Northern Ireland Law Commission

promoting law reform in Northern Ireland

Northern Ireland Law Commission

Section 75 of the Northern Ireland Act 1998 Screening Analysis

Regulation of health care professionals

Linum Chambers
2 Bedford Square
Bedford Street
BELFAST
BT2 7ES

SECTION 75 OF THE NORTHERN IRELAND ACT 1998 SCREENING ANALYSIS

Part 1. Policy scoping

Information about the policy

Name of the policy

The title of this policy is "Review of the Regulation of Health Care Professionals".

Is this an existing, revised or new policy?

This policy is seeking to streamline and improve existing policy.

What is it trying to achieve? (intended aims/outcomes)

Across the UK, thirty-one different health care professions are regulated by nine regulatory bodies. These regulatory bodies regulate the activities of approximately 1.4 million professionals on a UK-wide basis. In Northern Ireland, the Northern Ireland Health and Social Care Workforce Census[1] aims to provide a specific breakdown of the Health and Social Care workforce in Northern Ireland across the five Health and Social Care Trusts. For example, in March 2011, there were 3,916 professionals employed in the Medical and Dental Workforce and 16,012 professionals employed in the Qualified Nursing and Midwifery Workforce.[2] The following table contains a breakdown of these numbers by reference to the Trust in which the health care professionals are employed.[3]

Headcount	Belfast	Northern	South Eastern	Southern	Western	HSC Board & Regional Services	Total
Medical and Dental	1625	559	585	550	521	76	3916
Qualified Nursing and Midwifery	5390	2808	2394	2,685	2,668	67	16012
Dieticians	79	44	33	39	35	0	230
Occupational Therapists	226	194	129	158	112	0	819
Orthoptists	7	10	7	-	8	0	37
Physiotherapists	321	179	181	193	126	0	1001
Podiatrists	69	66	47	35	43	0	260
Radiographers	303	113	102	108	108	0	734
Speech and language Therapists	119	110	73	66	58	0	426
Pharmacists	130	88	55	62	54	33	422
Clinical Psychologists	74	37	45	29	34	39	258
Dental and Dental Support	49	-	-	-	-	0	55
Optometrists	23	0	0	0	-	-	32

The regulation of health care professions is a transferred matter by virtue the Northern Ireland Act 1998 and is therefore fully devolved to the Northern Ireland Assembly. However, with the exception of pharmacy, regulation of the health care professions has

[1] 31 March 2011, Project Support Analysis Branch, Information Analysis Directorate, Department of Health, Social Services and Public Safety, Castle Buildings, Belfast, BT4 3SQ http://www.dhsspsni.gov.uk/workforce_census_march_2011_web.pdf .
[2] Northern Ireland Health and Social Care Workforce Census 31 March 2011 at page 13.
[3] Northern Ireland Health and Social Care Workforce Census 31 March 2011 at page 14 and page 20.

traditionally been dealt with on a UK-wide basis. The regulatory bodies operate within a wide variety of legal frameworks which have been created and amended by Parliament in Westminster over the last 150 years. The regulation regime has therefore evolved in a piecemeal fashion, resulting in inconsistency in the powers, duties and responsibilities of each of the regulators. In addition, the current system is considered to be expensive and requires continuous Government input. Each of the regulators has powers to make rules and regulations concerning their operating procedures but the current requirement of Privy Council approval imposes burdens on the Department of Health, as in practice the Privy Council defers to the Department's policy officials and legal group when it is required to act. Constraints on Government resources mean that only the most pressing matters are taken forward, therefore barriers are created to the regulators when they are seeking to modernise their legal frameworks and take forward reform. For these reasons, the Department of Health asked the Law Commission of England and Wales and the Scottish Law Commission to undertake a joint project to review the legal framework for the regulation of the health care professions. The Northern Ireland Department of Health, Social Services and Public Safety also requested that the Northern Ireland Law Commission become involved in the project. The remit of the work is to review the UK law relating to the regulation of health care professionals, and, in England only, the regulation of social workers.

The project looks at a number of key areas which affect the regulation of health care professionals. Public accountability of the regulators is considered, together with the duties and functions of the regulators. For example, the internal governance and structures of regulators are considered as well as the main functions of the regulators which include the keeping of a register of member professionals; the role of the regulator in addressing matters of education; conduct and practice within the profession; and the role of the regulator in relation to determining the fitness of registrants to continue to practise within the profession. Specific issues in relation to fitness to practise are considered, including the effect of ill-health on registrants and procedures for putting in place measures to assist certain witnesses when they are required to give evidence during fitness to practise hearings. The project also considers the role, governance and remit of the Council for Healthcare Regulatory Excellence, whilst inter-jurisdictional and cross border issues are also given consideration.

Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.

The subject matter of this policy is largely technical in nature and is concerned with streamlining and improving current regulatory regimes within health care. There appear to be only two areas where section 75 categories will directly benefit from the policy. These areas are in relation to the removal of registration requirements for registrants in relation to good health and the putting in place of measures to support certain witnesses to give evidence before fitness to practise hearings. It is also acknowledged that the professionals whose activities are regulated will fall into one or more section 75 categories and in this way will benefit from the policy to improve the system of regulation of health care professionals.

Who initiated or wrote the policy?

The Law Commission of England and Wales, the Scottish Law Commission and the Northern Ireland Law Commission ("the Law Commissions") are responsible for devising the policy.

Who owns and who implements the policy?

The Law Commissions will make recommendations to government, who will decide whether to adopt the recommendations and duly implement them.

Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

There are no financial or legislative factors that can detract from the intended aim or outcome of the policy apart from the availability of finances and resources to implement the policy.

Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact on?

In Northern Ireland, the policy will impact upon regulators of the health care professions and members of the health care professions. Other stakeholders in Northern Ireland who are potentially affected by this policy if it is implemented by government are the Department of Health, Social Services and Public Safety, the Health and Social Care Trusts and members of the general public who are service users of the health care professions.

Other policies with a bearing on this policy

There are no other policies which have a bearing on this policy.

Available evidence

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

<table>
<tr><th>Section 75 category</th><th>Details of evidence/information</th></tr>
<tr><td>Religious belief</td><td>The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the religious affiliation of health care professionals employed in that Trust:
<table>
<tr><th>Profession</th><th>Protestant</th><th>Catholic</th><th>Other or Not Known</th><th>Total</th></tr>
<tr><td>Doctor</td><td>761</td><td>631</td><td>362</td><td>1754</td></tr>
<tr><td>Nurse</td><td>2843</td><td>3194</td><td>405</td><td>6442</td></tr>
<tr><td>Occupational Therapist</td><td>127</td><td>104</td><td>5</td><td>236</td></tr>
<tr><td>Optometrist</td><td>21</td><td>8</td><td>-</td><td>29</td></tr>
<tr><td>Pharmacist</td><td>45</td><td>80</td><td>4</td><td>129</td></tr>
<tr><td>Physiotherapist</td><td>193</td><td>131</td><td>12</td><td>336</td></tr>
<tr><td>Podiatrist</td><td>28</td><td>34</td><td>3</td><td>65</td></tr>
<tr><td>Radiographer</td><td>152</td><td>158</td><td>8</td><td>318</td></tr>
<tr><td>Speech and Language Therapist</td><td>60</td><td>62</td><td>7</td><td>129</td></tr>
</table>
</td></tr>
</table>

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 1,659 staff are Protestant, 2,469 are Catholic and the religious belief of 332 staff is unknown.

The Northern Trust also provided statistics in relation to the religion of staff employed in that Trust area as of January 2012:

Profession	Protestant	Catholic	Other or Not Known	Total
Medical and dental	42%	30.6%	27.4%	100%
Nursing and Midwifery	48.8%	43.8%	7.4%	100%
Occupational Therapist	51.2%	44.5%	4.3%	100%
Orthoptist	50%	12.5%	37.5%	100%
Pharmacist	58.5%	34%	7.4%	100%
Physiotherapist	65.8%	25.8%	8.4%	100%
Podiatrist	60.9%	31.3%	7.8%	100%
Radiographer	64%	31.2%	4.8%	100%
Speech and Language Therapist	56.4%	37.6%	6%	100%

Political opinion

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the political opinion of health care professionals employed in that Trust:

Profession	Nationalist	Unionist	Other	Not disclosed	Total
Doctor	105	164	191	1294	1754
Nurse	312	379	475	5276	6,442
Occupational Therapist	18	23	22	173	236
Optometrist	3	5	3	18	29
Pharmacist	10	7	10	102	129
Physiotherapist	23	37	19	257	336
Podiatrist	2	7	6	50	65
Radiographer	25	21	26	246	318
Speech and Language Therapist	9	11	22	87	129

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 343 staff are described as broadly Unionist, 366 are broadly Nationalist, 268 are “other” and the political opinion of 3,483 is unknown.

Racial group

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the racial group to which health care professionals employed in that Trust belong:

Profession	White	Black African	Filipino	Indian	Other	Unknown	Total
Doctor	1246	13	-	68	92	335	1754
Nurse	5091	12	199	189	61	890	6442
Occupational Therapist	207	-	-	-	-	29	236
Optometrist	28	-	-	-	-	1	29
Pharmacist	122	-	-	-	2	5	129
Physiotherapist	299	-	-	-	4	33	336
Podiatrist	46	-	-	-	-	19	65
Radiographer	304	-	-	-	1	13	318
Speech and Language Therapist	111	-	-	-	-	18	129

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 5 staff are Black African, 2 are Chinese, 55 are Indian, 11 are Pakistani, 9 are mixed ethnic, 29 are Filipino, 3,217 are White and the ethnicity of 1,132 staff is unknown.

Not all the regulators publish information in relation to the ethnicity of their registrants. However, some information is available. For example, research has been commissioned by the General Medical Council ("GMC") 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 GMC 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 GMC processes tend to discriminate against certain groups of doctors. Further studies were carried out to investigate the meaning and significance of the findings. This further 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 GMC 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).

The General Chiropractic Council ("the GCC") collects data in relation to ethnicity and states that it has data for 79% of registrants across the UK. In its Annual Report and Accounts 2010 (at page 22 – www.gcc-uk.org), the GCC states that internal audits and decisions of the Investigating Committee and Professional Conduct Committee have not identified any evidence of discrimination on the grounds of ethnicity, although it is noted that numbers involved are too small to be statistically relevant.

Age

The Northern Ireland Health and Social Care Workforce Census of 31 March 2011 provides the following information in relation to the age profile of the health care professions workforce in Northern Ireland:

	<25	**25-29**	**30-34**	**35-39**	**40-44**	**45-49**	**50-54**	**55-59**	**60-64**	**65+**	**Total**
Medical and Dental	194	854	658	575	487	422	358	254	94	20	3916
Qualified Nursing and Midwifery	406	1656	2034	2222	2518	3134	2450	1185	353	54	16012
Dieticians	6	58	69	37	31	13	11	-	-	-	230
Occupational Therapists	39	194	165	140	111	70	80	14	6	0	819
Orthoptists	6	-	6	-	7	7	-	-	0	0	37
Physiotherapists	40	246	209	144	122	103	87	39	9	-	1001
Podiatrists	6	43	46	51	37	44	21	9	-	0	260
Radiographers	34	190	135	74	67	75	78	66	11	-	734
Speech and Language Therapists	10	93	89	56	68	49	50	10	-	0	426
Pharmacists	-	95	99	88	56	39	27	13	-	0	422
Clinical Psychologists	-	35	55	51	45	26	25	11	-	-	258
Dental and Dental Support	9	11	11	7	-	6	-	-	0	0	55
Optometrists	0	9	9	-	6	-	-	-	0	0	32

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 204 staff are in the age group 16-24, 1,235 in the age group 25-34, 1,186 in the age group 35-44, 1,290 in the age group 45-54, 507 in the age group 55-64 and 38 staff are over the age of 65.

Not all the regulators publish information regarding the age of their registrants. However, the General Chiropractic Council ("the GCC") collects data in relation to age and states that it has data for all registrants across the UK. In its Annual Report and Accounts 2010 (at page 22 – www.gcc-uk.org), the GCC states that internal audits and decisions of the Investigating Committee and Professional Conduct Committee have not identified any evidence of discrimination on the grounds of age, although it is noted that numbers involved are too small to be statistically relevant.

The Pharmaceutical Society of Northern Ireland in its Annual Report and Accounts 2010/11 provides a graphical depiction of the age profile of registrants in Northern Ireland. Most registrants appear to fall in the age range 26-35 (over 900), whilst the least appear to fall in the age range of 66-70.

Marital status

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the marital status of health care professionals employed in that Trust:

Profession	Married	Single	Other	Unknown	Total
Doctor	978	745	17	14	1754
Nurse	4053	2104	199	86	6442
Occupational Therapist	133	100	3	-	236
Optometrist	13	11	5	-	29
Pharmacist	66	61	2	-	129
Physiotherapist	206	123	7	-	336
Podiatrist	31	31	3	-	65
Radiographer	170	137	11	-	318
Speech and Language Therapist	88	40	1	-	129

The Northern Trust has also provided statistics in relation to the marital status of employees employed in the Trust as at January 2012:

Profession	Single	Married	Other	Total
Medical and Dental	43.1%	55%	2%	100%
Nursing and Midwifery	18%	78%	4%	100%
Occupational Therapist	31.6%	66.5%	1.9%	100%
Orthoptist	37.5%	62.5%	0%	100%
Pharmacist	51.1%	48.9%	0%	100%
Physiotherapist	31.1%	66.8%	2.1%	100%
Podiatrist	32.8%	60.9%	6.3%	100%
Radiographer	21.6%	76%	2.4%	100%
Speech and Language Therapist	29.9%	68.4%	1.7%	100%

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 1,081 staff are single, 3,131 are married and the marital status of 248 staff is unknown.

Sexual orientation

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the sexual orientation of health care professionals employed in that Trust:

Profession	Heterosexual	LGBT	Not disclosed	Total
Doctor	780	16	958	1754
Nurse	2235	61	4146	6442
Occupational Therapist	101	2	133	236
Optometrist	17	-	12	29
Pharmacist	47	1	81	129
Physiotherapist	149	6	181	336
Podiatrist	20	-	45	65
Radiographer	125	3	190	318
Speech and Language Therapist	72	1	56	129

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 1,580 staff are attracted to the opposite gender, 23 to the same gender, 1 is attracted to both genders and the sexual orientation of 2,856 staff is unknown.

Men and women generally

The Northern Ireland Health and Social Care Workforce Census of 31 March 2011 provides the following information in relation to the gender profile of the health care professions workforce in Northern Ireland:

Profession	Male	Female
Medical and Dental	2039	1877
Qualified Nursing and Midwifery	1064	14948
Dietician	-	228
Occupational Therapist	-	800
Orthoptist	-	34
Dietetic/Orthoptic/Speech and Language Therapist	11	-
Physiotherapist	126	875
Podiatrist	57	203
Radiographer	63	671
Speech and Language Therapist	-	421
Pharmacist	85	337
Clinical Psychologist	73	108
Dental and Dental Support	-	53
Optometrist	-	25

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 3,915 staff are female and 545 staff are male.

It appears that the regulators do not all publish data in relation to the gender profile of the registrants who face fitness to practise processes. The General Medical Council ("GMC") do publish such data, although it is collected on a UK-wide basis. For example, in 2009, the GMC Fitness to Practise Fact Sheet 2009 "Gender" provides a breakdown by gender of fitness outcomes. In relation to case examiner outcomes, 32% of decisions about female doctors resulted in no further action, 32% resulted in closure with advice, 12% resulted in a warning and 8% in undertakings. The remaining 16% resulted in a referral to a Fitness to Practise Panel Hearing. This represents 0.05% of all female doctors currently registered with the GMC. In relation to male doctors, 29% of case examiner decisions resulted in no further action, 28% resulted in closure with advice, 15% resulted in a warning and 6% in undertakings. The remaining 22% resulted in a referral to a Fitness to Practise Panel Hearing. This represents 0.2% of all male doctors currently registered with the GMC.

Fitness to Practise Panel Hearings in 2009 resulted in 73% of referred female doctors being found to be impaired and 74% of male doctors. Six female doctors and 62 male doctors were erased from the Register in 2009. This represents 0.01% of all female doctors with current registration in that year and 0.05% of all male doctors.

The General Chiropractic Council ("the GCC") collects data in relation to the gender and states that it has data for all registrants across the UK. In its Annual Report and Accounts 2010 (at page 22 – www.gcc-uk.org), the GCC states that internal audits and decisions of the Investigating Committee and Professional Conduct Committee have not identified any evidence of discrimination on the grounds of gender, although it is noted that numbers involved are too small to be statistically relevant.

The Nursing and Midwifery Council ("NMC") states in its Annual Fitness to Practise Report 2010-2011 (see page 13 – www.nmc-uk.org) that the collection of data in relation to age, gender, religion, ethnicity, sexual orientation and disability was commenced in 2009. As yet, there has been limited cross-reference to fitness to practise data. However, some information is available in relation to gender. In 2010-2011, across the UK, 3012 females were referred to the NMC (72% of referrals) and 986 males (23% of referrals). Out of a total of 506 interim orders made in 2010-2011, 67.19% were in relation to females and 32.81% in relation to males. Out of a total of 256 cautions, conditions of practice or suspensions imposed, 75% were made in relation to females and 25% in relation to males. Of the 198 registrants removed or struck off the register, 62% were female and 38% were male. It should be noted that 114 of the nurses or midwives complained about were from Northern Ireland, which is 2% of the total number of complaints received (see page 18 – www.nmc-uk.org).

The General Dental Council ("GDC") states in its Annual Report and Accounts 2010 that 22,215 male

and 16,164 female dentists are registered across the UK (see page 13 – www.gdc-uk.org). Where dental care professionals are concerned, 6,204 males and 51,000 females are registered across the UK.

The Pharmaceutical Society of Northern Ireland in its Annual Report and Accounts 2010/11 reports that 64% of registrants are female and 36% are male.

Disability

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of disability amongst health care professionals employed in that Trust:

Profession	**Disability – no**	**Disability – yes**	**Not disclosed**	**Total**
Doctor	1195	12	547	1754
Nurse	4373	86	1983	6442
Occupational Therapist	180	2	154	236
Optometrist	26	-	3	29
Pharmacist	93	-	3	29
Physiotherapist	264	4	68	336
Podiatrist	42	-	23	65
Radiographer	234	3	81	318
Speech and Language Therapist	100	1	28	129

The Northern Trust also provided information in relation to its workforce as at January 2012:

Profession	**Disability - no**	**Disability - yes**	**Not Known**	**Total**
Medical and Dental	66.5%	0.3%	33.2%	100%
Nursing and Midwifery	86%	1.3%	12.7%	100%
Occupational Therapist	88%	1%	11%	100%
Orthoptist	100%	0%	0%	100%
Pharmacist	89.4%	1.1%	9.6%	100.1%
Physiotherapist	82.1%	3.2%	14.7%	100%
Podiatrist	95.3%	0%	4.7%	100%
Radiographer	90.4%	2.4%	7.2%	100%
Speech and Language Therapist	88%	0.9%	11.1%	100%

Within the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 69 staff are living with a disability, 3,356 staff are not living with a disability and it is not known whether 1,035 staff are living or not living with disability.

Not all regulators publish data in relation to disability amongst their registrants. However, the General Chiropractic Council ("the GCC") collects data in relation to the disability and states that it has data for 79% of its registrants across the UK. In its Annual Report and Accounts 2010 (at page 22 – www.gcc-uk.org), the GCC states that internal audits and decisions of the Investigating Committee and Professional Conduct Committee have not identified any evidence of discrimination on the grounds of disability, although it is noted that numbers involved are too small to be statistically relevant.

Dependants

The Health and Social Care Trusts collect information regarding the section 75 profile of their staff. The following table, obtained from the Belfast Health and Social Care Trust in January 2012, provides a breakdown of the incidence of caring responsibilities amongst health care professionals employed in that Trust:

Profession	Adult Dependant	Child Dependant	Disabled Dependant	None	Not Known	Total
Doctor	17	355	2	522	858	1754
Nurse	174	1353	46	968	3901	6442
Occupational Therapist	6	49	4	57	120	236
Optometrist	1	6	-	13	9	29
Pharmacist	1	27	-	25	76	129
Physiotherapist	8	92	-	77	159	336
Podiatrist	1	14	1	10	39	65
Radiographer	6	53	3	75	181	318
Speech and Language Therapist	4	39	-	32	54	129

In the Southern Health and Social Care Trust, within the Medical and Dental, Nursing and Midwifery and Allied Health Professions, 1,184 staff have caring responsibilities whilst 3,276 staff either do not have dependants or it is not known whether those staff have caring responsibilities.

Needs, experiences and priorities

Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision? Specify details for each of the Section 75 categories.

Section 75 category	Details of needs/experiences/priorities
Religious belief	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people of differing religious beliefs. In relation to fitness to practise procedures and regimes, religious belief is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Political opinion	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people of differing political opinions. In relation to fitness to practise procedures and regimes, political opinion is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Racial group	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result any different needs, experiences or priorities for people from differing racial groups. In relation to fitness to practise procedures and regimes, racial grouping is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Age	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people of differing ages. In relation to fitness to practise procedures and regimes, age is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered. The policy also makes provision for witnesses who are required to give evidence at fitness to practise hearings. It is suggested that measures such as screening, the use of live video link, intermediaries and aids to communication, for example, be put in place to assist young witnesses to give their evidence. However, it is acknowledged that not all such young people will require such assistance.
Marital status	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators

	and their internal governance arrangements does not result in any different needs, experiences or priorities for people of differing marital status. In relation to fitness to practise procedures and regimes, marital status is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Sexual orientation	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people of differing sexual orientations. In relation to fitness to practise procedures and regimes, sexual orientation is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Men and women generally	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people of different genders. In relation to fitness to practise procedures and regimes, gender is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.
Disability	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people living with or without disability. In relation to fitness to practise procedures and regimes, the new policy foresees that disability is only to be taken into account if it is a factor which affects a registrant's fitness to practise. This is a change from the current position for some regulators which currently have a registration requirement of health and good character. A requirement of this nature has been criticised by the Disability Rights Commission in *Maintaining Standards: Promoting Equality* (2007). The policy also makes provision for witnesses who are required to give evidence at fitness to practise hearings. It is suggested that measures such as screening, the use of live video link, intermediaries and aids to communication, for example, be put in place to assist witnesses who are living with a disability to give their evidence. However, it is acknowledged that not all such witnesses will require such assistance.
Dependants	The policy is very technical in nature and is designed to streamline and improve the existing regulatory framework for the health care professions. Policy in relation to issues such as the public accountability of the regulators and their internal governance arrangements does not result in any different needs, experiences or priorities for people with dependants. In relation to fitness to practise procedures and regimes, having dependants is not a characteristic which is taken into account. Rather, it is the conduct and behaviours of registrants which are the relevant factors to be considered.

Part 2. Screening questions

1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 categories?

Section 75 category	Details of policy impact	Level of impact? minor/major/none
Religious belief	The Northern Ireland Law Commission does not consider that the policy has an impact on people of different religious belief.	None.
Political opinion	The Northern Ireland Law Commission does not consider that the policy has an impact on people who hold different political opinions.	None.
Racial group	The Northern Ireland Law Commission does not consider that the policy has an impact on people from different racial groups.	None.
Age	The Northern Ireland Law Commission considers that the policy has a limited impact on people of different ages. The policy in relation to measures for young witnesses who are required to give evidence at fitness to practise hearings recognises the particular difficulties that some young people have when giving evidence in formal settings, however the policy recognises that not all young people will experience these difficulties. In any event, the policy is entirely positive in effect as it offers witnesses valuable protection whilst giving evidence before such a hearing.	Minor.
Marital status	The Northern Ireland Law Commission does not consider that the policy has an impact on people of different marital status.	None.
Sexual orientation	The Northern Ireland Law Commission does not consider that the policy has an impact on people of different sexual orientations.	None.
Men and women generally	The Northern Ireland Law Commission does not consider that the policy has an impact on people of different genders.	None.
Disability	The Northern Ireland Law Commission considers that the policy has a limited impact on people who are living with a disability, in so far as "health" may form a reason why an individual is unfit to practise their profession. This approach is justifiable on the basis that unfitness to practise in these circumstances would only be	Minor.

	determined if that individual would pose a risk to public safety if he or she was to continue to practise. The policy in relation to measures for witnesses who are living with disability who are required to give evidence at fitness to practise hearings recognises the particular difficulties that some people have when giving evidence in formal settings, however the policy recognises that not all people who are living with disability will experience these difficulties. In any event, the policy is entirely positive in effect as it offers witnesses valuable protection whilst giving evidence before such a hearing.	
Dependants	The Northern Ireland Law Commission does not consider that the policy has an impact on people who have or do not have dependants.	None.

2. Are there opportunities to better promote equality of opportunity for people within the section 75 equality categories?

Section 75 category	If **Yes**, provide details	If **No**, provide reasons
Religious belief		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people of different religious beliefs.
Political opinion		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people of different political opinions.
Racial group		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people from different racial groups.
Age		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people of different ages.
Marital status		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people of different marital status.
Sexual orientation		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people

		of different sexual orientation.
Men and women generally		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people of different genders.
Disability		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people who are living with or without disability.
Dependants		The Northern Ireland Law Commission does not consider that this policy provides opportunities to better promote equality of opportunity for people who have or do not have dependants.

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?

Good relations category	Details of policy impact	Level of impact minor/major/none
Religious belief	The Northern Ireland Law Commission does not consider that this policy is likely to impact on good relations between people of different religious beliefs.	None.
Political opinion	The Northern Ireland Law Commission does not consider that this policy is likely to impact on good relations between people of different political opinions.	None.
Racial group	The Northern Ireland Law Commission does not consider that this policy is likely to impact on good relations between people of different racial groups.	None.

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Good relations category	If **Yes**, provide details	If **No**, provide reasons
Religious belief		No, the subject matter of this policy does not lend an opportunity to better promote good relations between people of different religious beliefs.

Political opinion		No, the subject matter of this policy does not lend an opportunity to better promote good relations between people of different political opinions.
Racial group		No, the subject matter of this policy does not lend an opportunity to better promote good relations between people from different racial groups.

Additional considerations

Multiple identity

Generally speaking, people can fall into more than one section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?
(*For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).*

The Northern Ireland Law Commission has considered the possibility that a person who falls into more than one section 75 category be affected by this policy. However, it does not consider that there are any potential impacts of the policy on people with multiple identities.

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant section 75 categories concerned.

Not applicable.

Part 3. Screening decision

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

The Northern Ireland Law Commission is of the view that it will not be necessary to conduct an Equality Impact Assessment in relation to this policy. This is because any impacts on section 75 groups are minor in nature or positive in effect. However, if consultees disagree with that intended approach or have additional information which would be helpful to the Northern Ireland Law Commission in this regard, consultees are encouraged to ventilate their views and share any further information.

If the decision is not to conduct an equality impact assessment the public authority should consider if the policy should be mitigated or an alternative policy be introduced.

The Northern Ireland Law Commission is content that because there do not appear to be any major or negative impacts on section 75 groups, the policy does not require to be mitigated against or to be replaced with an alternative policy. However, if consultees do not agree with this analysis, the Northern Ireland Law Commission would welcome their views.

If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.

Not applicable.

Mitigation

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

The Commission considers that because there does not appear to be any major or negative impacts on section 75 groups, the policy does not require to be mitigated against or to be replaced with an alternative policy.

Timetabling and prioritising

Factors to be considered in timetabling and prioritising policies for equality impact assessment

Not applicable

Part 4. Monitoring

The Northern Ireland Law Commission is not responsible for monitoring the effect of this policy as this role is the responsibility of the implementing Department.

Comments from interested parties in relation to this section 75 screening exercise are welcomed by the Northern Ireland Law Commission by **31st May 2012.**

Any comments should be sent to:

Clare Irvine
Principal Legal Officer
Northern Ireland Law Commission
Linum Chambers
2 Bedford Street
BELFAST
BT2 7ES

Tel: +44 (0) 28 9054 4860
Email: info@nilawcommission.gov.uk

This document can be made available in an alternative format or language. Please contact us to discuss how we can best provide a copy of this document which meets your needs.