power provides sufficient oversight of decisions made by case examiners (including accepted outcome decisions) to protect the public? Please provide any reasons for your answer.

Agree. The proposed Registrar Review power appears to provide sufficient oversight of decisions made by case examiners, including those made at the initial review stage. Regarding the proposed grounds for a registrar review, more clarity and guidance would be welcome on what would constitute a 'materially flawed'

decision. In the interests of accountability and public protection, open and transparent decision-making by the registrar would be welcome.

Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the general equality duty that is set out in the Equality Act 2010, or by Section 75 of the Northern Ireland Act 1998?

Please provide further information to support your answer.

The ALLIANCE agrees broadly with the proposals set out in the consultation document. However, as set out above, we recommend that an EQIA and HRIA are carried out at an early stage before introducing any new policy, practice, or procedure. This will ensure that human rights and equalities considerations are embedded fairly, and at the heart of new proposals, to eliminate potential discrimination, advance equality of opportunity, and foster good relations between population groups. This should include direct and meaningful engagement with stakeholders, including people who access services.

In addition to the protected characteristics in the Equality Act 2010, we recommend that due regard and consideration should be had to other marginalised groups, including people living on a low income/experiencing poverty, people experiencing homelessness, and people living in rural communities.

About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 3,000 national and local third sector organisations, associates in the statutory and private sectors, disabled people, people living with long term conditions and unpaid carers. Many NHS Boards, Health and Social Care Partnerships, Medical Practices, Third Sector Interfaces, Libraries and Access Panels are also members.

The ALLIANCE is a strategic partner of the Scottish Government and has close working relationships, several of which are underpinned by Memorandum of Understanding, with many national NHS Boards, academic institutions and key organisations spanning health, social care, housing and digital technology.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to

live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

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