



Department  
of Health

# Equality analysis

The Professional Standards Authority for Health and Social Care: draft fee regulations



# Equality analysis

## *Professional Standards Authority for Health and Social Care - Draft Fee Regulations*

Prepared by the Professional Standards Branch, Department of Health

# Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help Department of Health staff members to comply with the general duty.

# Equality analysis

**Title: PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE - DRAFT FEE REGULATIONS**

## **What are the intended outcomes of this work?**

In 2010, the Department of Health (DH) undertook a review of its Arm's Length Bodies (ALBs) as part of the wider changes envisaged for the NHS and the drive to increase accountability and transparency across Government, while reducing the number and costs of public bodies. The 'Liberating the NHS: Report of the arm's-length bodies review' found no compelling reason for the Professional Standards Authority (then the Council for Healthcare Regulatory Excellence) to continue to be funded by the Government and the Devolved Administrations. Instead, it recommended that the Authority be funded through a fee charged to the Regulatory Bodies (RBs) it oversees.

The Health and Social Care Act 2012 at Section 224 provides the legislative framework. These regulations, subject to the approval of Parliament, set out the functions of the Professional Standards Authority ("the Authority") to be included in the fee and the methodology by which the Privy Council will determine the level of fees to be paid by each regulatory body.

## **Who will be affected?**

- The Authority
- The professional regulators overseen by the Authority
- The Privy Council
- DH
- Potentially and indirectly, the registrants of the RBs overseen by the Authority

**Evidence** *The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment. For more information, see the current [DH Transparency Plan](#).*

**What evidence have you considered?** *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

When developing this policy, DH has had due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equalities Act 2010.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Whilst equalities issues were considered prior to the consultation stage, we believed that a full equalities impact assessment would be better informed and more useful once we had received the formal consultation responses. Question 6 of the consultation in October 2014 therefore contained a specific question on equalities designed to elicit the respondents' views on this issue. We have used the responses to this question to further inform our analysis.

Each of the regulators has registrant members with the relevant protected characteristics and therefore DH has considered the potential equalities impact on the different groups. In addition to the information received as part of the public consultation, we have also used information used by the Law Commission in their Equalities Impact Assessment (EQIA) to support the publication of their 2014 Report on the Regulation of Health and Social Care Professionals<sup>1</sup>.

#### *Options appraisal*

Several options were analysed by the Authority and DH as part of the early policy development process, including:

- Fees split equally across each of the nine RBs
- An option containing a minimum entry fee
- Fee based on the number of Section 29 (Fitness to Practice) cases
- Fees based on a number of registrants plus a fixed fee per RB
- Fees based on the income of the RBs
- Fees based on a combination of RB income and registrant numbers
- A percentage of the fee based on number of registrants plus fixed fee plus percentage based on number of Section 29 cases

In 2012, the Authority (then the CHRE) consulted with the RBs on the following four options:

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<sup>1</sup> <http://lawcommission.justice.gov.uk/publications/Healthcare-professions.htm>

- Option 1: do nothing
- Option 2: Apportion by number of registrants
- Option 3: Apportion by fee income of RB
- Option 4: Apportion by combination of number of registrants and fee income per RB

No particular fee was preferred by the RBs. However, at an early stage, most of these options (including the preferred option) were found to contain an element of cross-subsidy in funding streams across the nine regulators. Cross-subsidy is not directly prohibited by the HM Treasury guidance 'Managing Public Money', but is normally classified as a form of taxation and therefore is considered inappropriate in most cases. Consequently, a number of the options were not included in the detailed analysis as they could have clouded the analysis of options that were genuinely workable.

Additionally, the "do nothing" approach was not an option, as the Government's policy intention to take this forward was enshrined in the Health and Social Care Act 2012.

The only viable option, with the information currently available to the Authority, was a fee methodology based on the number of registrants per regulator. This option was deemed to be fair as the model recognises that those regulators who have more registrants will pay more because the evidence shows that they use a greater amount of the Authority's resource. The Authority looked at the data it holds on workflows, such as the number of section 29 cases it handles. Activity analysis supported the approach of allocating the fee according to the number of registrants as the bigger the number, the greater the activity.

**Disability** Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.

Not all regulators publish data in relation to disability amongst their registrants. However, the General Chiropractic Council (GCC) collects data in relation to disability and states that it has data for just over 76% of its registrants across the UK (see page 104 of Council papers, 8<sup>th</sup> August 2013).

The Nursing and Midwifery Council also publish data on disability which showed that, as at July 2011, of responses received from 43% of registrants, 4% had a disability.

The lack of published data from the regulators relating to disability meant that, in their EQIA to support the publication of their 2014 Report on the Regulation of Health and Social Care Professionals, which we have used to assist us in our analysis (see page 6), the Law Commission used other sources, including:-

- a report from the British Medical Association (BMA);
- tables obtained from the Belfast Health and Social Care Trust (BHSCT); and
- information from the Northern Trust (who).

The BMA figures were monthly and available for the period December 2005 to February 2007, whilst the BHSCT and Northern Trust data are point in time estimates as at January 2012.

As a result, caution should be exercised when considering together data that:

- covers different time periods;
- is produced by different organisations that will likely apply different methodologies when producing their estimates; and
- is produced from different sample sizes/covers varying proportions of the population sample under scrutiny.

Whilst there is a lack of coherent, consistent data, it is clear that people with disabilities are part of the workforce that are subject to professional regulation and so we need to consider whether the introduction of this policy has an adverse impact on them.

The Authority's fee will be charged directly to the professional regulators. Any decision to raise the fees they charge as a result of this fee is for each regulator to make, though we accept that a regulator's ability to absorb the costs will vary from regulator to regulator. We expect some regulators will absorb the cost and others will pass it onto their registrants. Therefore, whilst there is no direct impact on people with disabilities, we need to consider whether there is any scope for indirect discrimination on the grounds of disability.

Should the regulators choose to pass the fee on to their registrant members, it is difficult to assess with certainty whether registrants with a disability will be disproportionately affected by the increased costs. However, whilst registrant costs will always have a greater impact on some individuals than others, we consider that the cost of the levy itself represents only a very small percentage of the overall registrant fee and, as a standalone cost, would be highly unlikely to have a significant detrimental impact on an individual basis. In the supporting Impact Assessment, we estimated from the information available at the time that the cost per registrant will on average be an additional £2.47 per individual, per year. Based on updated financial information provided by the Authority the current estimate of that figure is now £2.92 per year, though the final fee will be determined by the Privy Council following the prescribed process.

We acknowledge that the actual fees, and therefore costs which may be passed onto registrants, may fluctuate from year to year. We accept that a registrant's ability to absorb this cost will vary according to their individual circumstances. However, we believe that as this cost makes up a small percentage of the annual overall fee it is unlikely, in itself, to have a significant detrimental impact on an individual. For example, £2.47 represents only 2.05% (and £2.92 represents only 2.4%) of the overall NMC registration fee (£120 per annum as of March 2015).

Furthermore, we note that the regulators can choose how to apportion the costs in relation to their registrants, for example by adjusting existing fees to ensure that no group of persons who share a relevant protected characteristic is disadvantaged. Indeed, some of the professional regulators already differentiate according to certain job titles or other factors.

We further note that none of the respondents to the consultation in October 2014 raised concerns that registrants with disabilities would be disproportionately impacted by the Authority's fees, were these passed on by the regulators.

**Sex** Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).

Data availability in this area is limited, with not all regulators publishing data in relation to the gender profile of the registrants. However, some do provide data on the sex of registrants who face fitness to practise processes, for example:

- The General Medical Council collects data on a UK-wide basis. For example, in 2011, the General Medical Council Fitness to Practise Fact Sheet 2011 “Gender” provides a breakdown by gender of fitness outcomes. In relation to case examiner outcomes, 32.1% of decisions about female doctors resulted in no further action, around 42% resulted in closure with advice; 7.1% resulted in a warning and 10.5% in undertakings. The remaining 8.2% resulted in a referral to a Fitness to Practise Panel Hearing. This represents 0.04% of all female doctors currently registered. In relation to male doctors, 32.6% of case examiner decisions resulted in no further action; 37.3% resulted in closure with advice; 11.4% resulted in a warning and 6.9% in undertakings. The remaining 11.9% resulted in a referral to a Fitness to Practise Panel Hearing. This represents 0.12% of all male doctors currently registered. Fitness to Practise Panel Hearings in 2011 resulted in 70.3% of referred female doctors being found to be impaired and 77.6% of male doctors. Six female doctors and 59 male doctors were erased from the register in 2011. This represents 0.01% of all female doctors with current registration in that year and 0.04% of all male doctors.
- The General Chiropractic Council states that it has gender data for all registrants across the UK.
- The Nursing and Midwifery Council states in its Annual Fitness to Practise Report 2012-2013 (see page 14 – [www.nmc-uk.org](http://www.nmc-uk.org)) that the collection of data in relation to age, gender, religion, ethnicity, sexual orientation and disability was commenced in 2009. In 2012-2013, across the UK, 2,565 females were referred to the Nursing and Midwifery Council (77% of referrals) and 745 males (23% of referrals). Out of a total of 865 interim orders made in 2012-2013, 71% were in relation to females and 29% in relation to males. Out of a total of 165 cautions, conditions of practice or suspensions imposed, about 73% were made in relation to females and 27% in relation to males. Of the 585 registrants removed or struck off the register, about 67% were female and 33% were male.
- The General Dental Council states in its Annual Report and Accounts 2012 that 22,271 male and 17,623 female dentists are registered across the UK (see page 16 – [www.gdc-uk.org](http://www.gdc-uk.org)). Where dental care professionals are concerned, 6,009 males and 55,691 females are registered across the UK.

This data suggests that the sex of registrants is a variable characteristic across regulated professionals.

Some responses to the consultation raised concerns that women (who make up the bulk of Nursing and Midwifery Council (NMC) and Health and Care Professions Council (HCPC) registrants in particular) will be disproportionately impacted because they are lower paid and are more likely to work part-time.

Some regulators have indicated they will absorb the cost and others will pass it on to their registrants. However, it is our view that (as described in the disability section above) this cost makes up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. For example, £2.47 or £2.92 per registrant represents around 2 – 2.5% of the NMC registrant fee, as at March 2015. Therefore we do not consider that the imposition of fees by the Authority on the regulators will have a discriminatory impact on grounds of sex.

**Race** Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

Again, data availability is relatively poor, with various organisations publishing some information but very little that was consistent between sources on timeframe and/or categories provided.

The General Chiropractic Council provides data on its 2,901 registrants as at July 2013 as follows:

Ethnicity Group	Asian	Black	Chinese	Mixed	Not Known	Other	White	Total
All registrants – number	73	23	7	31	698	31	2038	2901
All registrants – percentage	2.52%	0.79%	0.24%	1.07%	24.06	1.07%	70.25%	100.00%

The Nursing and Midwifery Council provide data in relation to the race profiles of registrants as at the end of July 2011. Based on information received from 286,190 out of 665,545 registrants (43%), the data shows:

NMC Registrants ethnicity profile, 2011

	White British	Other White	Asian	Black African	Black Caribbean	Other/Mixed
Overall	73%	11%	7%	5%	2%	2%
England	72%	9%	8%	7%	2%	2%
Northern Ireland	55%	39%	5%	0.40%	few	0.60%
Scotland	89%	6%	2%	1%	few	0.40%
Wales	84%	9%	5%	1%	0.30%	0.90%
Non-UK	36%	46%	9%	4%	2%	1%
Midwives	79%	11%	2%	4%	2%	1%
Nurses	72%	11%	8%	6%	2%	2%
SCPHNs	83%	9%	2%	3%	2%	0.70%

Source: <http://www.nmc-uk.org/About-us/Equality-and-diversity/Analysis-of-diversity-data-2011/>

Research has been commissioned by the General Medical Council to examine whether doctors who have qualified outside of the UK are more likely to experience onerous outcomes or high-impact decisions as a result of fitness to practise procedures. This research found that decisions reached at fitness to practise proceedings about doctors who qualified outside the UK are more likely to result in harsher sanctions than decisions reached about their UK-qualified counterparts. However, the research determined that it was not possible to reach a conclusion regarding the cause of the difference as there was insufficient evidence to determine whether real differences exist in fitness to practise between groups of doctors or whether the process tends to discriminate against certain groups of doctors. Further studies were carried out to investigate the meaning and significance of the findings. This research identified challenges in four key areas: medical education and professional practice; the circumstances of doctors' working lives; their personal circumstances outside work; and the attitudes and behaviour of other people towards them. However, there was no direct evidence about whether or how such challenges might influence performance or fitness to practise. It has been considered by the General Medical Council that the lack of research directly investigating the relationship between ethnicity or place of qualification and possible performance problems means that there is no good basis as yet for drawing firm conclusions. (See General Medical Council "Fitness to Practise Factsheet 2010 "Ethnicity"" and [www.gmc-uk.org](http://www.gmc-uk.org)).

The General Chiropractic Council collects data in relation to ethnicity providing data for just over 76% of its registrants across the UK.

This data suggests that the race of registrants is a variable characteristic across regulated professionals. Some regulators have indicated they will absorb the cost and others will pass it on to their registrants. However, it is our view that (as described in the disability section above) this cost makes up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore we do not consider that the imposition of fees by the Authority on the regulators will have a discriminatory impact on grounds of race.

**Age** Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.

Not all the regulators publish information regarding the age of their registrants. However, the General Chiropractic Council (GCC) collects data in relation to age and states that it has data for all registrants across the UK.

The Nursing and Midwifery Council also provide a breakdown of data on registrants across the protected characteristics by age, etc. as at July 2011. Based on data received from 286,190 out of 665,545 registrants [43%] the following obtains:

NMC Registrants decade of birth, 2011

Region	Decade of birth				
	1940s	1950s	1960s	1970s	1980s
Overall	5%	23%	33%	23%	14%
England	6%	23%	33%	24%	14%
Northern Ireland	4%	23%	34%	23%	15%
Scotland	4%	23%	37%	22%	14%
Wales	5%	25%	35%	23%	12%
Non-UK	6%	22%	29%	23%	20%
Midwives	4%	23%	36%	21%	15%
Nurses	5%	23%	33%	24%	14%
SCPHNs	8%	36%	39%	14%	3%

Source: <http://www.nmc-uk.org/About-us/Equality-and-diversity/Analysis-of-diversity-data-2011/>

Whilst not a full representation of the age profile of regulated professionals, this does show that age is a relevant characteristic and therefore the impact of the change needs to be considered. Some regulators have indicated they will absorb the cost and others will pass it on to their registrants. However, it is our view that (as described in the disability section above) this cost makes up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore we do not consider that the imposition of fees by the Authority on the regulators will have a discriminatory impact on grounds of age.

**Gender reassignment (including transgender)** *Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.*

No data is available regarding the number or proportion of health and social care professionals who have undergone or are in the process of undergoing gender reassignment. This lack of information was confirmed by an Equality and Human Rights Commission report referenced by the Law Commission.

As a proxy research from the Gender Identity Research and Education Society indicates, "Employers should expect about 1% of the workforce to experience and/or express their gender in ways that do not conform to the typical binary man/woman model... 25 per 100,000 in the general population have already sought medical treatment".

Although this data refers to the workforce as a whole, not the regulators' specific registrant base, it gives an indication of the scope of the potential impact on the registrants i.e. out of approximately 1.45 million registrants 1% or 14,500 individuals may be in scope.

Whilst not a full representation of the gender reassignment profile of regulated professionals, it does show that it is a relevant characteristic and therefore the impact of the change needs to be considered. Some regulators have indicated they will absorb the cost and others will pass it on to their registrants. However, it is our view that (as described in the disability section above) this cost makes up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore we do not consider that the imposition of fees by the Authority on the regulators will have a discriminatory impact on grounds of gender reassignment issues.

**Sexual orientation** Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.

The Nursing and Midwifery Council providing information on the sexual orientation of health and social care professionals. Based on data received from 286,190 out of 665,545 registrants [43%] as at July 2011 the following obtains:

Table: NMC Registrants sexual orientation, 2011

	Bisexual	Gay / lesbian	Heterosexual
Overall	1.50%	1.50%	97%
England	1.50%	1.50%	97%
Northern Ireland	1.90%	0.50%	98%
Scotland	1.10%	1.40%	98%
Wales	1.50%	1.20%	97%
Non-UK	1.70%	1.90%	96%
Midwives	0.80%	0.60%	99%
Nurses	1.60%	1.60%	97%
SCPHNs	0.50%	0.80%	99%

Source: <http://www.nmc-uk.org/About-us/Equality-and-diversity/Analysis-of-diversity-data-2011/>

Whilst not a full representation of the sexual orientation of regulated professionals, it does show that it is a relevant characteristic and therefore the impact of the change needs to be considered. Some regulators have indicated they will absorb the cost, others will pass it on to their registrants. However, we do not believe that our proposals will have any indirect impact on individuals on the grounds of their sexual orientation, given that this cost would make up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore, we do not consider that this proposal will result in discrimination on the grounds of sexual orientation. We further note that none of the respondents to the consultation raised this as a concern in relation to these proposals

**Religion or belief** Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.

Information is limited, but the Nursing and Midwifery Council do provide information on the numbers of health and social care professionals who identify themselves as having/not having a religious faith. The following table is based on data received from 286,190 out of 665,545 registrants [43%] as at July 2011:

Table: NMC Registrants religious belief, 2011

	Buddhist	Christian	Hindu	Jewish	Muslim	None	Other	Sikh
Overall	0.80%	75%	1.10%	0.20%	1.10%	18%	4%	0.30%
England	0.90%	75%	1.30%	0.20%	1.30%	5%	4%	0.30%
Northern Ireland	few	89%	few	few	few	5%	6%	few
Scotland	0.50%	70%	0.20%	few	0.30%	26%	3%	few
Wales	0.50%	74%	0.50%	few	0.30%	20%	4%	few
Non-UK	1.60%	77%	1.00%	few	1.30%	14%	4%	few
Midwives	0.80%	75%	0.50%	0.20%	1.10%	19%	3%	0.20%
Nurses	0.80%	75%	1.20%	0.20%	1.20%	18%	4%	0.30%
SCPHNs	0.70%	81%	0.30%	0.30%	0.50%	15%	3%	0.30%

Source: <http://www.nmc-uk.org/About-us/Equality-and-diversity/Analysis-of-diversity-data-2011/>

Whilst not a full representation of the religion or belief profile of regulated professionals, this does show it is a characteristic and therefore the impact of the change needs to be considered. Some regulators have indicated they will absorb the cost, others will pass it on to their registrants. However, we do not believe that our proposals will have any indirect impact on individuals on the grounds of their religion or belief, given that this cost would make up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore, we do not consider that this proposal will result in discrimination on the grounds of religion or belief. We further note that none of the respondents to the consultation raised this as a concern in relation to these proposals.

**Pregnancy and maternity** Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.

We have been unable to locate any data available for the number of pregnant health and social care professionals. However, given the age and sex profiles referenced earlier in this assessment, it is a reasonable assumption that there will be regulated professional in scope of the characteristic of 'pregnancy and maternity'.

Some regulators have indicated they will absorb the cost, others will pass it on to their registrants. However, we do not believe that our proposals will have any indirect impact on individuals on the grounds of their pregnancy or maternity status, given that this cost would make up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore, we do not consider that this proposal will result in discrimination on the grounds of pregnancy and maternity status. We further note that none of the respondents to the consultation raised this as a concern in relation to these proposals.

**Carers** *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

Persons with caring responsibilities may also be members of any of the groups of persons already identified in paragraph 7. Given the jurisdiction of health and care professional regulation, it may be more likely that persons with caring responsibilities may need to access the statutory functions provided by the regulators or come into contact with health and care professionals regulated by those functions as a result of the needs of the person they are caring for. Estimates range about the number of carers in the UK however 1 in 10 is a figure that has been quoted. As a result there is a potential impact on this group and this needs to be considered.

We acknowledge the concerns raised in response to the consultation about the indirect, potential impact on part-time workers (which may include those with caring responsibilities),

However, we do not believe that our proposals will have any impact on individuals on the grounds of their carer status, given that this cost would make up a small percentage of the annual overall fee and is unlikely, in itself, to have a significant detrimental impact on an individual. Therefore, we do not consider that this proposal will result in discrimination on carers.

**Other identified groups** *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

We have not identified any other groups that we would expect to be particularly vulnerable from the evidence that is currently available.

## • Engagement and involvement

Was this work subject to the requirements of the cross-government [Code of Practice on Consultation](#)? Yes

### **How have you engaged stakeholders in gathering evidence or testing the evidence available?**

- Pre consultation with and between the Authority and professional regulators
- Eight week public consultation – on Citizenspace and www.gov.uk
- Regular meetings with the Authority
- Chief Executives Steering Group (monthly meetings of the Chief Executives of the professional regulators and the Authority)
- Monthly “four countries” meetings (meetings with the Devolved Administrations)
- Individual, ad hoc meetings with the regulatory bodies via the departmental account management process
- At-desk research/data gathering
- Scrutiny of the Impact Assessment by:
  - A DH senior economist
  - The Regulatory Policy Committee

### **How have you engaged stakeholders in testing the policy or programme proposals?**

- We have worked closely with the Authority throughout the policy development, sharing ideas and draft documents with them.
- We have also kept the professional regulators regularly updated of progress with the project, through senior level meetings, other official meetings and management information (for example, the briefing pack for the Chief Executives Steering Group). Where appropriate (for example, where key milestones have been met), we have written to the Chief Executives of the regulators and the Authority.
- We have shared ideas and draft documents with officials in the Devolved Administrations.
- Our Impact Assessment and methodology was reviewed by a senior DH economist and subsequently by the Regulatory Policy Committee.

**For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:**

- As above. Meetings with the Authority have been minuted, with any resulting actions recorded and assigned.
- We have created an 'issues log' to capture and track any practical issues with the Authority's transition to self-funding. This is updated following monthly governance meetings and discussed during those meetings.
- The 22 respondents to the public consultation identified themselves as being 'members of an organisation'.
- We received a response from the Authority and responses from the professional regulators overseen by the Authority.
- Additionally, we received responses from three unions, three Royal Colleges and several representative or trade bodies, some of which are in the Devolved Administrations. We did not receive any responses from individuals.

**Summary of Analysis** *Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.*

*Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.*

We have considered the impact of the responses to the consultation in relation to each of the protected characteristics.

We expect some regulators will absorb the cost and others will pass it on to their registrants. Should the regulators pass the fee on to their registrant members, whilst registrant costs will always have a greater impact on some individuals than others, we consider that the cost of the levy itself represents only a very small percentage of the overall registrant fee and, as a standalone cost, would be highly unlikely to have a significant detrimental impact on an individual basis. As set out in the supporting Impact Assessment, we estimated from the information available at the time that the cost per registrant will on average be an additional £2.47 per individual, per year. Based on updated financial information provided by the Authority the current estimate of that figure is now £2.92 per year, though the final fee will be determined by the Privy Council following the prescribed process.

We acknowledge that the actual fees, and therefore costs which may be passed onto registrants, may fluctuate from year to year. We accept that a registrant's ability to absorb this cost will vary according to their individual circumstances. However, we believe that as this cost makes up a small percentage of the annual overall fee it is unlikely, in itself, to have a significant detrimental impact on an individual. For example, £2.47 or £2.92 represents about 2-2.5% of the overall NMC fee (£120 per annum as of March 2015).

Furthermore, we note that the regulators can choose how to apportion the costs in relation to their registrants, for example by adjusting existing fees to ensure that no group of persons who share a relevant protected characteristic is disadvantaged. Indeed, some of the professional regulators already differentiate according to certain job titles or other factors.

**Eliminate discrimination, harassment and victimisation** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

For the reasons described above, we do not believe that our proposals will directly help or hinder the elimination of discrimination, harassment and victimisation, as the Authority's fee will be charged directly to the professional regulators.

As also set out above, we recognise that there could be an indirect impact on women, part-time workers or those that are more lowly paid, should the regulators pass the Authority's fee onto their registrants. However the cost of the levy itself represents only a very small percentage of the overall registrant fee and, as a standalone cost, would be highly unlikely to have a significant impact on an individual basis. In the supporting Impact Assessment, based on the information available at that time, we estimated that the cost per registrant will be an additional £2.47 per individual, per year. Based on updated financial information provided by the Authority the current estimate of that figure is now £2.92 per year, though the final fee will be determined by the Privy Council following the prescribed process.

We acknowledge that the actual fees, and therefore costs which may be passed onto registrants, may fluctuate from year to year. We accept that a registrant's ability to absorb this cost will vary according to their individual circumstances. However, again, we believe that this cost makes up a small percentage of the annual fee.

**Advance equality of opportunity** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

For the reasons described above, we do not believe that our proposals will directly help or hinder the advancement of equality of opportunity.

**Promote good relations between groups** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

For the reasons described above, we do not believe that our proposals will directly help or hinder the promotion of good relations between groups.

**What is the overall impact?** *Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?*

For the reasons described above, the direct impact of the Authority's fee will be on the professional regulators, rather than individuals.

We recognise that there is likely to be an indirect impact, where the regulators decide to pass on the cost to registrants, as this could result in a higher annual fee. According to our estimates, this will be in the region of £2.50 – £3.00 per registrant, per year.

**Addressing the impact on equalities** Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.

As set out above, according to our regulations, the Authority's fee will apply in the same way to all regulators. However the regulators may choose to adjust their fees to take into account any adverse impacts on individuals, according to protected characteristics (or other factors).

**Action planning for improvement** Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.

Please give an outline of your next steps based on the challenges and opportunities you have identified. Include here any or all of the following, based on your assessment

- Plans already under way or in development to address the **challenges** and **priorities** identified.
- Arrangements for continued engagement of stakeholders.
- Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)
- Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies
- Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results
- Arrangements for making information accessible to staff, patients, service users and the public
- Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.

#### *Challenges and Priorities*

A key challenge and priority will be to ensure that the fee collection process is workable for the Authority and the professional regulators. We have established regular meetings with the Authority to assist them through the process to becoming self-funding. As part of DH's account management processes, officials meet regularly with the professional regulators and can provide advice and support as part of these meetings. DH will also support the regulators in making any necessary changes to their legislation to enable them to make changes to their registrant fees, should this be necessary. Any changes to this legislation will be subject to the usual consultation processes and parliamentary scrutiny.

#### ● **For the record**

**Name of person who carried out this assessment:**

Marie Farmer, Professional Standards

**Date assessment completed:**

January 2015

**Name of responsible Director/Director General:**

Gavin Larner

**Date assessment was signed:**

20 January 2015

# Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their Directorate
<b>Involvement and consultation</b>	<ul style="list-style-type: none"> <li>• Pre consultation with and between the Authority and the regulators</li> <li>• Public consultation</li> <li>• Governance meetings with the Authority to manage the transition.</li> <li>• Each year, the Authority will consult with the regulatory bodies on the proposed fee</li> </ul>	2012-2014  Ongoing, until October 2015  Annual	Professional Standards  Marie Farmer, Professional Standards Jamie Samuel, Professional Standards  PSA
<b>Data collection and evidencing</b>	<ul style="list-style-type: none"> <li>• Each year, the Authority must evidence to the Privy Council their rationale for their proposed fee.</li> </ul>	Annual	PSA
<b>Analysis of evidence and assessment</b>	<ul style="list-style-type: none"> <li>• Analyse consultation responses</li> <li>• At-desk research</li> </ul>	Complete	Marie Farmer, Professional Standards
<b>Monitoring, evaluating and reviewing</b>	<ul style="list-style-type: none"> <li>• Maintain 'issues log' and follow up on actions</li> <li>• DH to monitor implementation of new fee structure</li> </ul>	Ongoing	Jamie Samuel, Professional Standards
<b>Transparency (including publication)</b>	<ul style="list-style-type: none"> <li>• Publication of the consultation document and initial IA</li> <li>• Publication of consultation results and EQIA</li> </ul>	Complete  January/February 2015	Marie Farmer, Professional Standards