

Park House
184 Kennington Park Road
London SE11 4BU

tel +44 (0)845 300 6184
fax +44 (0)20 7820 9684
www.hcpc-uk.org

hcpc health & care
professions
council

Mr Richard Willis
Parliament of Victoria
The Secretary, Legal and Social Issues Committee
Legislative Council
Parliament House
Spring Street
Melbourne VIC 3002
Australia

Chair: Anna van der Gaag
Chief Executive and Registrar: Marc Seale

30th January 2013

Dear Mr Willis,

Inquiry into the performance of the Australian Health Practitioner Regulation Agency

It has recently been brought to my attention that the Standing Committee on Legal and Social Issues Legislation Committee of the State of Government of Victoria, Australia, is undertaking an Inquiry into the performance of the Australian Health Practitioner Regulation Agency, (AHPRA).

In particular, at the public hearing of the Committee held on 12 December 2012, specific references were made to the Health Professions Council and indirectly to the work of the UK's Professional Standards Authority (PSA).

As the Chief Executive and Registrar of the recently renamed Health and Care Professions Council (HCPC), I believe that it might be of assistance to the members of the Committee to bring to their attention a number of publications that they may like to consider when drafting their final report which I understand will be published on 29th November 2013.

I have therefore attached a **Written Submission** which provides some background information on the HCPC and in particular refers to a number of publications concerning the effectiveness and efficiency of the UK statutory regulators of healthcare professionals.

If I can be of any further assistance to the Committee, please do not hesitate to contact me.

Marc Seale

Marc Seale
Chief Executive and Registrar

Att

Written Submission

This written submission has been prepared by the Chief Executive and Registrar of the United Kingdom's Health and Care Professions Council for the Legal and Social Issues Committee for their inquiry into the Performance of the Australian Health Practitioner Regulation Agency.

The purpose of the submission is to draw to the attention of the Committee a range of developments in the UK and the EU that indicate how professional regulation is evolving in other jurisdictions.

Marc Seale

30 January 2013

**Chief Executive and Registrar
Health and Care Professions Council
London
UK**

1. The Health and Care Professions Council

- 1.1 The Health and Care Professions Council (HCPC) is one of nine UK statutory regulators of health and care professions. Many readers will be familiar with the General Medical Council (GMC), the UK regulator of the medical profession, and the Nursing and Midwifery Council (NMC), the UK regulator of nurses and midwives.
- 1.2 The HCPC is a multi-professional regulator of 16 professions ranging from physiotherapists, to paramedics. We currently regulate a total of 315,000 professionals. The organisation operates from a single facility in South London and employs about 180 individuals. Our annual running costs are £24 million. We are self-funding and all registrants pay a similar annual fee of £76 per annum. The HCPC is independent of ministerial control and its workings are overseen by the Privy Council.
- 1.3 The HCPC has a single Council of ten professional and ten lay members. The Chair and members are all appointed by Government.
- 1.4 The role of the HCPC is to protect the public. It does this by maintaining a register of the professionals it regulates. It uses four key standards and processes. They are as follows:
- Sets the **Standards of Education and Training** required to gain entry to the register. The HCPC then uses the Standards to approve programmes of education and training.
 - Sets the **Standards of Proficiency** for each profession. These are the threshold standards for each professional required to ensure safe and effective practise. The majority of these standards are common across professions.
 - Sets the **Standards of Continuing Professional Development**. The HCPC then uses those Standards to audit registrants to ensure that the professionals it regulates can demonstrate their continuing competence.
 - Sets the **Standards of Conduct, Performance and Ethics**. The HCPC then uses these Standards and the Standards of Proficiency to investigate complaints raised about the performance of any registrant. This financial year the HCPC will hold about 350 fitness to practise tribunals and will receive about 1,800 allegations.
- 1.5 Further information about the HCPC can be found on our web site: www.hcpc-uk.org.

2. Professions regulated by the HCPC

2.1 The 16 professions that are regulated by the HCPC are as follows:

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

2.2 It should be noted that the regulation of Social Workers is a devolved responsibility and there are three separate independent statutory regulators for this profession in Northern Ireland, Scotland and Wales.

3. Background

3.1 The HCPC was established as the Health Professions Council (HPC) as a shadow organisation in April 2001. It took over the regulatory responsibilities from a predecessor organisation the Council for Professions Supplementary to Medicine (CPSM). The CPSM was a statutory regulator established in 1961. The CPSM was organised around 12 independent boards for each of the 12 professions it regulated. At Board level there was minimal collaboration, with little investment in delivering efficient regulation. The move to a new integrated system of regulation with shared standards and processes was not well received by the professions at the time, but over the last 12 years the level of disquiet over this regulatory framework has now virtually disappeared as registrants appreciated the benefits in terms of cost, consistency and independence from vested interests.

Annual Fees

3.2 All professionals regulated by the HCPC pay the same annual fee. At its inception the annual fees charged by the HPC remained the same as the CPSM which was £22. This was increased by 170% to £60 in July 2003. In June 2007 it was increased by £12 or 20%, to £72 pa. In April 2009 the annual fee was increased by £4 or 5.5%, to £76.

3.3 The initial fee increase was needed to raise funds to invest in the modernisation of the regulator. In particular a significant investment was

made in IT systems for the registration process and in customer services processes, both of which had been under resourced by the CPSM. An examination of our operating expenditure over the last 12 years clearly demonstrates that in the last five years with the exception of our fitness to practise operations the rate of cost growth has declined.

- 3.4 During the period April 2001 to January 2013 registrant numbers have increased from 132,129 to 314,742. This is due to the increase in the number of individual professionals regulated and also the increase in the number professions regulated that has increased from 12 to 16.
- 3.5 Lastly, it should be noted that the UK Government has awarded one off grants to the HCPC in two situations. They are firstly, when Government has required the HCPC to take over the regulatory function of another regulator. This has occurred twice with the Hearing Aid Council (HAC) in 2010 and with the General Social Care Council (GSCC) in 2012. Grants have also been provided when the HCPC has started to regulate additional professions. This occurred with Operating Department Practitioners in 2004 and Practitioner Psychologists in 2011.

4. The role of the Professional Standards Authority (PSA)

- 4.1 The Professional Standards Authority (PSA) is a UK Government funded agency with responsibility for the oversight of the nine UK statutory regulators of health and care professionals. Until recently the PSA was called the Council for Healthcare Regulatory Excellence (CHRE).
- 4.2 Further details on the organisation can be found on their website: www.professionalstandards.org.uk
- 4.3 The PSA published five types of reports which may be of interest to the Committee.
- 4.4 They are as follows.

Standards of Good regulation

- 4.5 The PSA publishes standards that aim to identify what members of the public can expect from regulators and describe principles of good practice. There are 21 standards spanning five regulatory functions. They are as follows:
- Standards and guidance
 - Registration
 - Fitness to practise
 - Education and governance
 - External relations
- 4.6 Each standard has a number of minimum requirements. The PSA also indicates the evidence that a regulator can use to demonstrate that they meet the standards.

Performance Reviews

- 4.7 On an annual basis the PSA undertakes a performance review of each of the nine UK statutory regulators of health and care professionals. The process is one of self-assessment, in that the individual regulators, using the Standards of Good regulation discussed above, submit their own assessment of how they have performed. The PSA after further analysis and discussions with the regulators then publishes a summary report. The PSA does not review all the standards each year but focus, on a specific permutation of the standards. As with all the reports published by the PSA the documents are available on their web site.

Cost effectiveness and efficiency review of the health professional regulators

- 4.8 The one off special report commissioned by the UK Department of Health was published in November 2012. The economic analysis was undertaken on behalf of the PSA by the Centre for Health Service Economics & Organisation, (CHSEO). Their web site is: www.chseo.org.uk
- 4.9 The report demonstrates the clear relationship between the size of a regulator of healthcare professionals in terms of numbers of professionals regulated and the cost of regulation. In essence CHSEO normalised financial and operating data from a single year and then compared the operating costs across the various function of the nine regulators. The report provides compelling evidence on the economies of scale that can be exploited in large and well managed regulators of professionals. It does not however, examine in great detail, the differences in quality of service that can be delivered by regulators who are operating at or above minimum efficient organisations.

Special reviews and investigations

- 4.10 From time-to-time the PSA has been commissioned to undertake specific reviews of regulators. In the UK these are generally commissioned by the Government when concerns are raised about the performance of a UK regulator of health and care professionals. The Committee may be interested in a report published in October 2012 on the Nursing Council of New Zealand.

Initial fitness to practise decisions

- 4.11 Although probably of less interest to the Committee, the PSA also audits the initial stages of regulators' fitness to practise processes, looking at a sample of the decisions made by each regulator to close a case without referral to a formal hearing in front of a fitness to practise committee. They do this to ensure that the regulators' decision-making processes are effective. The PSA also assess whether the decisions taken protect the interests of service users and the public. The PSA uses a risk based approach to these audits and high performing regulators are reviewed less frequently than those who do not match the expectations of the PSA.

5. Law Commission

- 5.1 The UK's three Law Commissions recently concluded a consultation on the Regulation of Health and Social Care Professionals. The consultation paper makes provisional proposals which seek to simplify and modernise the law and establish a streamlined, transparent and responsive system of regulation of health care professionals, and in England only, the regulation of social workers.
- 5.2 The paper makes proposals and asks questions on the following areas:
- The registration and renewal of registration of professionals, student registers, registration appeals, protected titles and protected functions.
 - How the regulators oversee the quality of pre-registration and post-registration education and training.
 - How the regulators set standards for professional conduct and practice, and ensure ongoing practice standards (for example, through revalidation).
 - The investigation and adjudication of fitness to practise cases.
 - The role of the Council for Healthcare Regulatory Excellence (now the PSA).
 - The regulation of business premises and activities.
 - The governance arrangements of the regulators, including the size and composition of Councils.
 - The systems through which the regulators can be held to account, including the roles of the Privy Council, Government and Parliament, and duties to consult the public.
- 5.3 This is a tripartite project between the Law Commission, the Scottish Law Commission and the Northern Ireland Law Commission.
- 5.4 The website of the Law Commission in England and Wales is:
www.lawcommission.justice.gov.uk

6. European Union Professional Qualifications Directive

- 6.1 The European Union (EU) is in the process of modernising the Professional Qualifications Directive (Directive 2005/36/EC).
- 6.2 This Directive, adopted in 2005, sets the rules for mutual recognition of professional qualifications between Member States. Beyond a few innovations, it mainly consolidated and simplified 15 previous Directives, some of which dated back to the 1960s.
- 6.3 The reform of the system of recognition of professional qualifications as a means to facilitate mobility is one of the priority actions proposed by the

Commission in the Single Market Act. With the view to preparing this reform, the Commission has consulted stakeholders on a range of issues including new approaches to mobility, ways to build on achievements and the modernisation of the automatic recognition process.

- 6.4 Further information on the Directive can be found on the web site:
http://ec.europa.eu/internal_market/qualifications/