



Department of

Health, Social Services and Public Safety

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AN ROINN

Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí

MÁNNYSTRIE O

Poustie, Resydènter Heisin
an Fowk Siccar

CONSULTATION RESPONSE QUESTIONNAIRE FOR RESPONSIBLE OFFICER DRAFT LEGISLATION

You can respond to the consultation document by e-mail, letter or fax.

Before you submit your response, please read Chapter 4 (Responding to the consultation) about the effect of the Freedom of Information Act 2000 on the confidentiality of responses to public consultation exercises.

Responses should be sent to:

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Responses must be received no later than Friday 5th February 2010.

I am responding: ☒ as an individual ☐ on behalf of an organisation

Name:

Job Title:

Organisation:

Address:

Tel:

Fax:

E-mail:

Responsible officers - Consultation on draft regulations and guidance

Consultation Questionnaire

This questionnaire is designed to supplement the consultation document which sets the context to the questions. It should be completed after reading the draft regulations and draft guidance.

Regulation 2 sets out the organisations required to nominate or appoint responsible officers.

The draft regulations seek to designate the widest range of organisations that employ or contract with doctors to ensure that responsible officers are in all settings where that approach is necessary and appropriate. We do not believe it would be either practical or appropriate to designate organisations employing doctors who do not work in clinical settings, and are not involved in direct patient care.

- 1. Do you agree that Regulation 2 designates all those organisations that need to have a responsible officer?**

☐ Yes ☐ No

- 2. If you answered NO to Q1 which other organisations should be designated?**

Regulation 4 provides safeguards for circumstances where there may be a conflict of interest.

In circumstances of personal or professional conflict between the doctor and the responsible officer, it may be difficult to retain an objective judgement. We do not think that it is right to put either the doctor or the responsible officer in a position whereby a conflict of interest could affect an evaluation of fitness to practise. Regulation 4 provides for organisations to nominate or appoint an alternative responsible officer where a genuine conflict of interest exists.

- 3. Do you think Regulation 4 provides sufficient safeguards in the event of a conflict of interest arising?**

☐ Yes ☐ No

If not, please explain what further measures should be considered.

Regulation 5 sets out the requirements for nomination or appointment as a responsible officer.

The vast majority of respondents to the consultation on the role of the responsible officer were in favour of responsible officers being required to have a licence to practise.

Alternatively, as Medical Directors are likely to be nominated as responsible officers and some do not have a clinical element to their role, it has been suggested that responsible officers should instead have the option of having a licence. The view is that the licensing of doctors with no clinical role could lead to a situation where, for example, a medical manager undertaking no clinical work would be legally entitled to prescribe and issue death certificates.

The GMC and the Department is of the view that medical managers play an important role in ensuring the safety of patients and that they should, and will, be able to provide evidence to demonstrate they are fit to practise. Responsible officers should be medical practitioners licensed as fit to practise medicine and who themselves will be up to date in medical practise in order to be credible with the public and colleagues when carrying out the responsibilities of the role. We have therefore included this requirement in Regulation 5(a).

4. Do you agree that Regulation 5 should require responsible officers to have a licence to practise?

☐ Yes ☐ No

Regulation 6 allows the nomination or appointment of one person as responsible officer for two or more designated bodies.

It requires both organisations to ensure that the responsible officer meets the requirements, that they will not be overburdened and that there are not likely to be any conflicts of interest in taking on the role. Regulations 11 and 16 enable the transfer of resources to the employer of the responsible officer.

5. In circumstances where the responsible officer acts for another body, are additional criteria to those in Regulation 6 needed?

Regulation 8 sets out the functions of a responsible officer.

Please refer to regulation 8 in the accompanying draft regulations for the functions.

6. Are the functions set out in Regulation 8, relating to the evaluation of a doctor's fitness to practise, appropriate?

☐ Yes ☐ No

7. If you think there are other functions that should be specified, please explain what they are.

8. Do you agree that the functions of a responsible officer relating to conduct and performance set out in regulation 8 are appropriate?

☐ Yes ☐ No

9. If you think there are other functions that should be specified please explain what they are.

Regulations 9 and 10 set out the connection of doctors with a responsible officer.

Organisations need to know which doctors they are responsible for and doctors need to know who their responsible officer is.

Regulation 9(1) sets out the connections between doctors and designated organisations where the doctor is employed by, or contracts with, only one organisation i.e. the doctor has a connection with only one designated body.

Regulation 9(2) concerns the situation where a doctor is employed by, or contracts with, more than one organisation. It defines the criteria for deciding which responsible officer a doctor relates to as where the majority of their clinical practice is undertaken. Variations in the ways some doctors work may lead to cases where it will not be possible to decide a doctor's responsible officer based on the majority of their clinical work. In such cases, we think that if the doctor is employed by a HSC organisation the connection should be with that body. Where it is still not possible to determine the responsible officer a doctor relates to, the final report to decide will be the GMC registered address of the doctor.

10. Do you agree that Regulation 9(1) sets out the appropriate connections for doctors?

☐ Yes ☐ No

11. Do you think Regulation 9(2) enables doctors in designated organisations to be linked to an appropriate responsible officer regardless of their working pattern?

☐ Yes ☐ No

12. If the answer to either Q10 or Q11 is NO please explain.

13. In particular, do you think there are any other alternatives to using the doctor's registered address as a final report to decide?

☐ Yes ☐ No

Regulation 10 establishes the connection between a responsible officer and their own responsible officer.

As Regulation 5 sets out that a responsible officer will be a licensed medical practitioner, we think that they should themselves, therefore, also be linked to a responsible officer who will ensure they are subject to the same evidence-based assessment as those they are responsible for. Regulation 10 sets out the hierarchy in order for this to happen.

- 14. Please comment on the appropriateness of the system set out in Regulation 10 to manage the conduct and performance of responsible officers.**

Regulations 11 and 16 deal with the provision of resources.

The response to the consultation on the role of the responsible officer stated that each of the areas which should be resourced would be specified explicitly in regulations. Following further consideration it has now been decided that such an approach would not be appropriate. Therefore, Regulation 11 and 16 set out a general duty on designated organisations to provide responsible officers with sufficient funds and other resources necessary to carry out the responsibilities and functions set out in Regulation 8.

Regulations 12 and 15 relate to the duty to have regard to guidance.

This guidance may come from the Department, the GMC or the National Clinical Assessment Service (NCAS).

Regulations 13 and 17 create an offence

Regulation 13 creates an offence where a designated body fails to provide resources for a responsible officer; where a responsible officer is prevented from carrying out their statutory duties; or where there is a failure to nominate or appoint a responsible officer.

- 15. Please comment on the extent to which regulations 11-13 and 15-17 achieve the policy objectives set out in the previous consultation paper on the role of the responsible officer.**

Draft Guidance

The draft guidance has been prepared to assist with the practicalities of implementing the Medical Profession (Responsible Officers) Regulations (Northern Ireland) 2010.

You are asked to read the draft guidance and comment on the content, structure, style and layout of the document. Your input will help shape the guidance and ensure it is both relevant and appropriate to the needs of responsible officers, their organisations and the doctors who relate to them.

- 16. Please comment on the content, structure, layout and 'usability' of the draft guidance. Comments on the guidance can be submitted either as track changes or clearly annotated with paragraph numbers.**