

The Statutory Regulation of the Acupuncture Profession

The Report of the Acupuncture Regulatory Working Group

September 2003

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Commissioned by:

The Department of Health

The Prince of Wales's Foundation for Integrated Health

The Acupuncture Association of Chartered Physiotherapists

The British Academy of Western Acupuncture

The British Acupuncture Council

The British Medical Acupuncture Society

Published on behalf of the Acupuncture Regulatory Working Group

By The Prince of Wales's Foundation for Integrated Health

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By The Prince of Wales's Foundation for Integrated Health, 2003

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FOREWORD

This Report is the product of a year's work of partnership, detailed discussions and debate that has taken place in the Acupuncture Regulatory Working Group. It outlines options for the regulation of the acupuncture profession in England that could be extended to the other countries of the United Kingdom. The Report will be sent to Ministers at the Department of Health where it will form the basis of a document for wider consultation.

Acupuncture was one of the five main therapies identified by the House of Lords' Select Committee on Science and Technology Report into Complementary and Alternative Medicine in November 2000. The Report recommended that the acupuncture profession should strive for statutory regulation.

For the past twelve months the Acupuncture Regulatory Working Group has met monthly to produce possible pathways to achieve statutory regulation. The Working Group comprised professionals practising western medical acupuncture and traditional acupuncture, lay members and observers from the Department of Health and The Prince of Wales's Foundation for Integrated Health. The Working Group consulted with a variety of representatives of professions that practise acupuncture such as the Traditional Chinese Medicine, Osteopathy and Chiropractic professions. Consultation took place in particular with the Herbal Medicine Regulatory Working Group.

I thank all members of the Acupuncture Regulatory Working Group for their dedication and co-operation in producing a report of the highest quality that will contribute to the development of the statutory regulation of the acupuncture profession. I want to particularly thank Stephen Halpern for his excellent service as Secretary to the ARWG.

Lord Chan of Oxton
Chair
Acupuncture Regulatory Working Group
September 2003

SECTION ONE

BACKGROUND TO THE REPORT

1.1 Background to the Regulation of Acupuncture

The last three decades have witnessed considerable growth and development in the use of complementary and alternative medicine (CAM) in the UK. Acupuncture has been at the forefront of this development and is among the most widely used CAM therapies.

Within the UK the practice of acupuncture is remarkable for the extent of its diversity and the variety of contexts in which it is employed. Not only do traditional practitioners practise acupuncture but it is also used as a technique by a vast array of other healthcare professionals, including doctors, nurses and physiotherapists as well as many CAM professionals such as osteopaths, chiropractors and naturopaths. It is also an important component of traditions such as Traditional Chinese Medicine.

This popularity has brought with it several matters of public interest and concern. Although there are well-established voluntary bodies providing regulatory and educational support for practitioners of acupuncture, there are many who seek to practise acupuncture without any such support. In the current regulatory situation this includes those who have no training in either acupuncture or biomedical science and who are therefore completely unqualified to practise.

Equally important is the diversity of practice which means that currently the public have no consistent and coherent way of knowing what they might expect from an acupuncturist and in particular from those providing acupuncture in different contexts. The Acupuncture Regulatory Working Group (ARWG) was established to examine this situation and to produce proposals for the statutory regulation of acupuncture. Details of the membership of the ARWG are given in Appendix One. The practitioners included in the Working Group reflect the diversity of the practice of acupuncture. It has therefore sought to provide solutions to these issues in a way that both protects and informs the public. It has also sought to ensure that the practice of acupuncture continues to grow and flourish in all its diversity.

Although these issues have been evident for some time, the catalyst for this Working Group was the Inquiry by the House of Lords' Select Committee on Science and Technology into Complementary and Alternative Medicine (November 2000). In respect of the statutory regulation of Complementary and Alternative Medicine (CAM) professions the House of Lords' report concluded that:

'It is our opinion that acupuncture and herbal medicine are the two therapies which are at a stage where it would be of benefit to them and their patients if the practitioners strive for statutory regulation under the Health Act 1999, and we recommend that they do so.' (Paragraph 5.53)

The House of Lords' report also discussed the benefits of having a well-organised and coherent regulatory structure. It said that the public could not have full confidence in those therapies where there is considerable professional fragmentation. It recommended that:

'...in order to protect the public, professions with more than one regulatory body make a concerted effort to bring their various bodies together and to develop a clear professional structure.' (Paragraph 5.12)

In its Response to the House of Lords' report in March 2001, the Government agreed that it would be desirable to bring the acupuncture profession '*within a statutory framework as soon as practicable.*' (Government Response to the House of Lords' Select Committee on Science and Technology's Report on Complementary and Alternative Medicine, Paragraph 8).

The House of Lords' report cited *three clear advantages of statutory regulation.* (Paragraphs 5.26 -5.28)

Protection of title

Only practitioners who are registered with the relevant statutory regulatory body can legally use a particular title. The report also said that the public can identify properly qualified practitioners and the professional body can determine who can claim to practise the therapy in question.

The legal establishment of a single register

This enables the public to verify if a practitioner is qualified and trained properly. The report argued that statutory registration and protection of title offers more chance than voluntary regulation of ensuring that those not on the register do not mislead the public. The report also cited arguments from The Consumers' Association about the importance of the public having a single reference point that covers all practitioners in a particular professional field.

Disciplinary procedures acquiring the force of law

This ensures that the statutory body has the sanction of removing a practitioner from the register and taking away use of title.

The report also highlighted the potential disadvantages of statutory regulation. These broadly concern the expense of setting up statutory regulation and the possibility that the cost of registration would restrict the number of practitioners.

1.2 The Need for Acupuncture Regulation

The self-regulation of the health professions is an important way of protecting patients. It sets standards, recognises achievement, and provides a means of redress. Acupuncture has been shown to be extremely safe in the hands of properly trained, competent practitioners. There have been a few cases where patients of inadequately trained practitioners have suffered serious harm caused by the incompetent insertion of needles or by using needles contaminated with blood-borne infections. A major objective of statutory regulation will be to minimise these risks.

The Working Group's overall objective will therefore be:

To recommend as far as possible the policies, organisation, and infrastructure that the acupuncture profession will need to operate a statutory self-regulation scheme that reflects and encompasses both traditional and western medical approaches.

Specific issues which need to be addressed will be:

- Options for a suitable form of statutory regulation for acupuncturists and, in particular, to agree whether protection of title, protection of function, or

a combination of both is the most practical and effective way forward.

- An agreed definition or definitions of acupuncture and acupuncturists in different settings.
- The extent to which statutorily regulated health professionals who practise acupuncture should be governed by this statutory scheme.
- Principles for the safe practice of acupuncture.
- An expert mechanism to assess and accredit educational qualifications in acupuncture.
- The options for revalidation and continuing professional development for those who practise acupuncture.
- The use of continuing professional development and other mechanisms which seek to raise the standards of professional practice and acknowledge excellence.
- Options for assessing and registering existing practitioners ('grandparenting').
- The resources needed for the successful administration of the proposed scheme.
- The cost and sources of funding of a statutory scheme.

1.3 Delivering Regulation

To create a new mechanism to statutorily regulate the profession as a whole requires the commitment of the existing organisations representing the profession. Any new statutory scheme must be developed in partnership between and consultation with all the bodies that represent or govern acupuncture practitioners. The interests of patients and the public must be at the core of that process.

The ARWG has developed its plans and proposals in consultation with representatives of the profession and with other major stakeholders. Details of this consultation are described in Appendix Three. Its recommendations are intended to form the basis of a public consultation exercise by the Government prior to establishing a new statutory scheme (using the powers in Section 60 of the Health Act 1999).

In its proposals for regulating the acupuncture profession, the ARWG has sought to produce plans that are financially self-sufficient. It has also sought to plan realistically the likely take-up and costs, and to be clear about the extent to which these costs would be passed on to practitioners as registration fees.

1.4 Terms of Reference

The Terms of Reference for the Acupuncture Regulatory Working Group were to produce a report which:

- a) **examines the options to achieve successful statutory regulation of the acupuncture profession as a whole; and**

b) makes recommendations that will form the basis for wider consultation by the Government, and subsequently for the legislation that will enable the statutory regulation of the acupuncture profession.

In following these terms of reference, members agreed that they would need to consider not only those who currently aspire to and actively seek statutory regulation but also those who should come under the remit of a regulatory framework in order to safeguard patients and the public.

1.5 Definition of Acupuncture

For the purposes of this report the Working Group has defined acupuncture as follows:

Acupuncture refers to the insertion of a solid needle into any part of the human body for disease prevention, therapy or maintenance of health. There are various other techniques often used with acupuncture, which may or may not be invasive.

SECTION TWO

INTRODUCTION TO ACUPUNCTURE

2.1 Introduction to Acupuncture

Acupuncture originally developed in China, where it acquired an elaborate theoretical framework within the wider Chinese philosophical and scientific context. Acupuncture was taken up in other countries in the Far East, including Japan, Korea, and Vietnam and was practised in different forms in these places. To some extent it has been used in the West for about 300 years although often without much reference to the original theoretical basis. Acupuncture is thus a broad term, covering a number of different treatment methods whose common feature is that they all involve the insertion of solid needles.

The first western description was by a Dutchman, Wilhelm ten Rhyne, who witnessed acupuncture being performed in Japan and published a book in Latin on the subject in 1683. A number of physicians continued to take an interest in acupuncture in the eighteenth century, although little attempt was made to relate it to its oriental roots.

2.2 History and Development of Acupuncture in England

In England the main development came in 1821, when a young surgeon called James Morss Churchill published a monograph entitled '*On Acupuncture*'. Churchill's account excited a lot of interest in the 1820s, much of it favourable. There were reservations, however, principally on the grounds that it was difficult to explain the observed effects. There was a tendency to confuse acupuncture with surgical procedures involving needles such as oedema fluid drainage and venepuncture (known as blood letting).

By the end of the decade doctors were familiar enough with acupuncture to avoid the need for definition or explanation. It was fairly widely used in private practice and in the great London hospitals. In spite of this promising start acupuncture went into decline after 1828, for reasons that remain unclear. Although Churchill published an 'Appendix' to his monograph, describing a number of new cases, this attracted less attention than his first book. Nevertheless, acupuncture continued to be used and taught at some centres until the 1890s. These included the Leeds General Infirmary and University College Hospital London.

There was relatively little interest in acupuncture in England in the first half of the twentieth century although it continued to be used quite widely in France. A considerable revival occurred as a result of President Nixon's visit to China in 1972. During this visit surgeons witnessed operations apparently being performed using acupuncture in place of conventional anaesthesia. This coincided with the discovery of the endogenous opioids (natural painkillers such as endorphins and enkephalins) and the formulation of the gate theory of pain. The latter postulates that there are gates or filters in the spinal cord that can influence the transmission of pain information from the body to the brain. Both of these developments appeared to provide a scientific explanation for the effectiveness of acupuncture, at least in so far as pain relief was concerned.

The second half of the twentieth century also witnessed an increasing public acceptance of complementary medicine from which acupuncture has

benefited. The 1960s saw the development of private colleges offering lengthier and more intensive courses in traditional acupuncture, a trend that continued over the next three decades and by the 1990s included several universities. Professional associations developed alongside the schools to provide voluntary self-regulation for their graduates. The Council for Acupuncture was formed in 1980 which established common codes of ethics and practice for the professional associations and helped pave the way for the development of the independently constituted British Acupuncture Accreditation Board (BAAB) in 1990, which accredits teaching institutions offering courses in traditional acupuncture. There are currently seven accredited teaching institutions, with four more undergoing accreditation.

Alongside a considerable growth in the number of traditional acupuncture practitioners, interest in acupuncture continued in the medical profession and in 1980 a group of doctors wishing to study the western scientific aspects of the discipline set up the British Medical Acupuncture Society (BMAS). Since then many doctors have studied and used western medical acupuncture both in general practice and in hospitals, particularly in pain clinics. Since 1984 physiotherapists have been interested in the use of acupuncture and have a highly evolved special interest group organising training and maintaining standards of practice, supported by the Chartered Society of Physiotherapy (CSP). Further details of the groups represented on the ARWG are provided in Appendix Two.

Although some practitioners went to China to study acupuncture, in recent years teachers of traditional acupuncture have come from China to offer acupuncture courses in Britain. Another development has been the setting up of private clinics in many parts of the country. These are mainly staffed by Chinese practitioners and offer both traditional herbal medicine and acupuncture.

2.3 The Different Acupuncture Traditions

Today acupuncture in Britain is practised in two main ways: traditional acupuncture and western medical acupuncture.

Traditional acupuncturists practise acupuncture based on traditional oriental medical principles and study western medical sciences appropriate to the practice of acupuncture and independent practice in healthcare. Those who come from a more orthodox background, many of whom work within the NHS, mostly use a modern interpretation based on the concepts of anatomy, physiology, and pathology with which they are already familiar. This has been termed western medical acupuncture. The two groups, therefore, tend to use different diagnostic categories. In general these are not mutually translatable owing to differences in concepts and terminology.

However, this distinction should not be taken to imply that there is always a rigid separation between the two views. It would be more accurate to say that there is a broad spectrum of opinion. The Chinese themselves have incorporated innovations into acupuncture, such as the use of electrical stimulation of the needles, and some traditional acupuncturists in Britain have incorporated modern developments into their practice. Similarly, western medical acupuncturists vary

in the extent to which they use the traditional concepts. Some reject them completely, while others are prepared to adopt them to varying degrees.

This applies, for example, to the 'meridians' and 'points' that are used in traditional acupuncture. Some western medical acupuncturists find it possible to interpret these in a way to which they can relate, while others prefer to ignore them altogether and to base their treatment entirely on concepts derived from conventional neurophysiology and pathology. It would be true to say, however, that most traditional acupuncturists use acupuncture as their main or only form of treatment, whereas most healthcare professionals regard acupuncture as an adjunct to their existing treatments and aim to integrate it with what they already do.

The differences between traditional and western medical acupuncture are thus mainly theoretical and relate to the underlying concepts that guide the practitioners. There are, however, likely to be practical differences where a patient's experience of the treatment is concerned. A traditional acupuncturist will ask different questions from a western medical acupuncturist and will probably make use of examinations, such as those of the tongue and the pulse, that are not used in a western context. The actual process of inserting the needles may be similar with both types of practitioner although the number of needles and the duration of the treatment may vary.

2.4 Current Practice and Regulation of Acupuncture in the UK

Acupuncture practice is currently not regulated by law in the UK although there are local authority licensing arrangements for many practice premises. In practice, many practitioners belong voluntarily to acupuncture organisations which are fairly rigorous in terms of codes of practice and educational requirements. However, as membership of these organisations is voluntary some acupuncture practitioners choose not to join.

Current estimates suggest that there are around 7,500 practitioners in the UK who both practise acupuncture to some extent and belong to a relevant professional or regulatory body. Of these just over 2,400 are traditional acupuncturists. Most of them belong to the British Acupuncture Council (BAcC), which requires its members to be trained in both traditional acupuncture and relevant biomedical sciences.

Approximately 2,200 registered doctors belong to the British Medical Acupuncture Society (BMAS), some 2,650 physiotherapists belong to the Acupuncture Association of Chartered Physiotherapists (AACP), and 250 nurses belong to the British Academy of Western Acupuncture (BAWA). The majority of these practise western medical acupuncture. Most of them use acupuncture as a technique that they employ, to varying degrees, as part of their normal clinical practice. Very few practise acupuncture to the exclusion of any other clinical approach.

There are other traditional acupuncturists, practitioners of Traditional Chinese Medicine, who belong to one or more of a variety of TCM associations. It has been estimated that they number 550 and most of them practise acupuncture in conjunction with herbal medicine.

There is also an increasing number who practise acupuncture, whether or not it is described as acupuncture, without belonging to any professional or regulatory body. Many are based in the growing number of high street outlets for TCM and practise acupuncture alongside herbal medicine. Firm estimates are difficult to obtain, but there are likely to be at least 2,000 practitioners in this position and possibly more. Many of these may be identified by and come under the jurisdiction of local authority licensing regulations, although the current policies of different local authorities towards these outlets vary greatly.

Other professions, too, are known to use techniques that involve piercing the skin with solid needles though often these techniques are not described as acupuncture. For example, osteopaths and chiropractors may treat patients using 'dry needling' and Ayurvedic practitioners sometimes use a form of acupuncture. Naturopaths also use acupuncture as do chiropodists and podiatrists. Many of these will belong to regulatory bodies, either statutory or voluntary, for their principal professions but will probably have no links with bodies representing or regulating acupuncturists. Further details of acupuncture practice in the UK are provided in Appendix Four.

Acupuncture is widely available today in many parts of the country. Most of this activity occurs in private practice but an increasing number of GPs offer it to their NHS patients. A growing number of hospitals provide acupuncture in their physiotherapy departments and pain or rheumatology clinics. Within the NHS acupuncture is mostly performed by doctors or by physiotherapists. It is not known how many GPs and other healthcare professionals are offering acupuncture without belonging to any kind of professional association for acupuncture.

The growing use of acupuncture within the NHS has led to demands that the efficacy of acupuncture be demonstrated objectively in order to fulfil the requirements of evidence-based medicine. One of the most common ways of validating treatments in contemporary medicine is the use of randomised controlled trials (RCTs) which reduce error when measuring or assessing the outcomes of different clinical interventions. Many RCTs have been carried out to assess the effects of acupuncture, however, there are several technical difficulties in the design of such trials, particularly those using a 'placebo' control. There have also been research studies to evaluate the cost-effectiveness of acupuncture in an NHS setting.

SECTION THREE

THE REGULATION OF ACUPUNCTURE

3.1 Introduction – Preserving Diversity and Ensuring Inclusivity

The practice of acupuncture in the UK presents a unique challenge for any attempt to create a regulatory framework. Many therapies have different traditions and styles of practice, but most variations within a particular therapy share roughly comparable standards of training and qualification. This is not true of acupuncture. Traditional acupuncture training is usually undertaken as a comprehensive undergraduate programme. Western medical acupuncture training is, by contrast, based on a much shorter post-registration programme following the training required to enter one of the statutorily regulated healthcare professions.

The House of Lords' Report recommendation that acupuncture should strive for statutory regulation under the Health Act 1999 was accompanied by additional stipulations. The Report also recommended that professions with more than one regulatory body should merge to develop a clear professional regulatory structure. It also encouraged bodies representing medical and non-medical CAM therapists to collaborate more closely, especially on developing reliable public information sources.

The House of Lords' Report stated:

'More collaboration on developing core curricula would be valuable, as it is important that both medically qualified and non-medically qualified practitioners are trained to the same level of skill in the therapy in question.... We recommend that if CAM is to be practised by any conventional healthcare practitioners, they should be trained to standards comparable to those set out for that particular therapy by the appropriate (single) CAM regulatory body.'
(Paragraph 5.83)

This recommendation created the challenge to establish a unified regulatory structure. The Acupuncture Regulatory Working Group was set up to reflect the diversity of acupuncture practised in the UK. The extent of this diversity is illustrated in Table One below.

Table One:
Current regulatory situation of bodies represented on ARWG

Name of organisation	British Acupuncture Council (BAcC)	Acupuncture Association of Chartered Physiotherapists(AACP) British Academy of Western Acupuncture (BAWA) British Medical Acupuncture Society (BMAS)
Current regulatory status	Governed by voluntary regulation	Governed by statutory regulation in primary profession
Type of Acupuncture	Mainly traditional acupuncture	Mainly western medical acupuncture
Education programme	Undergraduate training	Post-registration training acupuncture programme
Mode of practice	Tend to use acupuncture as primary therapy	Tend to integrate acupuncture into a wider range of practice
Place of practice	Largely independent practitioners practising in the private sector	Largely practising in the NHS (although there are a significant number of nurses and physiotherapists in private practice using acupuncture)

This situation led the Working Group to look initially at two options.

- Option One: To set up a register for what are primarily traditional acupuncturists. Those healthcare professionals already statutorily regulated would be on a database providing they fulfilled the requirements of the appropriate acupuncture body (i.e. AACP, BAWA or BMAS).
- Option Two: To create two registers, one for traditional acupuncturists and one for western medical acupuncturists.

Both options have disadvantages, since they would not achieve the unified acupuncture profession proposed by the House of Lords' Report. The Working Group therefore developed and refined these options to move towards a set of proposals based on a comprehensive register under a single registering/regulatory body. These proposals included developing the principle that establishing 'equivalences' between these different backgrounds could bring the diverse educational and training routes to practice together in one Register.

The key challenge will be to establish 'equivalence' between traditional and western medical acupuncture. Traditional oriental medical theory has a sophisticated diagnostic framework that takes time and effort to learn. Practitioners using western medical acupuncture believe they need fewer hours of scientific acupuncture study since their prior medical training provides them with the diagnostic framework that informs their acupuncture practice. In other words all their medical training has to be seen as acupuncture training. They argue that they cannot substantially increase the acupuncture hours because there is no more that they could add.

The Working Group concluded that equivalence could only be established between the two groups by looking at whether practitioners using traditional and western medical acupuncture both had the same outcome standards.

The Working Group has decided to adopt the use of National Occupational Standards (NOS) as the most appropriate mechanism for determining equivalence. This work has already been initiated.

National Occupational Standards are statements of competence that are developed to measure performance outcomes for a specific occupation or profession. This solution for determining unified educational requirements for a fragmented profession was broadly proposed in the House of Lords' Report (Paragraph 6.70). The details of how the proposed educational structure will be developed are described in Section Five.

A principle behind the Working Group's proposals is inclusivity. The Working Group's view is that the practice of acupuncture is beneficial to patients and should be made as widely available as possible but without compromising standards of safety and competence. The Working Group has, therefore, set out to create proposals for regulation which, against the backdrop of such diverse styles and traditions, seek to be as inclusive as possible. The Working Group has sought to steer a course between excessively rigorous regulatory criteria, which may deter many practitioners from even attempting to join a Register while they continue to use the technique outside the regulatory framework, or conversely, excessively liberal criteria which could undermine public confidence in regulation.

3.2 The Categories of Applicants to the Register

The range of styles and traditions of acupuncture in use in the UK has been discussed in Section Two and the professional groups detailed listed under Appendix Two. The Working Group identified four distinct categories of potential registrant for which different entry routes to the Register might apply. These are:

a) Practitioners seeking to enter the Register after undergraduate acupuncture training (mainly traditional acupuncturists).

The primary route for automatic entry for this category would be through graduation from a recognised or accredited teaching institution. The graduation standards from these institutions would be equivalent to a full-time degree, but could be achieved in a number of different ways (degree course, modular training or accreditation of prior learning (APL)) in order to maximise the diversity of entrant.

b) Practitioners already statutorily regulated seeking to join the Register whose acupuncture training, not falling under 'a' above, has been undertaken alongside and in conjunction with their primary activity (mainly doctors, nurses and physiotherapists, but possibly osteopaths and chiropractors).

There will need to be outcome standards which establish equivalences with the standards of registrants in all categories. It is envisaged that the work currently planned to develop National Occupational Standards for acupuncture will provide the grid through which this can be achieved. This could also provide automatic entry for registrants.

c) Practitioners seeking to enter the Register after graduate acupuncture training undertaken within an existing voluntarily regulated profession and relevant components of undergraduate training (mainly herbal medicine practitioners, homeopaths, and other complementary therapists).

Similar equivalences may be established through National Occupational Standards for complementary therapists in other disciplines whose training in acupuncture alongside their primary therapy meets the same outcome standards. There may be a relatively small number in this category.

Since the primary therapy practised is not statutorily regulated then regulation together with registration should be mandatory (see next section).

d) Practitioners seeking to enter the Register whose graduate acupuncture training does not fall within any of these three categories (mainly practitioners trained overseas and those with informal/apprentice-based training).

The transitional process by which acupuncturists already in practice join the new Register (see Section Six) may be used to create a model requirement for future individual applications.

The development of National Occupational Standards represents the pivot on which the process of establishing equivalences, and thereby protecting the diversity of entrant, rests. If these are completed as planned within the next year, there will be ample opportunity for all categories of potential registrant and those training potential registrants to begin to work towards the appropriate levels of competence well in advance of any legislative requirements.

3.3 Proposals for the Register and Title

The Working Group makes the following recommendations for Registration and Title based on the goals of carrying out the House of Lords' proposals and also upholding the principles of diversity and inclusivity:

- *The primary purpose of the Register is to identify those practitioners whose standards of safety, competence and ethical behaviour can be guaranteed and whose continuing registration depends on upholding these standards.*
- *There should be a single Register, entry to which is determined by educational standards.*
- *Registration should confer the title 'Registered Acupuncturist'. Certain subsidiary designations might be considered in the interests of informed patient choice.*
- *In view of the Working Group's goal of a unified profession, entry to the Register should not be constrained by philosophy or styles of practice. The Register should nonetheless offer some facility by which a member of the public can identify the training background of the registered practitioner and also the regulatory authority under whose jurisdiction s/he falls.*

In order to fulfil this role the proposed registering/regulatory body should:

- *establish and develop the educational standards required for entry to the Register*
- *establish transitional arrangements for the entry of existing practitioners to a new Register which are broadly equivalent to the educational standards defined above*
- *establish and maintain systems of revalidation, continuing education and training, and continuing professional development in order to ensure consistent standards throughout the acupuncture profession*
- *establish and maintain guidelines for the safe and competent use of acupuncture as an invasive technique*
- *establish and develop codes of professional conduct and disciplinary procedures in order to ensure compliance with the requirements of the Register and to define the sanctions and powers of the Council.*

3.4 Proposals for Multiple Registration

The Working Group is aware of the problem of multiple registrations and the fact that many potential registrants would already be governed by a statutory regulatory framework. This may create problems for registrants of two or more bodies paying for the same regulatory structures twice, and may undermine the attempt to encourage inclusivity through unnecessary or prohibitive costs.

The Working Group therefore proposes a working distinction between the regulatory functions and the registering functions. This broadly distinguishes between the generic procedures and infrastructure common to all regulatory bodies and the profession-specific areas, mainly concerned with educational

standards, revalidation and continuing professional development.

Applying this distinction to potential registrants to an acupuncture register creates two distinct groups:

- a) Those not already statutorily regulated would join the Register as their primary regulator, hold the title 'Registered Acupuncturist' and be governed by all of the provisions of the proposed regulatory council.*
- b) Those already statutorily regulated could join the Register as a registering body only, through which they could hold the title 'Registered Acupuncturist'. They would however be regulated by their existing regulatory body (primary regulator) under whose jurisdiction they would fall for the purposes of disciplinary procedures and other regulatory matters.*

There will need to be further consultation on whether the choice of primary regulator lies with the practitioner or the regulatory body. In order for dual registration to work there would have to be close liaison and co-operation between regulatory bodies.

The Working Group therefore also decided that the distinction between the two groups of registrants should be reflected in the fee structure.

- a) Those both registered and regulated by a new Council as their primary regulator would pay an equally apportioned annual registration fee for the establishment and maintenance of the Register.*
- b) Those registered with the Council but regulated elsewhere would pay a significantly reduced fee based on the cost of maintaining the profession-specific aspects of the new Council's work. Principally this would be the training and educational elements integral to their continued registration. Such fees could be apportioned directly to the education/accreditation and other relevant committees.*

3.5 Protection of Title and Protection of Function

The distinction between protection of function, restricting the use of a technique, and protection of title, restricting the right to call oneself a practitioner of the technique, is an important one. The Working Group concluded early in its discussions that protection of function for acupuncture was probably unachievable. Not only is it hard to define acupuncture as a skin piercing technique without embracing a wide range of other skin piercing modalities, but also, and more importantly, there is a large pool of users of acupuncture who are not likely to seek registration but nonetheless undertake important work using acupuncture techniques. Examples of this latter group are users of limited techniques for detoxification work, obstetric acupuncture in midwifery, and other specialist uses. Many of these groups would vigorously oppose any attempt to restrict their use of acupuncture.

The Working Group recognised that although its primary concern was to deal with the standards of potential registrants capable of independent practice and fulfilling the criteria for registration, it would be necessary to have

sub-committees to deal with the more limited use of acupuncture. This might mean exploring ways of kite-marking standards of training to ensure that consistently high standards of care are delivered in all uses of acupuncture.

The Working Group believes that for those users of limited acupuncture technique working within existing regulatory structures, standards could be maintained and enforced by trans-regulatory agreements. For those operating outside regulatory frameworks, as for example in drug detoxification work, where there is often no formal requirement for training beyond the limited acupuncture technique itself, the Working Group believes that the success of kite-marking the standards of training would rely on the active promotion of the benefits of approval by the General Acupuncture Council.

The Working Group believes that by extending the range of regulatory interest in this way beyond the responsibility for those claiming title, it could better address concerns for public safety as well as creating effective pathways for passing on relevant information.

3.6 The Regulatory Context

The simplest model for the regulation of acupuncture would be a single free-standing regulatory body, provisionally referred to as the General Acupuncture Council (GAC). The Working Group looked at the various ways in which this could be constructed as the basis for examining several options presented to it.

All of the regulatory structures under consideration included the essential functions of safety and accountability. These are usually delivered through the creation of a Register which in turn involves the creation of a number of standing committees dealing with administration, discipline and health matters and operating the Codes of Conduct and Practice. In addition there needs to be some form of administration or overseeing of the educational requirements for entry, revalidation, accreditation and continuing professional development in place.

There can be considerable scope, however, in the extent to which these various functions are shared between the three major stakeholders: the regulatory body, the professional associations and the educational institutions. At one end of the scale the setting of educational standards could involve a direct relationship between a comprehensive collection of Education Committees and sub-committees within the regulator and the education providers, along with guidance from the profession. At the other end there could be a much more limited regulatory structure in which the committee structure would be the absolute minimum required for the maintenance of a Register. In this variant, the role of any Education Committee would predominantly involve screening and assessment of work developed elsewhere, and would require considerable input from the professional associations, particularly in the development of educational and professional standards.

Essentially there is a wide range of functions carried out across the regulatory body, the professional associations, and the educational structures of the profession. The Working Group had to consider not only which was the most appropriate structure for the regulation of the acupuncture profession, but also the extent to which it is feasible for any of the functions that support regulation

to be undertaken by other stakeholders. For example, the professional associations clearly have responsibility for the promotion of the profession. However it was not evident to the Working Group whether there existed a sufficiently coherent acupuncture profession to which the regulator could devolve responsibilities and with which it could work in partnership.

This became an important factor in the Working Group's consideration of models for the statutory regulation of acupuncture. One proposal involved a possible application to join the newly-constituted Health Professions Council (HPC) which currently regulates twelve professions with a total membership of some 144,000 practitioners. It was evident from the recently published entry criteria for the HPC that a precondition of entry for the new groups was that they were to have functioned as a mature profession for several years prior to application.

The Working Group took the view that this proposal could not meet the urgency of the need expressed in the House of Lords' Report and by the Government's Response. The precondition for entry to the HPC presupposed the end result of the process that the acupuncture groups are only now undertaking. In addition there might well be a further delay of several years to process any application.

Another proposal came from the Herbal Medicine Regulatory Working Group (HMRWG) which has been carrying out a parallel exercise in producing proposals for the statutory regulation of herbal medicine. The HMRWG had indicated to the Working Group its concerns over the development of proposals for statutory regulation of herbal medicine. Since the herbal profession might have insufficient numbers to create and sustain an independent and viable Herbal Register the likely unit costs for potential registrants was a particular concern.

The HMRWG initially looked at the possibility of a collaborative proposal with the acupuncture profession for statutory regulation as a solution to the problem of cost. The HMWRG also expressed the view that such a combined approach might achieve greater influence as a single statutory body and enhance the opportunity for interdisciplinary work within the field of Complementary and Alternative Medicine. A significant minority of the potential joint membership practise both disciplines as Traditional Chinese Medicine and the HMRWG saw a natural synergy between the two groups.

The HMRWG approached the Working Group with proposals for a collaborative approach to statutory regulation. This would initially involve the development of a regulatory body for both acupuncture and herbal medicine that could develop into a Complementary and Alternative Medicine (CAM) Council. This would mirror the structure of the Health Professions Council (HPC) but comprise initially the acupuncture and herbal medicine professions, to be followed by other complementary therapies as they reached sufficient professional maturity.

The Working Group was sympathetic to the issue of costs which the HMWRG raised, but believed that the widely held view that greater numbers implied less unit costs did not always apply in such cases. Although the costs of premises and equipment are often demonstrably reduced by sharing facilities, the greater size and complexity of larger organisations often necessitates greater staffing levels and increasing specialisation of staff posts at increased cost. This was already of particular concern to the Working Group in determining the costs of

registration for those already statutorily regulated elsewhere, since it had heard evidence from its own members that there were relatively few areas, even in basic administration, which did not have profession-specific elements. The assumption that there were 'neutral', and consequently more cost effective, areas in a joint administration, was therefore open to debate.

For those members practising both disciplines and wishing to join both Registers, the Working Group felt that its own proposals for dual registration and the greatly reduced fees levied on those already statutorily regulated went a long way towards dealing with the very specific cost problems of this group, especially the TCM practitioners who regard the two fields as a single discipline. In the broader context of challenges facing the two professions, the Working Group had concerns that some legal ramifications of the changes in herbal medicine legislation might prove a disproportionate financial and administrative drain on the combined resources of the professions.

The Working Group's central concern was the need to have achieved a coherent and cohesive acupuncture profession prior to any collaborative or joint enterprise. This was similar to the concern expressed in its consideration of a possible application to the HPC. The Working Group is aware of greater emphasis being placed on inter- and multi-disciplinary work in national healthcare strategies. It recognises that the formation of the HPC and its internal structures has been designed in such a way that skills transfer and cross-disciplinary work is encouraged.

However, it acknowledged that professions which have been grouped under the aegis of the HPC were mature professions, and already had established professional and educational structures to facilitate the kinds of collaboration which new healthcare policy encouraged. The Working Group did not believe that the acupuncture profession had achieved sufficient coherence or identity to engage in this collaboration and was concerned that to create and maintain this, while at the same time undergoing the complex task of establishing a new Register, could generate considerable confusion for both practitioners and public alike. There were also concerns about the possibilities for delay inherent in a larger-scale regulatory process involving such a wide range of different traditions and professional associations.

The Working Group has decided that the acupuncture profession would, at this stage, be best served by a free-standing statutory regulatory body for acupuncture and that this option is most clearly in line with the recommendations of the House of Lords' Report. The regulatory process necessary to achieve this will, in the Working Group's view, enable the widest take up of registration and be the most effective way of dealing with the large number of unregulated practitioners by virtue of its clarity of focus.

The Working Group does not believe that its proposals rule out future collaboration with the herbal medicine and other complementary health professions in devising ways to reduce costs and enhance multi-disciplinary working. It believes, however, that both the acupuncture and herbal medicine professions face significant and considerable challenges in achieving their own immediate aims for professional unity, and that for each, the creation of a coherent profession is a precondition of a successful future joint enterprise.

SECTION FOUR

PUTTING ACUPUNCTURE REGULATION INTO PRACTICE

4.1 The Essential Committees

The regulatory body needs to establish structures that promote its function of protecting public safety and promoting the highest standards in acupuncture practice. The first structure to be set up will be the governing body, the General Acupuncture Council (GAC). The Council would be responsible for ensuring that the policies and procedures under which the organisation exists and functions (corporate governance) are of the highest standards. It would also set the overall strategic direction of the organisation within the legislative framework (the new Order which regulates acupuncture).

In summary **The Council** would be responsible for:

- overall policy and strategy of the General Acupuncture Council
- overall financial and administrative management of the General Acupuncture Council
- liaison with central Government and other regulatory bodies
- overseeing the work of its committees.

In order to make effective statutory regulation a reality a regulatory body requires a committee structure. In addition to the Governing Council itself, there are several committees, often referred to as the 'essential committees', which provide the minimum framework to carry out regulation. In addition to these essential committees the regulatory body should also have powers to create other committees as required.

The essential committees are:

- a) The Education Committee.
- b) The Preliminary Investigating Committee.
- c) The Professional Conduct Committee.
- d) The Health Committee.

The functions of the four essential committees are likely to be:

a) The Education Committee

The Education Committee is responsible for:

- accreditation of teaching institutions offering full training
- accreditation of courses offering training in acupuncture
- establishing and reviewing educational guidelines for the General Acupuncture Council
- establishing the Continuing Education and Training Programme including the Continuing Professional Development Programme.

b) The Preliminary Investigating Committee

The Preliminary Investigating Committee is responsible for:

- screening and investigation of complaints, allegations and reports about a registrant's conduct
- assessing whether matters should be dealt with by the Professional Conduct Committee or the case closed without action.

c) The Professional Conduct Committee

The Professional Conduct Committee is responsible for:

- conducting formal hearings into cases of professional misconduct and incompetence
- applying a range of sanctions, from admonishments and cautions through to fines, suspensions and removals from the Register.

d) The Health Committee

The Health Committee is responsible for:

- reviewing and acting on reports and allegations about a registrant's health and ability to practise acupuncture safely
- offering both support and rehabilitation as well as some levels of sanction.

The Working Group believed that the recent consultation and development work undertaken to establish the Health Professions Council offered many relevant areas of debate and discussion about the specific functions of the essential committees, and that this would inform any legislative drafting in the later stages of the regulatory process.

The Working Group endorsed the use of mechanisms to deal with areas of poor practice and competence by slightly less formal means. Encouraging compliance with Conduct and Safe Practice systems as well as enforcing standards by sanctions had the dual advantage of driving standards up while at the same time reducing the call on costly formal hearings for relatively minor problems.

4.2 Other Possible Committees

The Working Group also considers that other committees may be required. For example, Finance and Safe Practice are areas for which committees may be appropriate. Many current regulators have a Finance Committee, usually designated as a Policy and Finance Committee, to which senior members of the Council are appointed. The General Acupuncture Council would decide whether a Finance Committee would be necessary.

The particular nature of the acupuncture profession may also necessitate a Safety Committee. Although the task of creating a Code of Safe Practice can be delegated to specialists during the formation of the regulatory structure, the experience of the existing professional associations is that there is both constant updating and development of the provisions of the Code and also frequent requests for advice. Although this is likely to be dealt with at Safety Officer level, there may be a case for a standing Safety Committee with wider representation to maintain, develop and scrutinise standards of safe practice.

Based on the experience of setting up the Register for social care workers, it may be necessary to establish an Admissions Committee. This would serve as the arbiter for problematic cases after the transitional period has finished, and would be an extension of the committees and admissions process in the transitional phase. Whether this task would necessarily have to involve a full committee or whether it could be achieved with an enhanced registration secretariat will be the subject of further discussion.

4.3 The Professional Codes

There are several existing versions of these Codes that can form the basis of creating a set of Codes appropriate to the acupuncture profession. The two published Codes will be:

- a) Code of Professional Conduct.
- b) Code of Safe Practice.

These Codes will define the standards of conduct and safe practice which represent the minimum requirement for registrants.

Under the plans outlined in Section Three, a large number of registrants who are already statutorily regulated will probably choose to retain their primary regulator. This is the body under whose jurisdiction they will fall for any investigation or judgement relating to their professional conduct. This has two consequences:

- the majority of registrants primarily regulated by these Codes are initially likely to be self-employed professionals working in private, mainly individual, practice; and
- primary regulators will need clearly defined procedures for cross-referencing breaches of the Codes of Professional Conduct and Safe Practice for acupuncture.

The first of these consequences has implications for the structure of the professional Codes. Some existing Codes, such as those of the Nursing and Midwifery Council, contain relatively broad statements of principle, whereas those of others such as the General Osteopathic Council are far more detailed. When writing Codes for the acupuncture profession, it is important to recognise that a primary reason the former work is that most of the registrants, as employees, are subject to greater levels of scrutiny in the workplace, and by virtue of the structure of their employment, more easily trained and supervised in the latest standards of best practice. The systems that underpin broad statements of professional conduct, therefore, are explicit and enforced in practice.

By contrast, self-employed professionals, even within a formal structure of continuing training and revalidation, may need more explicit statements within the Codes themselves, as well as ancillary material to guide their work to ensure that they understand their continuing responsibilities.

The Working Group recommends that Codes prepared under statutory regulation are explicit and detailed, and accompanied by guidelines that explain and expand on ideas of best practice.

4.4 Relationship with Other Regulatory Bodies

The Working Group is aware that the distinction between regulation and registration which it has created in order to minimise the burden of dual or multiple registration will require reciprocal formal relationships with other statutorily regulated bodies. In the event of professional conduct issues, these relationships will have to make explicit the jurisdiction of each body and the extent to which action taken by one is to be reinforced by similar action within the other.

In future, the major forum through which trans-regulatory issues are mediated is likely to be the newly established Council for the Regulation for Healthcare Professionals (CRHP) which has been set up as an overarching regulatory body. In principle this body appears to be charged with the responsibility for supervising the trans-regulatory agreements and arrangements highlighted by the Group's proposals. The Working Group is aware that CRHP is in the very early stages of its existence and both the Council and its terms of reference might change before any legislative framework for acupuncture is in place. The wording of the NHS Reform and Healthcare Professionals Act 2002 makes clear that the CRHP remit would include an acupuncture council if one were established under Section 60 of the Health Act 1999.

The Working Group recommends that the plans for the statutory regulation of acupuncture take into account any innovations from the Council for the Regulation for Healthcare Professionals (CRHP) involving dual or multiple registration.

4.5 Estimated Costs of the Regulatory Structure for a General Acupuncture Council

The figures in Annex A of this section are drawn up on the basis of operating the structure shown in Annex D. The costs are informed by the same elements in the most recently published accounts from the General Osteopathic Council and the General Chiropractic Council. The legislation which created these councils provided for the promotion of the profession as a statutory function. This is not included within the structure outlined in Annex D. The Group does not feel that it is appropriate to include this within the legislation to create a statutory register. Proposals for promoting the regulation of the acupuncture profession as distinct from the profession itself are made in Paragraph 6.11.

Many unpredictable factors affect these figures. The cost of the Ethics Committees (Health, Professional Conduct and Preliminary Investigation), for example, will depend on the number of cases. If the workload of committees is reduced by other and possibly less formal ways of dealing with professional competence and conduct, the staff costs associated with the mediating roles increases accordingly. Similarly, staffing costs as a whole are based on the current complements of two regulatory bodies (the General Osteopathic Council and the General Chiropractic Council). It remains to be seen whether in practice the unique nature of the acupuncture profession requires that the same levels of regulatory staff be maintained.

As broad indicative figures, however, the Annexes give some idea of the likely unit cost that registrants may incur and with which potential registrants will be concerned in making an informed choice about the benefits of registration.

4.6 Apportionment of Costs of Regulatory Structure

The calculations in Annex B of this section take the sum total shown in Annex A and apportion it according to the division between those who are both registered and regulated by the General Acupuncture Council and those who are simply registered with the General Acupuncture Council. The primary regulators for this group are bodies such as the General Medical Council, the Nursing and Midwifery Council or the Health Professions Council.

The Working Group has already recommended that those who are regulated elsewhere should pay reduced fees which are to be apportioned to the educational and registering functions from which they derive benefit.

The figures in Annex B, Option 1 show how the equal distribution of the costs of these two elements, and the equal apportionment of the remaining costs amongst those for whom the General Acupuncture Council is the primary regulator affects annual registration fees. Current estimates for annual registration fees for those both regulated and registered with the General Acupuncture Council are around £320, while those regulated elsewhere would pay £50.

The Working Group is aware from its own discussions, however, that separating out these two elements alone may not recognise the extent to which the administrative costs of the remaining infrastructure are related to all registrants and not just to those for whom it is a primary regulator. Although potentially more than half the registrants will be regulated elsewhere their numbers will have a significant impact on the management of finances and office systems. Annex B, Option 2 outlines the implications of charging twenty five per cent of this cost on to those who are registered but regulated elsewhere.

Assuming that the figures in Annex A are a good estimate of the likely costs of the regulatory body, the estimated figures of the cost to potential registrants are fairly robust across the possible levels of take-up of registration in the different categories. The range produced by the two options in the Annex (£250-£350 for those primarily regulated, £50-£100 for those regulated elsewhere) fall within the ranges which have been informally discussed by the member associations within the Working Group.

The estimate of those seeking to be primarily regulated is considered an accurate projection based on current numbers in the professional associations, annual growth and the support already tested by balloting. The number of potential registrants who are regulated elsewhere is more difficult to estimate. However, even if only 1,000 of the 4,500 current members of relevant professional associations were to seek registration with the new Register this would still only **either** transfer the cost of the 'missing' 3,000 registrants from the figures in Annex A directly onto the estimated 3,000 primarily regulated registrants, increasing their costs to £372 or £355 respectively for Option 1 and Option 2, **or** re-allocate the fixed education/registration costs at a greater

per capita unit of £88 for those regulated elsewhere and at an additional £38 cost for those primarily regulated, creating a figure of £350.

This latter calculation is based on the premise that the cost of providing education and registration functions is not directly proportional to the overall number of registrants. If the costs are directly proportional there would be no change to any of the figures in Option 1. The equivalent calculation for Option 2 would need to be reconsidered. The proportional distribution of non-education/registration costs increases prohibitively on a per capita basis for the smaller number of registrants already statutorily regulated elsewhere.

4.7 Other Potential Costs for Registrants

The overall costs for all registrants, whether they are regulated by the new Council or continue to be regulated elsewhere, are also sensitive to continuing financial commitments to professional associations and other regulators.

For those primarily regulated by the new Council, the extent to which the professional associations continue after statutory regulation is introduced and what role they are expected or required to play has a significant bearing on the cost of the overall 'package'. The current annual subscription to the British Acupuncture Council (BAcC) is £540, of which £140 is for professional insurance. It is highly likely that the combined cost of regulator and professional association will be greater than this.

It is thought that many potential registrants accept the potential additional cost as a fair price for the enhanced status which statutory regulation and registration bring. The associations themselves, however, are looking at their own commitments with great care. As their fees would represent the optional part of the overall package, it is likely to be the voluntary membership of the association which will suffer if the combined cost burden becomes onerous.

Similarly, the much smaller registration fee proposed for those statutorily regulated elsewhere must also be seen in the context of annual fees to professional associations in the range of £200-£500. In the case of many doctors, annual insurance costs are nearly £2,000. The relatively small registration fee for the new Register may still be a disincentive in the broader context of a package of fees and professional costs in excess of £2,500.

Annex A

Estimated Costs of General Acupuncture Council Regulatory Structure

	£	£
1. General Council		
Secretarial	30,000	
Council Meeting Costs	<u>20,000</u>	50,000
2. Ethics Committees (Health, Professional Conduct and Preliminary Investigating)		
Staffing	90,000	
Running Costs	25,000	
Meeting Costs	<u>10,000</u>	125,000
3. Education Committee including Continuing Professional Development		
Staffing	90,000	
Running Costs	75,000	
Meeting Costs	<u>10,000</u>	175,000
4. Safety Committee		
Staffing	30,000	
Running Costs	15,000	
Meeting Costs	<u>5,000</u>	50,000
5. Management and Establishment		
Staffing	150,000	
Running Costs	120,000	
Premises Costs	<u>100,000</u>	370,000
6. Finance and Administration Secretariat		
Staffing	60,000	
Running Costs	10,000	
Professional Insurance	30,000	
Legal Costs	<u>30,000</u>	130,000
7. Registration Secretariat		
Staffing	100,000	
Running Costs	<u>75,000</u>	175,000
8. Other Costs		
Publications	70,000	
Audit and Accountancy	10,000	
Annual Conference	<u>10,000</u>	<u>90,000</u>
Provisional Total		<u>£1,165,000</u>

Annex B

Apportionment of Costs of Regulatory Structure

Total Estimated Annual Running Cost of Regulatory Structure	£1,165,000
Made up of:-	
Education and Registration Related Costs	£ 350,000
Non-Education/Registration Costs	<u>£ 815,000</u>
	£1,165,000

Potential Numbers of Registrants:

Group A. Registered and Primary Regulator	3,000
Group B. Registered and Secondary Regulator	4,000

Option 1:

Education related costs shared equally by A and B at £50 per head
 Non-education costs paid 100 per cent by Group A at £272 per head

Income from Group A	3,000 @ £322	£ 966,000
Income from Group B	4,000 @ £50	<u>£ 200,000</u>
		£1,166,000

Option 2:

Education related costs shared equally by A and B at £50 per head
 Non-Education Costs Paid
 75 per cent by A at £204 per head
 25 per cent by B at £51 per head

Income from Group A	3,000 @ £254	£ 762,000
Income from Group B	4,000 @ £101	<u>£ 404,000</u>
		£1,166,000

Annex C

Notes to the Figures in Annex A

1. Staffing Costs

The total staffing costs amount to £550,000, or just under half of the overall cost of the regulatory structure. This compares with a proportion of thirty one per cent of total expenditure in the General Chiropractic Council accounts for 2001 (adjusted to thirty six per cent once the public relations costs have been set aside). It also compares with forty eight per cent of the General Osteopathic Council total expenditure in 2001 (adjusted to fifty two per cent of costs with public relations set aside).

Using 2003 costs as the basis an approximate calculation for a secretarial or support post has been costed at £30,000 per annum (inclusive of employer's contributions and pension costs) and senior administrative posts at £40,000 per annum (including on-costs). The principal officers are more likely to be in the region of £50,000 (including on-costs), and the Chief Executive at around £60,000.

This should allow for a complement of fifteen staff, within the budgeted figures, of:

Chief Executive x 1	£ 60,000
Principal Officers x 3 or 4	£ 150,000
Senior Admin Officers x 3	£ 120,000
Secretarial Staff x 7	<u>£ 210,000</u>
	£ 540,000

These figures are expressed as Whole Time Equivalent (WTE). It is probable that some posts may be only 0.5 WTE. It is also likely that where the figures in Appendix A allocate a specific sum to a particular sub-category, these might express the cost of a full-time senior staff member and a 0.5 WTE secretarial support.

2. Costs of Meetings

The total committee meeting expenses of £45,000 are more difficult to predict. This includes General Council at £20,000, Ethics Committee at £10,000, Education Committee at £10,000 and the Safety Committee at £5,000. Much depends on the levels of attendance allowances to which committee members are entitled. The extent to which travelling and subsistence expenses are affected by any specific requirements for representation by sector or regional grouping also needs to be taken into account.

Taking a twelve person General Council with attendance allowances of £200 charging an average of £100 for travel and subsistence, the unit cost of £3,600 per meeting creates an annual cost of around £20,000 for five meetings per annum.

Other committees are likely to be smaller and have been costed on a similar basis.

SECTION FIVE

THE DEVELOPMENT AND MAINTENANCE OF EDUCATIONAL STANDARDS FOR ACUPUNCTURE

5.1 The Current Diverse Educational Requirements for Acupuncture

Acupuncture education in the UK is characterised by a diversity of provision that reflects the different professional contexts within which acupuncture is practised.

The four groups on the Working Group are a good example of this diversity. The British Acupuncture Council (BAcC) represents largely independent practitioners whose sole/main practice is predominantly, what has become known as, traditional acupuncture, that is acupuncture based on traditional oriental medical theories and practitioners who are regulated on a voluntary basis. Their training is largely through independently accredited three-year full-time undergraduate degree programmes, equipping them to treat a wide range of people and conditions. These programmes have to comply with the educational guidelines developed by the British Acupuncture Council (BAcC) in consultation with relevant stakeholders and the teaching institutions, a mixture of independent colleges and universities. The British Acupuncture Accreditation Board (BAAB) is the body which assesses compliance with these guidelines.

The three other groups, the Acupuncture Association of Chartered Physiotherapists (AACP), the British Academy of Western Acupuncture (BAWA) and the British Medical Acupuncture Society (BMAS) represent orthodox healthcare professionals who are statutorily regulated and who predominantly work in the NHS. These mainly practise what is known as western medical acupuncture, that is, acupuncture based on neuro-physiological principles. The training courses for these three groups varies. The training is dependent to some extent on their prior training as healthcare professionals in their primary disciplines, and is usually delivered as post registration/graduate programmes. The criteria for these programmes have been developed by the education committees of the respective professional bodies/interest groups.

Nurses and doctors (who comprise two of the three groups referred to previously) mainly run training courses in western medical acupuncture with a range of applications. This extends from a limited application based on short courses (30 hours) to more extensive/unlimited application after training of 100 hours plus. The third group (physiotherapists) run courses encompassing a mixture of styles both traditional and western. Levels range from basic (30 hours) through intermediate (80-200 hours) to MSc level, where a graduate degree and several modules are validated by a number of UK universities.

In addition to the groups represented on the Working Group there are many practitioners who have trained overseas on either five year degree programmes of Traditional Chinese Medicine (where acupuncture and herbal medicine are sometimes combined) or through apprentice type training. There are also healthcare professionals or individuals who use acupuncture as a technique in a specific and limited context such as obstetrics or the treatment of drug dependency.

The Working Group is clear that any future regulatory framework for the acupuncture profession could only realistically encompass protection of title and not protection of function, as it would be inappropriate to limit the use of acupuncture techniques by other healthcare professionals in the current developing context of multidisciplinary approaches to healthcare.

Within this context the Education Committee of a General Acupuncture Council might need to consider how to safeguard minimum standards of safety and competence for a number of different professional contexts, either directly through the work of the General Acupuncture Council or through trans-regulatory arrangements with other health regulators.

5.2 The Development of Educational Equivalence

Since the Working Group has decided to recommend one register based on entry determined by educational standards, it has recognised the need to develop or propose a framework for establishing some form of equivalence in educational standards for the practice of acupuncture, given the disparate nature of the acupuncture programmes on offer in the UK.

This is not an easy task, with educational programmes sharing only the narrowest definition of acupuncture (the insertion of a solid needle into any part of the human body for disease prevention, therapy or maintenance of health) but differing very substantially in hours, content, depth, philosophical paradigm and possibly even expected outcomes. This could mean, for example, comparing the educational standards of a traditional acupuncturist with a three year full-time training in acupuncture, a third of which is devoted to western medical sciences, with that of a qualified medical practitioner with more than five years training in western medicine and a relatively short period of training in acupuncture.

This difficulty is compounded because some courses can look deceptively similar, covering similar terrain, and yet have vastly different outcome standards. The length of time spent in training is of dubious relevance if the degree of complexity or sophistication of course material is not made explicit.

Complicating the issue yet further is that different educational programmes have a logical rationale for being the way they are. As discussed in Section Three, traditional oriental medical theory is seen as having a sophisticated diagnostic framework which takes time and effort to learn for which a minimum three year full-time training is necessary. By contrast, practitioners using western medical acupuncture argue that their prior medical training provides them with the diagnostic framework that informs their acupuncture practice and that they do not need to do many hours of training in western medical acupuncture.

Given these different rationales the only way to establish equivalence between different groups of professionals practising acupuncture would be to look at whether they had similar outcome standards.

The Working Group concluded that equivalence has to revolve around what a professional acupuncturist can be expected to do in the professional context within which they work. This would include the ability to synthesise information using a diagnostic framework and covering a wide scope of application. Comparisons will have to be made between differences in knowledge of areas such as western medicine, acupuncture, patient management, practical skills and ethics, but always with reference to the independent practice of acupuncture.

5.3 Setting Educational Standards for Diversity

The Working Group concluded that the best way to resolve the issue of equivalence would be to develop National Occupational Standards (NOS) for the acupuncture profession. This work has already been initiated.

Other complementary therapies such as homeopathy, aromatherapy and reflexology have already established National Occupational Standards, with those for herbal medicine currently being developed.

National Occupational Standards are a resource that can be used in a number of different ways by both organisations and individuals. They can:

- support the development of a common language and the improvement of performance by the creation of a nationally agreed specification of good practice
- help define learning outcomes as well as suggest learning strategies and help in the creation of curricula
- help an individual identify areas of personal development, thus providing a structure for continuing professional development
- be owned by the profession and changed and improved upon as the profession learns to work with them.

Work on developing NOS for acupuncture is unlikely to be completed until spring 2004. Although it cannot be guaranteed that NOS will deliver the necessary equivalences, the Working Group is optimistic.

Although NOS are not the same as a core curriculum, they can have a similar role, in much the same way that the British Acupuncture Council Guidelines for Acupuncture Education have done for the British Acupuncture Accreditation Board (BAAB). The Guidelines outline a core curriculum in broad inclusive terms, which teaching institutions use to develop their own curricula. These curricula are not all alike; teaching institutions are free to develop different emphasis. Overall compliance with the Guidelines, however, is assessed by the BAAB. In this way diversity is supported within the framework of the standardisation necessary for safe and competent practice. Similarly, work can be done using NOS to help develop curricula for different educational pathways to registration.

5.4 Developing the Role of the General Acupuncture Accreditation Board

It will be the task of a General Acupuncture Accreditation Board (GAAB) to assess these different educational pathways and whether they meet the criteria set by the NOS for the acupuncture profession. If registration and regulation are to be based on minimum standards of safety and competence it is worth emphasising that the issue of safety is about more than the safe administration of a technique and that competence is inextricably linked to educational standards.

This implies that NOS for the acupuncture profession will need to be set at least at National Vocational Qualification (NVQ) level 4 and more probably at

NVQ level 5 (tertiary/degree level education).

If there is to be a single register there will need to be two pathways representing undergraduate and postgraduate training routes to practising acupuncture. A core curriculum will need to be established for each pathway. This will mean:

- a core curriculum for undergraduate courses for students who wish to practise acupuncture as their primary therapy and who are generally without prior medical training, and
- a core curriculum for postgraduate courses for healthcare professionals who wish to practise acupuncture alongside or within the context of their main discipline.

The core curricula will take account of the NOS that have been developed for the profession and will result from the current professional acupuncture associations and interest groups working with teaching institutions and individuals running acupuncture courses. The core curricula will need to be flexible enough to allow for diversity to flourish in the individual curricula of teaching institutions.

The General Acupuncture Council will have a General Acupuncture Accreditation Board (GAAB) which will assess the compliance of a teaching institution or course with the NOS developed for the profession and the core curricula developed for each pathway.

Two Accreditation Committees could assist this Board; one to assess compliance of courses developed in undergraduate mode; and the other committee to assess courses in postgraduate mode. These two committees would scrutinise all documentation for the various courses and oversee site visits in order to make recommendations for accreditation to the General Acupuncture Accreditation Board which will make the final decision. The two Accreditation Committees would also be able to accredit courses for continuing professional development (CPD).

All those graduating or completing accredited courses would be entitled to apply for automatic entry to the register. All those applying to the Register who did not train on an accredited course would need to be assessed individually, either by another Education Committee or an Admissions Committee. This Education Committee could also be used to monitor compliance with CPD requirements.

The General Acupuncture Accreditation Board and its Accreditation Committees, together with one additional Education Committee, would be the three/four Education Committees of the General Acupuncture Council and be funded by registration fees.

Annex D

Proposed Committees and their Composition

Composition of the General Acupuncture Accreditation Board

- An independent chair
- Representatives from the professional acupuncture associations
- Educationalists
- Lay members

Composition of Accreditation Committees

- Educationalist chair
- Members with extensive acupuncture teaching experience (e.g. senior staff members of teaching institutions)
- Educationalists
- Lay members

Composition of (possible) Education/Admissions Committee (CPD monitoring and individual entry)

- Educationalist/ independent chair
- Members with extensive acupuncture teaching experience
- Educationalists
- Lay members

In addition to the above there could also be an Advisory Education Committee for courses for those using acupuncture for a limited application and a specific purpose, e.g. the treatment of drug dependency (as discussed in paragraph 5.1). This Committee could kite-mark courses to ensure that minimum levels of safety and competence apply. This would probably be funded by the courses applying for kite-marking, and also by the General Acupuncture Council, since this task would be a major contribution to upholding the standards of the General Acupuncture Council wherever acupuncture was being used.

SECTION SIX

THE TRANSITION TO STATUTORY REGULATION

6.1 Introduction to Transitional Arrangements

The current estimate of potential registrants to the new Register is between 7,000 and 8,000 practitioners from an overall identified pool of between 10,000 and 12,000 regular users of acupuncture techniques. Most regulatory schemes allow two years from the opening of a new Register for existing practitioners to make an application and to undertake any requirements for registration, and for the administrators of the new Register to process their applications.

The system for transitional arrangements should be both practicable within the time limit and capable of extension and expansion at no additional unit cost should the demand from registrants be greater than anticipated. Given that acupuncture as a primary and adjunctive technique is increasing in popularity, and that the Register may open several years after the legislation which creates it, the design for registration in the transitional period recognises the possible need to cater for greatly increased numbers.

6.2 Registration of Existing Practitioners ('Grandparenting')

The development of the infrastructure for the new Council will begin considerably before the opening of the Register, and some of the financial implications of this are addressed in Section 6.11. The development of specific systems for admitting the first registrants will probably take place within the twelve months prior to the opening of the Register. This will be a major factor in the fee charged on to the registrants as their initial 'one-off' registration payment.

This element of the cost will be determined by two factors:

Element A: Resources necessary for the establishment, in the year prior to the opening of the Register, of those specific aspects of the regulatory infrastructure (primarily educational and registering functions) which have to be in place from the opening date of the register in order to admit registrants and administer their applications and further training requirements.

Element B: Resources necessary for processing applications from practitioners wishing to enter the new Register.

In addition to these elements, there will be a significant shortfall in income from registrants over the two-year transitional period during which the full regulatory infrastructure will be operating. The cost of this will also be charged back to the first registrants. The figures in Annex F illustrate how these three components are calculated.

The Working Group anticipates that the one-off registration fee will be maintained at the same level for all future entrants and that any surplus generated by this will be used to pay off any loans or overdrafts incurred by the Council prior to the opening of the Register or to reduce the continuing costs of annual registration.

6.3 The Time Limit for New Registrations (The 'Transitional Window')

The Working Group proposes a two-year window for applications by potential registrants during the transitional period, since it will not be

administratively possible to process such a potentially large number of applications in any lesser period.

The Working Group also recognises that in order to achieve the greatest level of inclusivity on the new Register, there will need to be sufficient time to identify and inform practitioners working outside the current voluntarily and statutorily regulated bodies of the existence of the Register. This will be a considerable challenge, since there are many practitioners in this group for whom English is not their first language. However, inclusivity is the best guarantee of standards and public safety, and any transitional window of less than two years would not allow sufficient time to complete this task.

6.4 Overview of Transitional Arrangements

The Group recommends that the design for transitional arrangements embraces aspects of several methods used by other regulatory bodies in their transitional phases, and includes:

- a comprehensive application process from which individual assessment levels can be determined for each registrant
- a practice history identifying both current and past practices aimed at meeting a qualifying standard for entry to the register, provisionally set at three years practice from the last five years
- a comprehensive peer-reviewed self-audit process for both safe clinical practice and professional conduct. A pilot version is already being tested by one of the Working Group's representative bodies and seems to be proving both effective and reliable.

In order to ensure that the principle of inclusivity does not lead to a dilution of standards, the qualifying period will be only one factor in determining entry to the Register. The process will be tied into a category of Provisional Registration and a system of mandatory continuing professional development (CPD). This will take effect immediately upon the opening of the Register, and will require significant administrative development and planning in the two years prior to the opening of the Register. This will have considerable cost implications for new registrants.

6.5 Categories of Transitional Registrant

The use of applications and qualifying periods means that there will be more than one entry criterion. The consequence is that there will be several categories of potential registrant. The primary ones will be:

- A. Practitioners in practice in the UK for more than three years before the Register opens.**
- B. Practitioners completing their training in the UK within the last three years before the Register opens.**
- C. Practitioners completing their training in the UK while the transitional 'window' of the Register is open.**

D. Practitioners in practice outside the UK, and practitioners with less than three of the last five years in practice.

6.6 Provisional Registration

The Working Group recommends that there is no automatic entry to the new Register. Therefore, all registrants entering the transitional process will only be accorded, where appropriate, the status of Provisional Registration. Full Registration will only be awarded on completion of any transitional requirements.

This does not mean that every applicant will automatically be awarded Provisional Registrant status. Part of the initial application process will be to undertake any necessary administrative processes to verify qualifications and to investigate any declarations made on the initial application form about previous conduct. Provisional registration may be withheld if any major concerns are identified at this stage.

There will be a two-year time limit in which practitioners can complete any transitional requirements.

Upon satisfactory completion Full Registration will be granted. Failure to complete any requirements within two years will lead to withdrawal of Provisional Registration. An appeal system will be set in place with powers to extend the period of Provisional Registration by one year in the event of personal or health problems. This will apply to all of the entry categories.

Provisional Registration will convert to Full Registration for each category in slightly different ways:

A. Practitioners in practice in the UK for more than three years before the Register opens.

Practitioners meeting the criterion of three years practice from the last five years will be accorded Provisional Registration immediately upon application. The application process will identify any outstanding training or practice requirements, and CPD provision will be identified which will help them to achieve Full Registrant status. As soon as these requirements are met and verified there will be an automatic transfer to Full Registrant status.

B. Practitioners completing their training in the UK within the last three years before the Register opens.

Practitioners in this category will complete the application process but will only be entitled to the status of Provisional Registrant after they have completed one full year in practice, whether they have completed any transitional requirements or not. This acknowledges the importance of professional experience as well as professional training. This group will also have two years from initial assessment to complete any tasks set through appropriate CPD.

C. Practitioners completing their training in the UK while the transitional window of the Register is open.

Practitioners completing their training in the UK during the window period will, in theory, have the least to do to meet the requirements of the new

Register. They will also complete the application and have any further training requirements identified. On completion of this they would qualify for Full Registration as soon as they have been in practice for twelve months after graduation. They will qualify for Provisional Registrant status on application.

D. Practitioners with at least three years' experience in practice outside the UK and practitioners with at least one year's experience of practice in the UK.

All other practitioners will complete the application during the window period in order to assess their educational, training and practice needs. Granting of Provisional Registrant status will be discretionary for this category and may be dependent on meeting some of the requirements specified in the assessment. Completion of the requirements for Full Registration will always be set at a maximum of two years from the award of Provisional Registration. This ensures that a practitioner has adequate time to complete the requirements. The facility to delay the award of Provisional Registration until some tasks have been set ensures that the basic entry standards of the profession are not lowered.

The Registrar may decide that an application has so many areas of concern that nothing short of a full basic training will enable the practitioner to meet the Register's entry standard. The legislation should ensure, therefore, that this power exists and that, subject to appeal where appropriate, the Register is not required by law to entertain and administer applications from practitioners whose standards fall far short of the entry standard of the profession. The application process should not become a secondary qualifying route by default. There will be a two-year time limit in which practitioners can complete any transitional requirements.

6.7 The Application Process

The Working Group recommends that the application process is designed in such a way to reflect broadly the main pathways onto the Register which will take effect after the closure of the transitional window. The intake of 'post-closure' registrants will come from limited but clearly defined routes reflecting whether their primary training was through undergraduate training in acupuncture, post-registration training under another regulatory body or undertaken overseas. The assessment of applications during the transitional period will use the same distinctions in order to ensure that assessment criteria are applied fairly to each individual application.

Applications will be accepted up to the day of the second anniversary of the opening of the Register. Provisional Registration will be awarded, where appropriate, even when detailed examination of the forms will not take place within the transitional window.

Individual applications made after the transitional period has ended will be subject to whatever provisions the Education/Admissions Committee makes for individual, rather than institutional graduate application.

6.8 The Cost of the Application Process and ‘Grandparenting’

Designing and establishing the infrastructure of the application process described above will take a minimum of one year prior to the opening of the Register. This will involve design and preparation of the application material, establishment and training of the admissions staff, and creation of the infrastructure for CPD training, to which some applicants may be directed within the first few weeks of the transitional period. An application process of this size will also have to be developed in conjunction with education and training providers through which some of the required CPD training, especially refresher courses and specialist training, will be delivered.

Estimating the costs at this stage is difficult, especially as the possible design of the regulatory framework, particularly that of the Education Committee functions, may be open to wider consultation. However, attached to this section as annexes are:

Annex E Estimated Costs of GAC Transitional Structure

Annex F Cost of Application Process for Initial Registrants

6.9 Estimated Costs of General Acupuncture Council Transitional Structure

The figures in Annex E are derived in the main from Annex A in Section Four and reflect the likely cost of both the ‘shadow’ structure which will be established prior to the opening date of the Register and the development work which will be necessary for creating the entry procedures for the first cohort of registrants.

Many of the staff will have to be in post for three to six months prior to the opening of the Register. The education staff and committees, on whom much of the admissions procedure will depend for current practitioners and schools and colleges, may need to be in post for up to a year in advance of the Register. Legal costs of £100,000 have been budgeted for, although these could be considerably higher.

Since this funding will be recouped from the first registrants, there will either have to be a contribution from within the existing profession, either as a loan or gift, or bank loan to enable this work to take place prior to the receipt of funds from applicants.

It is anticipated that, in the interests of equity, a similar levy will be charged to all future registrants as a one-off joining fee, thus allowing the first registrants to recoup some of the initial expense of setting up the Register. This would be achieved by the potential reduction in future annual registration costs as a consequence of the income from the joining fees of new registrants.

6.10 Cost of Application Process for Initial Registrants

The costs outlined in Annex F are based on the assumption that:

- there will be a unit administrative cost of about £50 to process applications

- costs outlined in Annex E will be charged on to the first registrants
- the uptake onto the register will be phased, principally because of the time needed to process applications, in such a way that only fifty per cent of the annual costs will be met from registration fees in the first year of operation and only seventy five per cent in the second year of operation.

The combined total cost of £1,859,000 will be borne by the first registrants. These calculations shown make the same assumptions about distribution of cost as Section Four Annex B, and show a probable range of £350-£450 for those regulated by the General Acupuncture Council and £120-£180 for those regulated elsewhere for the one-off fee chargeable on entry to the Register.

The calculations in Annex F share the same assumption as those in Annex B of a take-up of registration by 7,000 practitioners. It remains, as outlined in Section 4.6, sensitive to variations in this take-up. On the same worst case assumption as that used earlier, that only 1,000 practitioners regulated elsewhere opt to register with the new body, and that the education/registration costs are not directly proportional to the number of registrants, either the costs of the 'missing' registrants transfer to those who are primarily regulated, amending the figure for this group in Case One to £529 or the education/registration costs are re-allocated equally amongst the lower figure of 4,000 registrants, amending the figures in Case One to £511 and £175 for the two groups.

If the education/registration costs are directly proportional to intake, there will be no change in the unit costs shown in Case One. Case Two, however, is subject to the same caveat noted in Section 4.6, that the unit cost per registrant regulated elsewhere rises considerably if a proportion of the non-education/registration costs is charged on at a per capita rate. This may create initial payments and continuing registration fees of such a magnitude that it deters registration by those regulated elsewhere. Further consideration will have to be given to the equation governing the cost and desirability of registration amongst those already statutorily regulated.

The illustration is predicated on the assumption that a relatively high level of funding for the Education Committee in the transitional budget is primarily aimed at developing the CPD structure integral to all provisionally registered practitioners bringing their standards up to the Register's requirements. Once the Register opens the focus will then shift to the teaching institutions from which the first tranches of registrants after the closure of the transitional window will be drawn.

Much will depend on the number of entrants whose standards require considerable adjustment and improvement, with whatever directly proportional associated additional costs this may entail. However, there has been considerable development in CPD programmes in the last few years for acupuncture practitioners in both the voluntary and statutory regulatory bodies, and it is anticipated that much of the development done here will become the foundation for any systems developed and used by the new Register.

6.11 Other Likely Costs in the Transitional Phase

The costs outlined in the previous two sections and Annexes have been estimated with the primary aim of calculating the probable one-off payment for the first registrants to the new Register.

The Working Group proposes, in the interests of equity, that this first payment will be levied as a registration fee on all new registrants after the transitional phase has been completed. This, over time, will spread the financial burden of creating the initial infrastructure of the regulatory body.

The costs on which these payments are based, do not represent all of the probable costs prior to the opening of the Register but only those which are most directly attributable to new registrants for the establishment of the educational and registering infrastructure necessary to admit them. The experience of recently formed regulatory bodies shows a consistent pattern of the recruitment of key staff members, such as the Chief Executive, well over a year before the Registers have opened, and also the appointment and formation of 'Shadow' Councils and Committees. Not only do these appointments create considerable expenditure in themselves, they also create difficulties in both raising and directing the necessary finances. There are often, for example, questions of what legal status these committees have, what relationship they have to the eventual Register, and what safeguards there are for any monies raised to pay for their operation.

Where the new regulatory body is the descendant of a small number of professional associations it has often been possible for these associations, by virtue of their members' vested interest in the creation of the Register, to contribute heavily to the pre-Register phase. The acupuncture profession, however, is a far more disparate group and there is not such an easy or equitable solution available.

The Working Group recommends that a significant funding contribution be sought, in the transitional phase, from central Government in recognition of its partnership with the acupuncture profession in delivering the safety and accountability sought by the House of Lords' Select Committee Report.

The Working Group further recommends that both the Government and the Department of Health be approached for assistance in promoting the existence of the new Register, both in the interests of public information and for the purpose of alerting the maximum number of potential registrants of its existence.

The costs of the promotion of the acupuncture profession as a profession will remain one of the primary tasks of the professional associations in the pre- and post-regulation climate. The promotion of the regulation of the profession, however, is a broader concern for which the Working Group believes contributions from statutory agencies would be appropriate.

It is impossible to make any accurate estimates of the potential costs at this stage.

Annex E

Estimated Costs of Transitional General Acupuncture Council Regulatory Structure

	£	£
1. General Council		
Secretarial	20,000	
Council Meeting Costs	<u>10,000</u>	30,000
2. Ethics Committees		
Staffing	30,000	
Development Costs	10,000	
Meeting Costs	<u>5,000</u>	45,000
3. Education Committee inc CPD		
Staffing	90,000	
Running Costs	75,000	
Meeting Costs	<u>10,000</u>	175,000
4. Safety Committee		
Development Costs	<u>10,000</u>	10,000
5. Management and Establishment		
Staffing	50,000	
Running Costs	60,000	
Premises Costs	<u>50,000</u>	160,000
6. Finance and Administration Secretariat		
Staffing	30,000	
Running Costs	10,000	
Professional Insurance	15,000	
Legal Costs	<u>100,000</u>	155,000
7. Registration Secretariat		
Staffing	50,000	
Running Costs	<u>10,000</u>	<u>60,000</u>
Provisional Total		<u>£ 635,000</u>

These costs are incurred in the year prior to the opening of the Register, and represent the development work done by the essential committees and the Registrar to prepare the ground for the intake of new registrants.

Annex F adds to these figures the additional costs of processing applications within the two years of the transitional window, and the costs of running a full regulatory structure without the full number of registrants in place. Together these form the cost of initial registration to be charged on to the first registrants.

Annex F

Cost of Application Process for Initial Registrants

a) Estimated administrative cost of processing 7,000 applications	£350,000
b) Cost of transitional structures (Annex E)	£635,000
c) Cost of Regulatory Structure for two years	
Assuming 50 per cent uptake of Provisional Registration in Year 1 (cost due to shortfall)	£583,000
Assuming 75 per cent uptake of Provisional Registration in Year 2 (cost due to shortfall)	<u>£291,000</u>
Total	<u>£1,859,000</u>

Case One (See Annex B, Option 1)

Education related costs shared equally by Groups A and B. Non-education costs paid 100 per cent by Group A.

	Group A GAC Primary Regulator	Group B GAC Secondary Regulator
<i>No. of Registrants</i>	<i>3,000</i>	<i>4,000</i>
a)	£150,000	£200,000
b)	£500,000	£135,000
c)	<u>£724,000</u>	<u>£150,000</u>
Total	<u>£1,374,000</u>	<u>£485,000</u>
Application Cost per head	<u>£458.00</u>	<u>£121.25</u>

Case Two (See Annex B, Option 2)

Education related costs shared equally by Groups A and B. Non-education costs paid 75 per cent by Group A and 25 per cent by Group B.

	Group A	Group B
<i>No. of Registrants</i>	<i>3,000</i>	<i>4,000</i>
a)	£150,000	£200,000
b)	£400,000	£235,000
c)	<u>£571,000</u>	<u>£303,000</u>
Total	<u>£1,121,000</u>	<u>£738,000</u>
Application Cost per head	<u>£373.67</u>	<u>£184.50</u>

SECTION SEVEN

THE ENFORCEMENT OF REGULATION

7.1 Overview

The Working Group has attempted in its proposals to encourage applications to the new Register in order to make it as inclusive as possible. It is inevitable, however, that there will be a small minority of practitioners who, through ignorance or wilful intent, continue to use the title 'acupuncturist' outside the Register. There are also likely to be a number who, for political or commercial reasons, re-designate themselves as 'practitioners of Traditional Chinese Medicine' or 'trigger point therapists' in order to avoid the burdens and costs of statutory regulation.

The Working Group has discussed this problem with representatives of the General Osteopathic Council and the General Chiropractic Council in order to benefit from their recent experience.

7.2 Legal Enforcement

The enforcement of protection of title through the courts is feasible to the extent that the number of cases is relatively small and the punitive measures handed down by the courts act as a deterrent. The experience of the osteopaths, however, has been very salutary in highlighting potential difficulties. With over three hundred reported cases, it has been beyond the resources of the General Osteopathic Council to pursue individual offenders, and the responsibility has devolved to the local Trading Standards Officers under whose jurisdiction this then falls. There has been a noticeable unevenness in the manner in which these officials have pursued such cases, and the problems of the costs involved are as much a concern to their departments as to the Registrar.

The Working Group recognises, however, that the practice of acupuncture has the advantage of being subject to a form of statutory regulation already insofar as those practitioners who are not already statutorily regulated have to be registered with local authorities under the Local Government (Miscellaneous Provisions) Act 1982. Where this does not apply, primarily in Greater London in boroughs which have adopted the provisions of the London Local Authorities Act 1991, all practitioners of acupuncture are required to hold an annual licence unless they belong to a bona fide professional association. If they do meet this latter requirement, they are exempt from any charge. The Government issued a consultation paper in 1997 on extending the provisions of the London Local Authorities Act 1991 on skin-piercing to the remainder of England, and any changes may supersede the 1982 legislation by the time the acupuncture Register is open.

The Working Group felt that there might be an advantage to pursuing some form of enforcement through this legislation, principally by setting the registration fees or annual licensing fees at very high levels unless the practitioner concerned belongs to the statutory register. This would deter all but the most determined or commercially driven. The counter-argument is that for those who are concerned with profit this merely becomes a further cost to pass on to the paying customer. As the Health Professions Council consultation process pointed out in its consultation on the use of fines, this

does have the merit of showing intent and may indicate to those unaware of regulation the importance of registration.

Co-operation with local authorities in this manner would also allow the authorities themselves access to adequate funds from such levies to ensure that they had the resources and facilities to maintain high levels of inspection for compliance with the current standards in force. This would enable the General Acupuncture Council to ensure that, even where people chose to operate outside its jurisdiction, they were still obliged to maintain equivalent standards of safety and competence.

7.3 Public Relations and Publicity

The Working Group has heard some very strongly expressed views on the inclusion of promotion and public relations within the remit of the statutory body. The legislation which created the General Osteopathic Council and the General Chiropractic Council embraced this within the primary aims of both regulatory bodies, and both now spend considerable sums promoting the benefits of their respective styles of treatment.

The Working Group recognises that the composition of an acupuncture Register is much more complex due to the diverse background of the potential registrants. Over half the potential registrants will be registered with other statutory bodies. It also recognises, however, that to inform the general public of the existence of the new Register and to maintain a level of promotion which emphasises the benefits of seeking consultations with a properly registered acupuncture practitioner will require a large amount of appropriate and effective promotion and publicity.

The Working Group believes that to inform effectively the general public of the existence of the new Register will require financial and political assistance from central Government.

This may be achieved through some form of partnership arrangement. The Working Group believes that this is in the interests of the wider healthcare system as a whole, and that for foregoing the statutory function of promotion, the acupuncture profession should benefit from some start-up help.

In the longer term, the work of promoting the acupuncture profession, the Register and its regulatory framework, may well devolve to the professional associations under which most existing practitioners are now voluntarily regulated. Once the statutory Register has been established, these associations will not be as restricted, as they currently are, by the dual functions of protecting the public and supporting their own members. This will enable them to lobby more strongly in support of their members, to adopt a vigorous public relations stance in support of the Register, and to pursue funding for professional development in a more focused manner.

MAIN CONCLUSIONS AND RECOMMENDATIONS

SECTION THREE THE REGULATION OF ACUPUNCTURE

3.1 Introduction - Preserving Diversity and Ensuring Inclusivity

The Working Group has decided to adopt the use of National Occupational Standards (NOS) as the most appropriate mechanism for determining equivalence. This work has already been initiated.

3.3 Proposals for the Register and Title

The Working Group makes the following recommendations for Registration and Title based on the goals of carrying out the House of Lords' proposals and also upholding the principles of diversity and inclusivity:

- *The primary purpose of the Register is to identify those practitioners whose standards of safety, competence and ethical behaviour can be guaranteed and whose continuing registration depends on upholding these standards.*
- *There should be a single Register, entry to which is determined by educational standards.*
- *Registration should confer the title 'Registered Acupuncturist'. Certain subsidiary designations might be considered in the interests of informed patient choice.*
- *In view of the Working Group's goal of a unified profession, entry to the Register should not be constrained by philosophy or styles of practice. The Register should nonetheless offer some facility by which a member of the public can identify the training background of the registered practitioner and also the regulatory authority under whose jurisdiction s/he falls.*

In order to fulfil this role the proposed registering/regulatory body should:

- *establish and develop the educational standards required for entry to the Register*
- *establish transitional arrangements for the entry of existing practitioners to a new Register which are broadly equivalent to the educational standards defined above*
- *establish and maintain systems of revalidation, continuing education and training, and continuing professional development in order to ensure consistent standards throughout the acupuncture profession*
- *establish and maintain guidelines for the safe and competent use of acupuncture as an invasive technique*
- *establish and develop codes of professional conduct and disciplinary procedures in order to ensure compliance with the requirements of the Register and to define the sanctions and powers of the Council.*

MAIN CONCLUSIONS AND RECOMMENDATIONS

3.4 Proposals for Multiple Registration

The Working Group proposes a working distinction between the regulatory functions and the registering functions. This broadly distinguishes between the generic procedures and infrastructure common to all regulatory bodies and the profession-specific areas, mainly concerned with educational standards, revalidation and continuing professional development.

Applying this distinction to potential registrants to an acupuncture register creates two distinct groups:

- a) Those not already statutorily regulated would join the Register as their primary regulator, hold the title 'Registered Acupuncturist' and be governed by all of the provisions of the proposed regulatory council.*
- b) Those already statutorily regulated could join the Register as a registering body only, through which they could hold the title 'Registered Acupuncturist'. They would however be regulated by their existing regulatory body (primary regulator) under whose jurisdiction they would fall for the purposes of disciplinary procedures and other regulatory matters.*

There will need to be further consultation on whether the choice of primary regulator lies with the practitioner or the regulatory body. In order for dual registration to work there would have to be close liaison and co-operation between regulatory bodies.

The Working Group therefore also decided that the distinction between the two groups of registrants should also be reflected in the fee structure.

- a) Those both registered and regulated by a new Council as their primary regulator would pay an equally apportioned annual registration fee for the establishment and maintenance of the Register.*
- b) Those registered with the Council but regulated elsewhere would pay a significantly reduced fee based on the cost of maintaining the profession-specific aspects of the new Council's work. Principally this would be the training and educational elements integral to their continued registration. Such fees could be apportioned directly to the education/accreditation and other relevant committees.*

3.5 Protection of Title and Protection of Function

The Working Group recognised that although its primary concern was to deal with the standards of potential registrants capable of independent practice and fulfilling the criteria for registration, it would be necessary to have sub-committees to deal with the more limited use of acupuncture. This might mean exploring ways of kite-marking standards of training to ensure that consistently high standards of care are delivered in all uses of acupuncture.

The Working Group believes that, for those users of limited acupuncture technique working within existing regulatory structures, standards could be maintained and enforced by trans-regulatory agreements. For those operating

MAIN CONCLUSIONS AND RECOMMENDATIONS

outside regulatory frameworks, as for example in drug detoxification work, where there is often no formal requirement for training beyond the limited acupuncture technique itself, the Working Group believes that the success of kite-marking the standards of training would rely on the active promotion of the benefits of the approval by the General Acupuncture Council.

The Working Group believes that by extending the range of regulatory interest in this way beyond the responsibility for those claiming title, it could better address concerns for public safety as well as creating effective pathways for passing on relevant information.

3.6 The Regulatory Context

It was evident from the recently published entry criteria for the HPC that a precondition of entry for new groups was to have functioned as a mature profession for several years prior to application.

The Working Group took the view that this proposal could not meet the urgency of the need expressed in the House of Lords' Report and by the Government's Response. The precondition for entry to the HPC presupposed the end result of the process that the acupuncture groups are only now undertaking. In addition there might well be a further delay of several years to process any application.

The Working Group has decided that the acupuncture profession would, at this stage, be best served by a free-standing statutory regulatory body for acupuncture and that this option is most clearly in line with the recommendations of the House of Lords' Report. The regulatory process necessary to achieve this will, in the Working Group's view, enable the widest take up of registration and be the most effective way of dealing with the large number of unregulated practitioners by virtue of its clarity of focus.

The Working Group does not believe that its proposals rule out future collaboration with the herbal medicine and other complementary health professions in devising ways to reduce costs and enhance multi-disciplinary working. It believes, however, that both the acupuncture and herbal medicine professions face significant and considerable challenges in achieving their own immediate aims for professional unity, and that for each, the creation of a coherent profession is a precondition of a successful future joint enterprise.

SECTION FOUR PUTTING ACUPUNCTURE REGULATION INTO PRACTICE

4.1 The Essential Committees

The regulatory body needs to establish structures that promote its function of protecting public safety and promoting the highest standards in acupuncture practice. The first structure to be set up will be the governing body, the General Acupuncture Council (GAC). The Council would be responsible for ensuring that the policies and procedures under which the organisation exists

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and functions (corporate governance) are of the highest standards. It would also set the overall strategic direction of the organisation within the legislative framework (the new Order which regulates acupuncture).

The Working Group endorsed the use of mechanisms to deal with areas of poor practice and competence by slightly less formal means. Encouraging compliance with Conduct and Safe Practice systems as well as enforcing standards by sanctions had the dual advantage of driving standards up while at the same time reducing the call on costly formal hearings for relatively minor problems.

4.3 The Professional Codes

The Working Group recommends that Codes prepared under statutory regulation are explicit and detailed, and accompanied by guidelines that explain and expand on ideas of best practice.

4.4 Relationship with Other Regulatory Bodies

The Working Group recommends that the plans for the statutory regulation of acupuncture take into account any innovations from the Council for the Regulation for Healthcare Professionals (CRHP) involving dual or multiple registration.

4.6 Apportionment of Costs of Regulatory Structure

The Working Group recommends that those who are regulated elsewhere should pay reduced fees which are to be apportioned to the educational and registering functions from which they derive benefit.

SECTION FIVE

THE DEVELOPMENT AND MAINTENANCE OF EDUCATIONAL STANDARDS FOR ACUPUNCTURE

5.1 The Current Diverse Educational Requirements for Acupuncture

The Working Group is clear that any future regulatory framework for the acupuncture profession could only realistically encompass protection of title and not protection of function, as it would be inappropriate to limit the use of acupuncture techniques by other healthcare professionals in the current developing context of multidisciplinary approaches to healthcare.

Within this context the Education Committee of a General Acupuncture Council might need to consider how to safeguard minimum standards of safety and competence for a number of different professional contexts, either directly through the work of the General Acupuncture Council or through trans-regulatory arrangements with other health regulators.

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5.2 The Development of Educational Equivalence

The Working Group concluded that equivalence has to revolve around what a professional acupuncturist can be expected to do in the professional context within which they work. This would include the ability to synthesise information using a diagnostic framework and covering a wide scope of application. Comparisons will have to be made between differences in knowledge of areas such as western medicine, acupuncture, patient management, practical skills and ethics, but always with reference to the independent practice of acupuncture.

5.3 Setting Educational Standards For Diversity

The Working Group concluded that the best way to resolve the issue of equivalence would be to develop National Occupational Standards (NOS) for the acupuncture profession. This work has already been initiated.

SECTION SIX THE TRANSITION TO STATUTORY REGULATION

6.3 The Time Limit for New Registrations (The Transitional Window)

The Working Group proposes a two-year window for applications by potential registrants during the transitional period, since it will not be administratively possible to process such a potentially large number of applications in any lesser period.

6.6 Provisional Registration

The Working Group recommends that there is no automatic entry to the new Register. Therefore, all registrants entering the transitional process will only be accorded, where appropriate, the status of Provisional Registration. Full Registration will only be awarded on completion of any transitional requirements.

This does not mean that every applicant will automatically be awarded Provisional Registrant status. Part of the initial application process will be to undertake any necessary administrative processes to verify qualifications and to investigate any declarations made on the initial application form about previous conduct. Provisional registration may be withheld if any major concerns are identified at this stage.

There will be a two-year time limit in which practitioners can complete any transitional requirements.

6.7 The Application Process

The Working Group recommends that the application process is designed in such a way to broadly reflect the main pathways onto the Register which

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will take effect after the closure of the transitional window. The intake of 'post-closure' registrants will come from limited but clearly defined routes reflecting whether their primary training was through undergraduate training in acupuncture, post-registration training under another regulatory body or undertaken overseas. The assessment of applications during the transitional period will use the same distinctions in order to ensure that assessment criteria are applied fairly to each individual application.

6.11 Other Likely Costs in the Transitional Phase

The Working Group proposes, in the interests of equity, that the first payment will be levied as a registration fee on all new registrants after the transitional phase has been completed. This, over time, will spread the financial burden of creating the initial infrastructure of the regulatory body.

The Working Group recommends that a significant funding contribution be sought from central Government in recognition of its partnership with the acupuncture profession in delivering the safety and accountability sought by the House of Lords' Select Committee Report.

The Working Group further recommends that both the Government and the Department of Health be approached for assistance in promoting the existence of the new Register, both in the interests of public information and for the purpose of alerting the optimum number of potential registrants of its existence.

The costs of the promotion of the acupuncture profession as a profession will remain one of the primary tasks of the professional associations in the pre- and post-regulation climate. The promotion of the regulation of the profession, however, is a broader concern for which the Working Group believes contributions from statutory agencies would be appropriate.

SECTION SEVEN THE ENFORCEMENT OF REGULATION

7.3 Public Relations and Publicity

The Working Group believes that to inform effectively the general public of the existence of the new Register will require financial and political assistance from central Government.

APPENDICES

Appendix One

Membership of the Acupuncture Regulatory Working Group

Lord Chan	Chair
Joan Davies	Acupuncture Association of Chartered Physiotherapists
Val Hopwood	Acupuncture Association of Chartered Physiotherapists
Peter Dowds	British Academy of Western Acupuncture
Paul Mayer	British Academy of Western Acupuncture
Jasmine Uddin	British Acupuncture Council
John Wheeler	British Acupuncture Council
Anthony Campbell	British Medical Acupuncture Society
Mike Cummings	British Medical Acupuncture Society
Mercy Jeyasingham	Lay Member
Alaba Okuyiga	Lay Member
Kathleen Wood	Lay Member

Stephen Halpern Secretary

Observers

Gordon Brown	Complementary Therapies Team, Department of Health
Rebecca Sidwell	Health Regulatory Bodies Branch, Department of Health (from April 2003)
Pamela Jack	The Prince of Wales's Foundation for Integrated Health

Appendix Two

Profile of UK professional acupuncture groups represented on the ARWG

	Acupuncture Association of Chartered Physiotherapists AACP	British Acupuncture Council BAcC	British Academy of Western Acupuncture BAWA	British Medical Acupuncture Society BMA
STATUS	Interest Group	Professional Association	Interest Group	Interest Group
NUMBER OF MEMBERS	2,650	2,400	250	2,200
ANNUAL COST OF MEMBERSHIP	Primary professional fees plus £45	£540	Primary professional fees plus £100	Primary professional fees plus £95
ACCREDITATION (INCLUDING OVERARCHING BODIES)	Recognised by the Chartered Society of Physiotherapists (CSP) Some universities validate basic and postgraduate masters courses	Established independent British Acupuncture Accreditation Board in 1990 to accredit teaching institutions	Currently in discussions with a university	Internal system of accreditation and awards
CONTINUING EDUCATION POLICY	Ten hours every two years	CPD programme piloted in 2002 and commencing in August 2003	Two weekends per year	30 hours over five years
INSURANCE	Through the CSP	Block policy included in membership subscription	Individual	Medical indemnity
PRIMARY REGULATOR	Health Professions Council	Voluntary Self-Regulated	Statutory	GMC (full members) NMC, HPC (associate members)
DISCIPLINARY PROCESS	HPC but can be through the CSP	Detailed Codes of Conduct enforced by Conduct Committees	Verbal Written	BMAS Complaints Procedure and/or complaints to primary regulator
RESEARCH ACTIVITY	AACP committed to support research by way of granting awards. Active involvement in research is encouraged	Funds Acupuncture Research Resource Project, and both individual and group research projects from own resources	–	BMAS Research committee - advisory role, e.g. reviewing trial protocols

Appendix Three

Survey of healthcare professionals using acupuncture

The purpose of this survey is to provide a broad indication of the number of practitioners using some kind of acupuncture technique. In most cases, the figures are based on the latest membership numbers for the major acupuncture societies. In other cases they are based on estimates from sources in the respective professions. This survey cannot be comprehensive since the figures will not include practitioners who are not affiliated to any professional acupuncture interest group, nor those who are currently practising acupuncture without belonging to a professional organisation.

Profession/Grouping	Relevant Acupuncture Organisations	Estimated Number
Traditional Acupuncturists	British Acupuncture Council	2,400
Physiotherapists	Acupuncture Association of Chartered Physiotherapists	2,650
Medical practitioners	British Medical Acupuncture Society	2,200
Nurses	British Academy of Western Acupuncture	250
Dentists	British Dental Acupuncture Society	100
Traditional Chinese acupuncturists	Legislative Association for Chinese Medicine Representing:- The Association of Chinese Medicine Practitioners Association of Traditional Chinese Medicine British Society of Chinese Medicine Chinese Medical Institute and Register Chinese Healthcare Institute Register General Council of TCM	1,200
Osteopaths	No specific acupuncture organisation	250
Chiropractors	No specific acupuncture organisation	300
Naturopaths	No specific acupuncture organisation	300
Auricular acupuncturists / substance abuse	SMART (Self Management and Recovery Training) NADA (National Acupuncture Detoxification Association) Society of Auricular Acupuncturists	2,500
TOTAL		12,150

Appendix Four

Details of organisations consulted

Complementary Therapies Team, Department of Health

General Chiropractic Council

General Medical Council

General Osteopathic Council

Health Professions Council

Health Regulatory Bodies Branch, Department of Health

Herbal Medicine Regulatory Working Group

Legislative Association for Chinese Medicine (LAC) representing:-

The Association of Chinese Medicine Practitioners

Association of Traditional Chinese Medicine

British Society of Chinese Medicine

Chinese Medical Institute and Register

Chinese Healthcare Institute Register

General Council of Traditional Chinese Medicine

London Working Party on Special Treatments

NADA (National Acupuncture Detoxification Association)

Nursing and Midwifery Council

The Prince of Wales's Foundation for Integrated Health

Skills for Health, advisors on National Occupational Standards

Society of Auricular Acupuncturists

SMART (Self Management and Recovery Training)

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