

## **Regulation of health care professionals: Law Commission consultation**

John Williams of Bankside Law has assisted his client the United Chiropractic Association [UCA] in its response to the Law Commission's consultation process for reform of health care professionals. He attended a Discussion Forum in October last year at the Law Commission's offices on behalf of the UCA, and assisted with the drafting of the UCA's written response to the Law Commission's consultation document in June 2012. Representations from the UCA included the following:-

- A welcome for the proposal for a single Act of Parliament to regulate all health care professionals.
- A welcome for the proposal of the involvement of the House of Commons Health Committee and devolved assemblies in health care regulation where a regulator has failed or is likely to fail to perform any of its functions.
- A recommendation that a duty of the health regulator in any Act should include "the development of the profession".
- Concern over proposals to grant powers to merge or abolish existing regulators or that Chiropractors would be forced to accept regulation by regulators for other health professions who may not appreciate the philosophy and practices of chiropractors.
- A welcome for the adoption of a single test for 'fitness to practice' across all health professions.
- Opposition to the proposal that a health regulator can investigate a matter without a complaint from a member of the public.
- A recommendation that greater powers be exercised by health regulators to encourage mediation between complainants and health professionals without having to proceed to formal and expensive disciplinary proceedings, unless the allegations are serious and involve issues of public protection.
- A welcome for the principle of greater independence between Fitness to Practice Panels and the health regulator.
- A recommendation that in view of the potential seriousness of disciplinary proceedings to a health professional's vocation, qualifications, career, livelihood and indeed for any employees of the health professional the criminal standard of proof and rules of evidence should apply.
- Strong opposition to proposals for financial penalties and costs awards in disciplinary proceedings involving health professionals. We made the point that some health care professionals are poorly paid, financial penalties run counter to accepted sanctions policies which set out that the function of sanctions is not to punish and financial penalties are likely to achieve little if the aim is to ensure fitness to practice for the health professional for the future. Costs awards are likely to be the subject of extensive legal challenge which will involve unnecessary time and money which the healthcare professionals will end up paying for in any event through increased insurance premiums or registration fees.
- Opposition to a proposal for a right of appeal of the regulator which is unnecessary in view of the powers already conferred on the CHRE.

John Williams commented

*"This Law Commission consultation is important for all health care professionals as it could shape the future of health care regulation for years to come. I am sure that, if the Act and the procedures it*

*introduces provide for the promised greater accountability of regulators to its health care professionals it will be welcomed. There has been concern expressed by various health professionals over recent years that over regulation has resulted in expensive and defensive health provision which may not ultimately be in the public interest. I anticipate that many of my clients who are chiropractors, doctors or other health professionals will hope that the outcome of this consultation may redress what they see as an imbalance over the past 10 years. The UCA is to be congratulated for its continued contribution to the debate on health care regulation and the active stance it takes in ensuring that its members have a voice and engage with both its regulator and those who govern the regulators.”*