

NMC response to the Department of Health consultation on changes to how the Professional Standards Authority (PSA) is funded

Overview.....	1
Comments on the consultation	2
Functions to be funded by the levy	3
Governance and oversight of the PSA budget.....	3
The costs of regulation for the PSA	4
Methodology for determining the levy	5
Why change the funding model now?	7
Timeframe for implementation	7
The financial impact on the NMC and our registrants	8
Alternative options	8
Equality impact	9
Conclusion	9
Annex A - Feedback on the Impact Assessment	10

Overview

- 1 This response sets out our views on the Department of Health’s (‘the Department’) proposals¹ for future funding of the PSA.
- 2 We are the Nursing and Midwifery Council (NMC), the statutory regulator for nurses and midwives in the UK. We exist to:
 - protect the health and wellbeing of the public;
 - set standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare consistently throughout their careers; and,
 - ensure that nurses and midwives keep their skills and knowledge up to date and uphold our professional standards.
- 3 We hold the register of those who have qualified and meet those standards. If an allegation is made that a registered nurse or midwife is not fit to practise, we have a duty to investigate that allegation and, where necessary, take action to safeguard the health and wellbeing of the public.
- 4 We are funded almost entirely by mandatory fees paid by registered nurses and midwives.

¹ <https://www.gov.uk/government/consultations/changes-to-how-the-professional-standards-authority-is-funded>

- 5 We have concerns about both the nature of the consultation and the proposed funding approach as detailed below. We strongly urge the Department to reconsider their preferred approach and propose a revised approach that is fairer, more proportionate and feasible. It should be based on a regulator's income, ability to pay and the actual costs of the PSA's oversight activities in relation to each regulator, and be subject to appropriate safeguards over public expenditure.

Comments on the consultation

- 6 We are unclear how the Department has arrived at its preferred option given that the consultation document lacks detail and supporting evidence and fails to fully explore any alternative options. This is not helped by various inconsistencies in the impact assessment and the absence of a full equality impact assessment. This has affected the extent to which we can fully assess the impact of the proposals and any alternatives.
- 7 We do not believe that the Department's proposal is exempt from the One In Two Out (OITO) assessment (see Annex A below) and would be mindful that the consultation documents and impact assessment as they are may present difficulties for the Department in securing the appropriate approvals from the Regulatory Policy Committee and Reducing Regulation Committee.
- 8 We note the ruling in a recent Supreme Court case² where a public body had failed to identify, or explore in any detail, any reasonable alternatives to the proposed way forward, or provide sufficient detail to explain or justify the preferred option. The Supreme Court therefore held that the public body's consultation was "...unfair and therefore unlawful"³.
- 9 The PSA's primary role is to promote the interests of the public in overseeing the work of the professional regulators. We therefore consider that the costs of funding the PSA should be met from general taxation.
- 10 However, we recognise that the Health and Social Care Act 2012 provides for the PSA to be funded by a levy on the professional healthcare regulators. We note that it is almost five years since the 'Liberating the NHS' review which recommended that the need for the functions undertaken by the PSA (then CHRE), should be kept under review. We would suggest that such a review should be conducted before moving forward with any future funding arrangements. If not we would welcome an indication from the Department as to when it envisages such a fundamental review would take place.
- 11 We would highlight that there is an ongoing review to determine how PSA will conduct its performance reviews in the future for maximum effect and efficiency. That will ultimately determine how much cost is involved for the PSA in overseeing the professional regulators. We would therefore urge the Department to wait for that review to complete as it could result in a significant impact on a new funding model, and therefore the professional regulators' costs.

² R (on the application of Moseley) v London Borough of Haringey [2014] UKSC 56 - https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0116_Judgment.pdf

³ Paragraph 31 - https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0116_Judgment.pdf

Functions to be funded by the levy

- 12 It is vital to ensure that should the professional regulators be required to pay a levy to fund the PSA, that we only pay a levy to cover the costs of the PSA in overseeing us and that this is affordable for each regulator and does not place an undue financial burden on our registrants. It is important to make sure there is appropriate oversight of those PSA functions and the levy required to fund them, in order to ensure the levy does not escalate without control. We expect the same rigour and accountability that applies to our fee changes to apply to the PSA levy. The PSA's functions are defined in their governing legislation⁴ which the consultation document identifies in tables 1 and 2. We would not support any funding of the functions set out in table 2 through the levy on professional regulators.
- 13 We have a number of questions regarding table 1 before we may confirm our view on whether it is appropriate for the levy on professional regulators to pay for those functions. In particular, s.26(1) and (2) of the Health Service Reform and Health Care Professions Act 2002 allows the PSA to 'do anything which appears to it to be necessary or expedient for the purpose of or in connection with the performance of its functions in relation to the regulatory bodies'. This has the potential to allow the scope and budget of the PSA to expand (along with any proposed levy), so would not agree to this without the inclusion of an effective governance and oversight framework.
- 14 We are aware that the PSA uses the same staff, infrastructure and other resources to perform the range of activities in both tables 1 and 2 of the consultation document. We would therefore expect to see absolute transparency and clarity over how the functions set out in table 1 are costed and how those in table 2 are financed to ensure full cost-recovery and eliminate any risk of cross-subsidy. This in itself will require the production of the more detailed management information which would in turn enable a more proportionate approach to be developed for the determination of the share of the costs to be met by each regulator.

Governance and oversight of the PSA budget

- 15 The consultation document is silent on how the regulators can be assured that appropriate accountability and proportionality will be exercised in relation to the PSA's work and budget. We are aware that the levy will be determined periodically by the Privy Council and that it is intended that there will be some consultation with regulators before any such determination is made.
- 16 We would welcome more information and assurance about how this will operate in practice. We would expect to see a clear governance framework put in place to enable the professional regulators to exercise appropriate influence over, and make representations about, the PSA's strategy, business plans and budget proposals (in so far as these relate to its oversight activities). As a matter of good governance we would expect this to include:

⁴ The Health Service Reform and Health Care Professions Act 2002, as amended by Health and Social Care Act 2008, and Health and Social Care Act 2012.

- 16.1 appropriate scrutiny of PSA activities to assure the regulators that the oversight activities undertaken by the PSA are proportionate, consistent with right touch regulation, add value and help deliver measurable improvements to professional regulation for the benefit of patients and the public.
 - 16.2 arrangements to ensure that the PSA is able to demonstrate value for money.
 - 16.3 agreed mechanisms for regulators' views to be taken into account before determination of the overall funding level and resultant levy on an annual basis.
 - 16.4 provision for appropriate recourse should one or more of the regulators consider that insufficient account has been taken of their views.
- 17 An example from another industry of a comprehensive governance structure that could inform the Department's thinking could be from the Smart Energy Code, whose governance is performed by the Smart Energy Code Company⁵. Here, safeguards are built into the regulatory and funding models, for example through a disputes resolution panel and mandatory audit requirements.

The costs of regulation for the PSA

- 18 The consultation documents do not include any breakdown of the PSA's costs in relation to the functions set out in table 1; nor is any such breakdown available from the PSA's annual accounts⁶ or public financial monitoring reports currently scrutinised by the PSA Board. Accordingly, it is not possible to ascertain the actual sum to be apportioned using the proposed funding formula nor, as indicated above, to be assured that there is no cross-subsidy of PSA's other activities. We expect robust mechanisms to be put in place to ensure that the costs to be met are subject to appropriate budgetary discipline.
- 19 It is unclear what funding the Department and the devolved administrations will continue to provide to support the PSA's non-oversight functions, for example in relation to the accreditation of voluntary registers. The impact assessment suggests that there will be no continued cost to government: this is at odds with the proposal that the fee from professional regulators will only fund the oversight activities as set out in table 1, and our understanding that the PSA's other activities are not currently fully self-funding. We would welcome assurance from the Department that the costs of such activities will not fall upon the regulators.
- 20 We note that a requirement to pay the levy in advance could result in an accrual of surpluses by the PSA. We would suggest that a mechanism needs to be put in place to ensure that any end of year surplus would be returned to the regulators or carried forward to the following year with a subsequent reduction in the levy. We also note that the proposals are silent on what would happen in the event of a deficit and seek assurance that regulators would not be expected to meet unauthorised overspends.

⁵ <https://www.smartenergycodecompany.co.uk/home>

⁶ <http://www.professionalstandards.org.uk/about-us/annual-reports>

Methodology for determining the levy

- 21 The Department's preferred option, although easy to understand, is disproportionate in transferring almost half the costs of funding the PSA to the NMC and therefore the nurses and midwives we regulate who provide our funding. It is also unfair in that it does not reflect equitably the extent of oversight activity undertaken by the PSA in respect of each regulator. The PSA's costs, like ours, are driven by the regulatory activity that they undertake. The PSA delivers the same regulatory oversight functions to each of the regulators. The size of the register does not have an impact on the core oversight functions with the exception of section 29 cases that the PSA opt to review.
- 22 We consider that in devising a fairer and more proportionate approach account should be taken of:
- 22.1 the regulator's income; and
 - 22.2 the costs of the oversight functions exercised in respect of that regulator.
- 23 The NMC's income is low compared to the volume of regulatory activities we undertake, showing we are able to regulate efficiently. Based on the proposed approach, the PSA levy would amount to a significantly higher percentage of our income than for all other regulators, except the Health and Care Professions Council.
- 24 The table below shows each regulator's registrant numbers and the resource required to fund the levy using the preferred option, based on the latest available information. This shows the significant financial disadvantage to the NMC and our lower paid registrants in relation to better resourced regulators with better paid registrants. The burden of meeting these additional costs has significant implications for our ability to fulfill our statutory duties as discussed in our recent registration fees consultation materials⁷.
- 25 As an example, the GMC's register is less than half the size of ours but the PSA appealed more final fitness to practise decisions to the High Court than they did for us in 2013-14⁸. By contrast, the GMC also generates almost 45 per cent more than us in registration fees as shown from the latest available information, but would pay over £1 million less than us in a levy under the Department's preferred option. All other regulators (except the HCPC) would use approximately one per cent or less of their fees income (significantly less in some cases) to fund the PSA levy; we by contrast would have to use over two and a half per cent of our fees income to fund the levy, making it significantly more onerous for us.

⁷ <http://www.nmc-uk.org/Get-involved/Consultations/Fee-consultation/>; Item 7 – paper NMC/14/89 - Outcome of consultation and decision on the registration fee level - <http://www.nmc-uk.org/Documents/CouncilPapersAndDocuments/Council%202014/October%20Council%20Open%20Papers%20October%202014.pdf>

⁸ Page 38 - <http://www.professionalstandards.org.uk/docs/default-source/scrutiny-quality/performance-review-report-2013-2014.pdf?sfvrsn=0>

Table 1: the disproportionate costs of the proposed PSA levy

Regulator	Number of registrants ⁹	% of total registrant population	Income from registration fees	% of combined registration fee income of all regulators	Cost to PSA of oversight	% of PSA oversight costs	Potential levy on regulator under proposal (assuming a combined levy of £3.6m)	Levy proposal as a % of regulator fee income (assuming a combined levy of £3.6m)
General Chiropractic Council	2,959	0.20%	£2,098,500 ¹⁰	0.88%	n/k	n/k	£7,236	0.34%
General Dental Council	103,765	7.05%	£32,783,000 ¹¹	13.79%	n/k	n/k	£253,764	0.77%
General Medical Council	259,826	17.65%	£90,651,000 ¹²	38.14%	n/k	n/k	£635,422	0.70%
General Optical Council	24,421	1.66%	£5,739,000 ¹³	2.41%	n/k	n/k	£59,723	1.04%
General Osteopathic Council	4,810	0.33%	£2,732,086 ¹⁴	1.15%	n/k	n/k	£11,763	0.43%
General Pharmaceutical Council	71,221	4.84%	£14,912,000 ¹⁵	6.27%	n/k	n/k	£174,176	1.17%
Health and Care Professions Council	322,037	21.88%	£25,141,000 ¹⁶	10.58%	n/k	n/k	£787,563	3.13%
Nursing and Midwifery Council	680,858	46.25%	£62,772,000 ¹⁷	26.41%	n/k	n/k	£1,665,083	2.65%
Pharmaceutical Society of Northern Ireland	2,155	0.15%	£850,519 ¹⁸	0.36%	n/k	n/k	£5,270	0.62%
	1,472,052		£237,679,105				£3,600,000	

26 The Department's preferred option is therefore a crude and disproportionate means of deciding who pays what to the PSA. Given the absence of a breakdown of PSA's costs, we have been unable to provide figures on the costs of oversight per regulator incurred by the PSA in the table above.

⁹ Page 37 - <http://www.professionalstandards.org.uk/docs/default-source/scrutiny-quality/performance-review-report-2013-2014.pdf?sfvrsn=0>

¹⁰ Page 37 - <http://www.gcc-uk.org/UserFiles/Docs/Annual%20Report%202012%20FINAL.pdf>

¹¹ Page 43 - <http://www.gdc-uk.org/Newsandpublications/Publications/Publications/GDC%20AR%202013%20FINAL%20WEB.pdf>

¹² Page 69 - http://www.gmc-uk.org/Annual_report_2013.pdf_57177544.pdf

¹³ Page 62 - 2012/13 annual report - https://www.optical.org/en/news_publications/Publications/annual_reports_archive.cfm

¹⁴ Page 19 - http://www.osteopathy.org.uk/uploads/gosc_annual_report_2013-14.pdf

¹⁵ Page 43 - http://www.pharmacyregulation.org/sites/default/files/annualreport/GPhC_Annual_report_2013-14_English.pdf

¹⁶ Page 27 - <http://www.hcpc-uk.org.uk/assets/documents/10004777Annualreport2014.pdf>

¹⁷ Page 47 - http://www.nmc-uk.org/Documents/Annual_reports_and_accounts/Annual%20Report%20and%20Accounts%202012%20-%202013%20and%20Corporate%20Plan%202013%20-%202016.pdf

¹⁸ Page 54 - <http://www.psn.org.uk/wp-content/uploads/2012/10/Pharmaceutical-Society-NI-Annual-report-2013-14.pdf>

- 27 We note that in the preferred option, the levy is determined by the number of registrants a regulator has but nowhere is the number of registrants in the proposal defined. Would it be the number of registrants on a particular given day (which would be subject to serious fluctuation at different times of the year, such as upon completion of approved courses at University, therefore having significant cost fluctuations), an average over a period of time (if so, what), based on people or registrations (some people have multiple registrations), who is responsible for determining this, who is responsible for specifying the number – what would it be based on (registers, annual reports or something else)? Clarification is needed.
- 28 Also, as payment is required in advance, we believe 15 days' payment terms are unreasonable and should be 30 days in line with the accepted payment terms for suppliers.

Why change the funding model now?

- 29 We accept that legislation is already in place regarding funding the PSA through a levy on the professional healthcare regulators. However, we would have expected to see evidence in the consultation to demonstrate that now is the appropriate time to use that legislation. Most nurses and midwives are lower paid than other professions and subject to pay restraint. Without a Law Commission Bill we have had no option but to pass the rising costs of fitness to practise on to our registrants.
- 30 We will have no option but to pass on this cost to our registrants having already made the difficult decision to increase our registration fee from £100 to £120 from February 2015. We set the fee at the absolute minimum it needs to be, which is the direct cost of regulation for us and all of our activities, so believe it is disingenuous to suggest in the consultation that regulators would not be forced to transfer the costs of the levy onto registrants, and that it would be possible to absorb the costs. We have already committed to making over £50m of efficiency savings by 2016-17; there is no further scope to make savings without adversely affecting or progress with fitness to practise¹⁹.
- 31 We, along with the other regulators, are rightly expected to demonstrate value for money in regulation to the fee payer. If we are to fund almost half of the PSA's oversight activities, we must be satisfied that our oversight helps us to improve and that this represents value for money.

Timeframe for implementation

- 32 The proposed timescale for implementation from 1 April 2015 is unreasonable as it does not allow sufficient time to enable us to reflect on the outcomes of this consultation and if required to consult on a further increase in the registration fee to fund the levy in the first year. Given it takes almost 12 months to consult on and secure a fee increase and a further 12 months for the full effect of that fee income to be realised, any implementation date should be from April 2016 at the earliest. If

¹⁹ <http://www.nmc-uk.org/Get-involved/Consultations/Fee-consultation/> ; Item 7 – paper NMC/14/89 - Outcome of consultation and decision on the registration fee level - <http://www.nmc-uk.org/Documents/CouncilPapersAndDocuments/Council%202014/October%20Council%20Open%20Papers%20October%202014.pdf>

not, the effect is that we will have to divert planned budgetary spend in 2015-16 to meet the levy at the expense of our fitness to practise activities, risking an adverse impact on our performance.

The financial impact on the NMC and our registrants

33 As the largest of the professional healthcare regulators the Department's proposal would place a disproportionate burden on us, and would mean that we would be almost certain to cross-subsidise the other regulators. Funding almost half of the PSA's oversight activities could cost the NMC in the region of £1.7 - £3.9m a year (which equates to £2.63 - £5.73 per year per nurse or midwife) for the next ten years as set out in the summary analysis on pages 3 and 4 of the impact assessment.

Alternative options

- 34 We note that the consultation provides no evidence to support the preferred methodology and concludes that there is insufficient management information available to develop other proposed methods for apportioning costs. As discussed above, such information will necessarily be required to meet the stated aim of no cross-subsidy. The absence of such alternatives would seem to be at odds with government best practice guidance set out in HM Treasury's Green Book²⁰ or the better regulation framework²¹.
- 35 The consultation makes no mention of the PSA's preferred option which was presented to the Department in July 2010²² to include income and registrant numbers in the allocation methodology. We are unclear why the Department has discounted this option.
- 36 We believe a number of viable alternative options for fairer and more proportionate funding of the PSA exist and have not been considered. We therefore urge the Department to undertake a full analysis and consult on the following options.
- 36.1 Funding via a levy based on the PSA's preferred option presented to the Department in July 2010;
 - 36.2 Funding via a levy based on a flat rate paid by each regulator to the PSA;
 - 36.3 Funding via a levy based on the income of, and therefore affordability for, each regulator;
 - 36.4 Funding via a levy based on an end of year invoice from the PSA to the regulator, or an advance flat fee with year end adjustments. This would require the PSA to record the costs of their oversight activities in relation to that regulator undertaken over the year and have the added advantage of

²⁰ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

²¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf

²² The PSA paper 'Summary of responses to the CHRE paper detailing options for the apportionment of the statutory levy' sets out the PSA's preferred option ('method C') is an aggregation of combining the number of registrants a regulator has as a percentage of the registrant population with the fee income they receive as a percentage of all regulators. They noted this would be less simple but more proportionate.

enabling value for money comparisons to be made with similar activities provided by other suppliers;

A fuller consultation might also usefully address:

- 36.5 Paying any levy in instalments or upon completion of services, not in advance; and,
- 36.6 An appropriate governance framework to accompany any levy and any disputes that may arise.

Equality impact

- 37 Moving the funding for the PSA from government to the registrants will transfer costs from general public tax payers to registrants who are tax payers. This again means the policy objective of saving the taxpayer money is not met.
- 38 Our data shows that 90.62% of registered nurses and midwives are female, meaning a detrimental and disproportionate impact on a group classified as a protected characteristic under the Equalities Act.
- 39 The Department has an equality duty as set out under the Equalities Act 2010 and we cannot see that due consideration has informed the assertion that this proposal has no equality impact. It is not clear that an equality impact assessment has been undertaken: we request sight of this or that the Department undertakes a full equality impact assessment before any further progress is made with the proposal.

Conclusion

- 40 We strongly disapprove of the Department's preferred option (and the legal drafting that would bring effect to it) for implementing a levy on the professional regulators in order to fund the PSA. The supporting evidence and rationale are inadequate. We believe the proposed way forward is untimely and unfair.
- 41 We believe the impact assessment is compromised and that potential equality impacts have not been given due consideration. We also consider that the OITO criteria must apply to the Department's proposal given the direct impact on our business and the burden it will place on us and our registrants. Our registrants will be unduly affected by the proposed changes and we will be forced to either raise the registration fee or reduce fitness to practise activities (compromising our effectiveness and public protection) to pay the proposed levy. This in turn will impact on our annual performance review with the PSA.
- 42 We urge the Department to pause and reconsider. Any new proposal should be based on a regulator's income, ability to pay and the actual costs to the PSA of performing its oversight functions to that regulator. The current consultation and supporting documents are therefore not fit for purpose.

Annex A - Feedback on the Impact Assessment

- 1 We have a number of concerns with the impact assessment. These are set out in turn below.
- 2 Pages 3 and 4 – summary analysis of policy options 1 and 2. The low cost estimate of the total levy for regulators to pay is £3.9m per year, with the high cost potentially up to £8.5m per year and a best estimate of £5.8m per year. Under the proposed model this will mean the NMC paying an annual levy of between £1.7 - £3.9m (or £2.65 - £5.74 per nurse or midwife per year), which is hugely disproportionate against the resources required by PSA for their NMC oversight functions, and current funding provided by the Department and devolved administrations.
- 3 The figures provided in the impact assessment are also inconsistent with the PSA's current funding level of £3.2m per year for all activities as set out in the PSA 2013-14 annual accounts²³ without any explanation as to why. It also appears that these figures do not include regulators' costs in set up, administration, lost interest on our investment, or PSA costs awarded in s.29 cases. As an example, we currently receive a return on our investments of 1-1.5%; should we be required to pay an annual levy of between £1.7 - £3.9m, it would mean a loss on returns from investing that money of £18k - £58.5k per year. That is the equivalent of 150 – 488 registration fees.
- 4 Page 6 – alternatives to regulation. The impact assessment states the cost savings that will be accrued by the Department justify intervention and not using alternatives to regulation. As stated above, whilst there may be a saving to the public purse for all taxpayers, the proposed option it is not a saving in itself and therefore not a real benefit as the cost burden will still be borne by those taxpayers, i.e. registrants, who will face a larger burden under the proposal. The impact assessment includes no actual cost savings from the exercise, only a transfer of costs. It could have been expected that the Department would have cited management savings from not having to administer overall PSA funding allocation but the impact assessment is silent so we assume there are none. We also note that the Department and devolved administrations will incur continuing costs under the proposal to fund non-oversight functions of the PSA and resources to progress legislative change brought forward by the PSA. We are therefore unclear on why no continuing costs to government are listed in the impact assessment.
- 5 Page 7 - alternatives to regulation. The impact assessment sets out that a fee structure in legislation will help ensure consistency in the amount of the levy to be paid. Whilst this may mean there is an ongoing duty to pay a levy, the preferred option combined with the lack of PSA budgetary oversight and accountability is exposed to resulting in variation year on year, meaning uncertainty for the regulator and a hindrance to resource management and financial planning which could affect performance. We would welcome evidence of variation testing / financial modelling against variables such as increasing s.29 cases to demonstrate that the preferred option is resilient to varying factors and would achieve a

²³ Page 54 – Net Operating Costs - <http://www.professionalstandards.org.uk/docs/default-source/annual-reports/the-authority-annual-report-and-accounts-2013-2014---english.pdf?sfvrsn=0>

consistent levy fee per regulator. No such assurance has yet been provided, indeed no breakdown of variables, their costs or the costs of functions carried out by the PSA has been provided.

- 6 Pages 7 and 8 – options 2 and 3. The impact assessment notes there is insufficient management information to work out the costs and benefits involved in option 3, so it is not considered viable. This is not a reason to exclude it; information could have been gathered during the consultation exercise to help make an assessment.
- 7 In addition, the impact assessment avoids calculating the potential lost tax revenues due to the financial impact on registrants as there are too many professions and too many possible tax codes. Open information is available to assess this – for example on the government careers service website²⁴ where an average salary for a professional (mid point of the band) could be placed into a correlating tax band without the individual's code. The results could then be a best estimate with a variance for low and high estimates.
- 8 This lack of assessment is inconsistent with the approach taken within the wider impact assessment. For example, compare this to the detailed assessments made in paragraphs 30-34 of the impact assessment. The impact assessment therefore presents an inconsistent and incoherent argument and approach which raises questions as to its credibility. This effectively means that the Department is proposing to place the cost and impact on registrants without working out what those impacts are.
- 9 Paragraph 18. Section 29 cases are cited as a key driver of PSA costs; if this is the case, we would welcome a breakdown as to what those costs are as no evidence has been provided. For example, what is the effect on s.29 costs of the £60,000 costs recovered by the PSA in 2013-14²⁵? Would such cost recovery stop if all activities were funded by regulators? If so, unless directly billed to the individual regulator as part of their Levy (which could only be retrospective, not paid in advance as the consultation proposes) this would be a direct example of cross subsidisation which the policy objective and the HMT publication 'Managing Public Money' aim to prevent.
- 10 Table 3. This estimates the NMC will be paying a levy of over £3m in the best case scenario by year 7. In considering the discount in table 6 which brings the actual cost down, this is something of a misrepresentation. Even if the actual cost is less due to discounting factors, the only way we could generate the increased amount to be paid would be to increase the registration fee, giving another direct impact of the option on registrants. £3m per year equates to c. £4.50 per registrant (3.75% of our proposed £120 annual registration fee). The estimate figures throughout the impact assessment vary a great deal; again this raises questions of credibility and how the proposal allows us to assess the cost of the levy, or budget, with any degree of certainty.

²⁴ <https://nationalcareersservice.direct.gov.uk/advice/Pages/default.aspx>

²⁵ Page 63 - <http://www.professionalstandards.org.uk/docs/default-source/annual-reports/the-authority-annual-report-and-accounts-2013-2014---english.pdf?sfvrsn=0>

- 11 Paragraph 37 – one-in, two-out assessment (OITO). We do not believe that the proposed funding model and accompanying legislation is exempt from OITO; we believe the NMC and other regulators come under the definition of a business set out on pages 4, 85 and 86 of the Better Regulation Framework²⁶. So, to say any impacts on business will be “entirely indirect” is incorrect; there will be a direct impact on regulators of between £3.9m - £8.5m per year as set out in the summary tables on pages 3 and 4 of the impact assessment.
- 12 Page 16 – Annex A. There is no breakdown of costs associated to each function for PSA. This is currently missing and some totals in the impact assessment use the total budget for the PSA²⁷ at present which include non-regulatory oversight functions that regulators would not fund under the preferred option. This is an underlying flaw in the impact assessment which means it does not represent a realistic view for us to base our assessment of impacts on accurately. The impact assessment is therefore compromised.
- 13 Page 18 – Annex B, paragraph 44 and table B1. We believe there are inaccuracies in table B1. Paragraph 44 states that the cost of administering the new funding model will require PSA to recruit an additional member of staff, and that there will be transitional costs for the regulators to incur. Table B1 sets these out, it is unclear that the new staff member costs are shown in the table or accounted for in the annual budget of the PSA. We therefore do not know what the anticipated cost will be that we will be required to fund, so again cannot fully cost the impact to the NMC.
- 14 The figures in table B1 are also listed in different volumes. The transition costs are in thousands, indicating transition will cost regulators just £8 collectively (we presume this is an error to be clarified), the transition benefit column is in single pounds, and the final two columns are in millions of pounds. This lack of clarity and unknown costs again illustrate the poor credibility and robustness in the impact assessment.

²⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf

²⁷ PSA annual accounts 2013-2014 – net operating costs total – page 60 - <http://www.professionalstandards.org.uk/docs/default-source/annual-reports/the-authority-annual-report-and-accounts-2013-2014---english.pdf?sfvrsn=0>