

**Update and comment on the ongoing work
of the Federal Working Group
from the Lay Chair**

April 2007

As the Federal Working Group (FWG) has recently held its third meeting and is now one third of the way through the nine-month work timetable set out for the group, it seems an appropriate time for me to give an overview of the work of the group. Much has already been achieved and agreed through the hard work of the group. Many issues have been extensively considered but not yet fully agreed upon and a few general concerns have come to light which have also been discussed and are under ongoing consideration. Overall, I think there would be consensus amongst the group that through a concerted effort and the professional approach of the members, the work of the group is proceeding well.

At the initial stages, the group considered and agreed the terms of reference and working practices of the FWG. These included a commitment to the work of the group in exploring and creating a federal regulatory structure, although recognising that at the end of the process, it is up to each member whether they wish to sign up to the final agreed structure. It was also agreed that each member of the group come with decision making authority. On this point, one member did state that they were not able to agree to this principle. The time scale, to the end of September 2007 was also agreed, as was the practice of intra-meeting work being carried out by the members, via the process of Work Plans formulated by the project manager.

The group has fully considered and discussed various proposals concerning the structure of a federal regulatory system and has agreed the following;

A federal regulatory structure comprising an over-arching Federal Regulatory Council (FRC) and, as part of that structure, Profession Specific Boards (PSBs).

1. Profession Specific Board Roles & Responsibilities

In terms of the PSBs, the group agreed the following specific roles and responsibilities;

- Profession specific Education and Training entry standards and regular review of the same
- Profession specific Proficiency standards and regular review of the same
- Profession specific revalidation standards
- Profession specific Grand Parenting and Acquired Prior Experience & Learning (APEL) standards – with further discussion/decision on an agreed definition of Grand Parenting and processes relating to it
- Profession specific Continuing Professional Development (CPD) standards
- Profession specific National Occupational standards and/or core curricular

There was also initial consideration of a liaison role for the PSBs, which is the subject of further consideration.

2. PSB Structure

In terms of the structure of the PSBs, the FWG has agreed the following;

- An appointed Lay Chair and an uneven number of PSB members
- Further investigation of secretariat support and funding of the same
- A minimum of 5 members, including a Lay Chair

- There is no current agreement on maximum numbers and further work is being done around the possibilities of fixed or flexible maximum numbers, together with working practices (including possible co-opting) which, amongst other things, reflect the issue of diversity within professions.
- Generally it was agreed that further consideration needed to be given to a possible appointments process and the possible source of members for the PSBs
- PSB members have the status of Officers of the Regulatory Body.
- With the exception of one FWG member, it was agreed that the PSB would legally be a part of the Regulatory body and its working procedures and processes would be decided by the FWG and regulated by the FRC.
- Proposals for the legal form of the regulatory structure are to be considered in the future.
- A three-year term for serving PSB members.
- Officers of the PSBs (not the lay chairs) form part of a pool of potential (and most likely revolving) members for relevant FRC sub committees/panels such as Complaints/FTP, Appeals etc.
- Officers of the PSBs be remunerated for their attendance at meetings of the PSB and any relevant FRC Board.
- Quarterly meetings of the PSBs, at least initially.

3. FRC Roles & Responsibilities

In terms of the FRC, the group agreed the following specific roles and responsibilities;

- Guidance, oversight and audit of PSB functions
- Setting minimum generic CPD requirements and defining non-profession specific elements
- Complaints and Fitness to Practice (this was agreed with the exception of one member of the FWG)
- Appeals
- New Professions wishing to join the Regulatory structure

There was also initial consideration of the following areas in relation to the FRC, which are the subject of further ongoing consideration;

- FRC responsible for Finance, Legal and Administrative functions
- FRC responsible for Accreditation of Training Providers
- FRC responsible for setting insurance levels – on this point, consideration continues on whether this would be a role for the PSBs or the FRC and also around the terminology relating to possible “minimum or adequate” levels of insurance.
- Whether the FRC would act as the initial point of contact for all public/practitioner enquiries.
- Whether the FRC could serve as a facilitator of CRB checks
- FRC to be responsible for Multi Disciplinary Practitioners
- Registration of applicants to the Register and Validation of Evidence in support of applications

On this last point, the majority view emerging was that the PSBs, in consultation with the Professional Associations, and based on standards criteria set by RWGs, initially identify the criteria, standards, training institutions etc but that the centralised function (the administration of the system) be carried out by the FRC.

This would be done with further assistance from the PSBs, should any relevant profession specific queries be raised by the FRC. This is now subject to further work.

It was agreed that the FRC be subject itself to external audit and the consideration of how this might be fulfilled continues.

One other area that has received consideration and on which work is ongoing is the issue of the level of registration fees.

4. The next FWG meeting

The next meeting of the FWG will be considering the specifics around the structure of the FRC, possible appointments procedures (for members of FRC and PSBs) and various aspects relating to procedures concerning these areas. It will also be considering how the administrative role of the FRC in relation to Registration and Validation of Evidence might work in practice.

5. The distinction between Regulation and Representation

There has been much discussion on the exact relationship between the PSBs and the FRC and the structure and processes relating to the same, which has reflected obvious concern around whether the Professions would lose any autonomy. This has further reflected, on occasion, a blurring of the understanding and distinction between Regulation and Representation. As this is such a fundamental and important issue, I think it is worthy of further comment here.

In terms of developing regulatory structures, a **regulatory body** can be defined as primarily existing to protect the public and with the responsibility for the registration and regulation of practitioners. It does this by establishing codes of practice, ethical guidelines and, when necessary, enforcing disciplinary sanctions on practitioners. It sets standards of education that ensure that all practitioners are safe and competent to practice for the protection and safety of patients and the public.

A **representative body** (or professional association) can be defined as acting in the interests of its members. The body may aspire to the highest standards and widest scope of practice, beyond that which is adequate to ensure 'safe practice'. It also exists to promote the profession, and often provides training, CPD courses and professional indemnity insurance. It also exists to support practitioners in any dealings with the disciplinary committee of a practitioner's regulatory body.

In establishing PSBs, which are an integral part of the FRC and regulatory structure and by already having agreed that the PSBs have the role and responsibility for profession specific standards of education, CPD, Proficiency, Grand Parenting and APEL (and ongoing review of the same), any fears concerning "ownership" of the practice of the respective professions should now be allayed. This is further highlighted by the work that is currently being done by the RWGs in establishing profession specific standards etc.

Discussion has also been had on the need for the (as yet to be determined) working practices of the PSBs and FRC, via standing orders and rules and procedures etc, to fully reflect this position. Work is continuing on this and it will, amongst other things, specifically consider the need to establish procedures which recognise that any changes made in the future concerning profession specific issues are made with the full involvement of the PSBs. These would obviously be in consultation with the respective professions, ensuring all variants of the practice were included.

I think it has been important for me to focus on this point for an additional reason, as there has also been concern about how a Federal Regulatory Council might be constituted and who might sit on this FRC. This point is currently under consideration and there are various choices that have been set out for consideration.

Again, underlying this must be recognition of the difference between Regulation and Representation. Once this is established, it also seems clear that it is not necessary for the make up of the FRC to include any specific PSB or Profession. I know this is currently a matter of concern to some but I feel it is time to move away from any assumption that the work and final aim of the FWG is in any way about representation or about one profession above another. It is time to fully recognise that the work and aim of the FWG is entirely about regulation and about all of the professions together. The end result is the protection of the public and by achieving a Federal Regulatory Structure which achieves this, and by association, achieves an enhanced level of credibility and professionalism in the eyes of the public, it is also the practitioners who will greatly benefit from this. It is by all of the FWG members and the professions working together that these mutual benefits will be brought to fruition.

From the excellent work done thus far by the FWG and the Regulatory Working Groups, I believe we are moving towards this and my thanks go out to the members of the FWG for their continued hard work and commitment to this end goal.

Professor Dame Joan Higgins
Lay Chair, Federal Regulatory Working Group

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