

GMC consultation response: Regulation of independent health care - amendments

Question 1

Do you agree that further regulation of independent health care services in Scotland is needed?

As the regulator of doctors in the UK, we support further regulation of independent health care services in Scotland to ensure that medical and other professionals are working in regulated environments that support and promote patient safety. We consider that the proposals would bring the approach in Scotland more closely in line with the approach taken by the CQC in England, which we support in principle. Well-regulated environments promote high clinical and behavioural standards, as well as robust clinical governance processes, where doctors and other professionals are able to effectively raise concerns. We know that professionals feeling able to raise concerns contributes significantly to the safety of services and the wellbeing of those professionals.

Well-regulated environments also facilitate the collection and use of greater and more consistent data, insight, and intelligence, which the wider healthcare system can use to improve care and react to patient safety risks when they arise.

The findings of public inquiries and reviews and our engagement with organisations representing the independent sector in the UK have demonstrated this. The Paterson Inquiry illustrated the importance of improved, routine collection of outcomes and clinical audit data in the independent sector. There was limited monitoring of clinical outcomes data in this case and, more broadly, the evidence points towards a lack of clinical audit data within the independent healthcare sector as compared to NHS practice. Without this data, Responsible Officers won't have access to sufficient information to make informed, robust judgments to determine whether doctors are up to date and fit to practise. Organisations won't have access to information that might shed light on concerns about professionals that work in these organisations and be in a position to share this with other organisations where those professionals also work. And the interface between local and national regulation won't work as effectively through information about recurring local concerns flowing to regional and national regulatory bodies as appropriate.

Moreover, this is in line with our [corporate strategy](#), in which we acknowledge the importance of organisations across the UK health services – including in the independent sector – working more

closely together to enable professionals to provide safe care. We are committed to working collaboratively with healthcare regulators and improvement bodies to reduce duplication, align goals and requirements, and agree on where we can make useful contributions to the system. We therefore welcome the opportunity to input into this consultation with a view to clarifying the regulation of independent health care services in Scotland, and given the risks noted above (and in our response to Question 4), are supportive of enhanced regulatory join-up in this area.

Question 3

Do you agree that independent medical agencies where services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife, dental care professional, pharmacist or pharmacy technician should be regulated by Healthcare Improvement Scotland?

We welcome the proposal for this regulation to be taken on by Healthcare Improvement Scotland (HIS). We have a good working relationship with HIS, including a Memorandum of Understanding which sets out that this relationship is guided by the need to make decisions which promote patient safety and high-quality healthcare. Our organisations cooperate well with one another on matters of shared concern, and appropriately share information with one another to assist in carrying out our respective regulatory functions. HIS raises with us information which raises concerns about the practice of individual doctors, or about the robustness of systems for postgraduate training, as well as thematic issues about doctors that could be addressed through setting professional standards. We also share relevant information with HIS, including information about a healthcare organisation which raises concerns about the quality and safety of patient care it provides.

We consider that the sharing of relevant information between professional regulators and scrutiny bodies is vital to promoting patient safety. Therefore, we welcome further regulation of independent medical agencies being taken on by HIS, with whom robust channels of information sharing are already in place.

Question 4

Do you agree that unregulated independent medical agencies operating entirely online and headquartered in Scotland, should be regulated by Healthcare Improvement Scotland?

We strongly welcome this proposal. We're conscious that there are significant risks currently associated with independent online-only health care services and, despite this, those headquartered in Scotland are currently unregulated. We therefore consider that oversight of these services by HIS is likely to promote patient safety.

As the consultation identifies, independent online health care services are often a one-off intervention where clinicians don't have access to the patient's complete health care record and rely on the patient giving an honest medical history. Effective access to, and sharing of,

information is crucial in keeping patients safe. There are also risks if online providers use digital patient questionnaires where there is no mechanism for doctors or other healthcare professionals to have two-way dialogue or communication with patients before deciding to prescribe medicines. Good dialogue is important to give both the doctor and their patient the opportunity to ask questions to get the information they both need. Sadly, as the Scottish Government points out, vulnerable people can use online services to access medicines or quantities of medicine that are unsafe.

We also consider that HIS' regulation of these services will complement our role in regulating, and setting high professional standards for, individual doctors. We recognise that some of our registrants may work for such online-only providers. In recognition of risks associated with remote consultations and prescribing, in recent years we've published strengthened guidance [Good practice in prescribing and managing medicines and devices](#) and other materials for doctors. This makes clear that the same principles of good practice apply regardless of the medium through which a consultation is taking place, face to face or online. We're clear that, if doctors can't meet the standards we set out through the mode of consultation they're using, they should offer an alternative mode if possible (which may be face-to-face), or signpost to other services. If doctors think that systems, policies or procedures are, or may be, placing patients at risk of harm, they must follow our guidance in [Raising and acting on concerns about patient safety](#).

Finally, we understand from the consultation that the proposed regulation of the online-only services would be consistent with the approach taken by regulators in Wales and Northern Ireland, which have a similar regulatory framework to Scotland. There may therefore be opportunities in the future to learn from those countries' experiences. The consultation also states that the 4 UK home nations will work cooperatively to regulate and inspect the services based in their jurisdiction. Notwithstanding this, it will be important to consider how to mitigate any potential limitations or gaps arising from regulatory powers that apply only to online-only services 'headquartered' in Scotland, as opposed to those provided or operated there.