

Agenda Item 17(ii)

Enclosure 15

**Health and Care Professions Council
19 September 2018**

HCPC approach to MOUs

For discussion

**From Katherine Timms, Head of Policy and
Standards**

Council, 19 September 2018

HCPC's approach to MoUs

Executive summary and recommendations

Introduction

A memorandum of understanding (MoU) is an agreement by two or more organisations, committing them to work together to support common goals. At present, the HCPC has 11 MoUs with 15 different organisations. We use these MoUs to support our regulatory functions.

At its meeting on 22 March 2018, Council were presented with the MoU HCPC had developed with Healthcare Inspectorate Wales (HIW). Council welcomed this, but noted that a MoU was not in place with Health Improvement Scotland though approaches to establish this had been made. Council requested a summary paper be presented at a future meeting summarising the HCPC's current MoUs and their benefits, and any gaps where MoUs should be pursued.

This paper therefore provides an overview of the MoUs we currently have in place. It then considers how we engage with organisations where we do not have a MoU, and the approach we propose in the development of future agreements.

Decision

The Council is invited to discuss the content of the paper at Appendix A and approve the proposed approach we will take when considering adopting future MoUs.

Background information

- Council can review HCPC's existing MoUs at <http://www.hcpc-uk.co.uk/aboutus/stakeholders/mou/>

Resource implications

There are currently no expected resource implications for this.

Financial implications

There are currently no expected financial implications for this work.

Appendices

Appendix A: HCPC's approach to MoUs

Appendix B: Summary of existing MoUs

Date of paper

7 September 2018

Appendix A - HCPC's approach to MoUs

1. Introduction

- 1.1 A memorandum of understanding (MoU) is a formal agreement by two or more organisations, committing them to work with each other to support common goals. At present the HCPC has 11 MoUs with 15 different organisations. We use these agreements to support our regulatory functions, through establishing commitments in areas such as information sharing and the cross-referral of concerns.
- 1.2 This paper summarises the MoUs we currently have in place, and proposes an approach for how we will consider developing memorandums with organisations in the future.
- 1.3 Council are invited to read the paper, and discuss and approve our approach.

2. Overview of existing MoUs

- 2.1 The HCPC's MoUs are both national and international, and cover a wide range of organisations. They are available on our website at <http://www.hcpc-uk.co.uk/aboutus/stakeholders/mou/>.
- 2.2 We are proactive in our approach to MoUs and often invite organisations to develop them with us. However, we usually only develop MoUs with organisations which:
 - inspect and/ or investigate UK health or care services (see our MoUs with the Care Quality Commission, Healthcare Inspectorate Wales, Ofsted and the Regulatory and Quality Improvement Authority);
 - are a UK devolved regulator of the professions we regulate in England (see our MoU with the other UK social work regulators); or
 - are a non-UK Government whose laws require professions to be on the HCPC register (see our MoUs with the Isle of Man, Gibraltar, Jersey and Guernsey).
- 2.3 All our current MoUs fall within these categories, with the exception of the two MoUs that we have with the health sector counter-fraud organisations in England, Scotland and Wales. These were signed to support and facilitate the sharing of intelligence, at a time when we were looking to improve information sharing relating to fitness to practise.
- 2.4 The MoUs we have are living documents and are regularly reviewed. Appendix B sets out in greater detail the purpose and commitments behind each of these. However, these commitments fall broadly into the following themes:
 - 1) Information sharing and cross-referral of concerns - All of our MoUs have provisions around information sharing, whether this be sharing information about a registrants' fitness to practice where they work or are dual registered in another country, or cross-referring concerns which relate to the particular remit of the

relevant organisation (such as systemic failures within a health or care provider). This also applies to the organisation, which agrees to inform us if they are made aware of any concerns regarding someone on our Register.

- 2) Sharing of communications and publications - For certain organisations, we have agreed to inform them of publications or news items which would affect them or their stakeholders in advance of publication.
- 3) Cross-border fitness to practise arrangements - Where we have signed up to a MoU with a non-UK Government or a UK devolved regulator, the MoU contains provisions for how fitness to practise investigations will be managed. This might include a commitment that hearings against registrants do not reside in the UK must be heard in England, or an agreement of which regulatory body will conduct an investigation where a registrant is dual registered.
- 4) Concurrent investigation arrangements – Some MoUs agree how dual investigations will be managed, setting out that each of the relevant bodies will take steps to ensure that they do not undermine the progress or success of the others' investigation.
- 5) Mutual recognition of qualifications and registration - The MoU which we have in place with the UK devolved regulators has provisions for the mutual recognition of each countries' social work qualifications, as well as provides for registrants from one regulator to be entitled to registration with any other UK regulator.

3. Alternative arrangements for working with organisations

- 3.1 MoUs are not our sole means of engagement with other organisations, and their absence does not mean that we do not regularly engage with a particular body.
- 3.2 The Health and Social Work Professions Order 2001 requires that we 'cooperate, in so far as is appropriate and reasonably practicable, with public bodies or other persons connected with' the following functions:
 - a) the employment (whether or not under a contract of service) of registrants,
 - b) the education or training of registrants or... health care professionals,
 - c) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
 - d) the regulation of health services,...
 - e) the provision, supervision or management of health or education services;
 - f) the regulation of social work in England; and
 - g) the provision, supervision or management of the services of persons engaged in social work in England.

- 3.3 This co-operation forms part of our routine stakeholder engagement. For example, we regularly attend inter-regulatory groups and meetings with the UK health professional regulators. We also work closely with overseas regulators, through various channels such as customer service network meetings and email exchanges, professional bodies, and employers.
- 3.4 The Fitness to Practise department also routinely shares information about investigations or concerns. We are, for example, part of the EU IMI online notification system where information about fitness to practise is shared with the other regulators across Europe. We also share information with the other professional regulators, where a registrant has dual registration, as well as respond to ad hoc requests from organisations as and when they seek information.
- 3.5 For some organisations, a formal MoU may not be appropriate and instead we may develop less formal information sharing agreements, or we may agree specific contacts within each organisation to facilitate working with each other.
- 3.6 For example, we recently signed up to the Emerging Concerns Protocol, alongside the CQC, GMC, GPhC, NMC, Health Education England, the Local Government and Social Care Ombudsman and the Parliamentary and Health Service Ombudsman. This establishes a process for earlier sharing of concerns, so that links between concerns can be made and a wider system view of the issue be established.
- 3.7 We also have a data sharing agreement with the Disclosure and Barring Service. This agrees when and what information we will share and how that information will be processed.

4. Future MoUs

- 4.1 To ensure a consistent and appropriate approach to the management of MoUs, we propose only developing MoUs where one of the following conditions are met:

- 1) To enhance public protection

In pursuit of our overarching statutory objective to protect the public, MoUs may be developed in response to an identified risk or gap in the information we hold which could, in the absence of a more formalised agreement, put the public at risk. This might, for example, be in response to an incident where something has gone wrong and information was not shared properly. Alternatively, we may have identified an organisation which receives concerns that could relate to our registrants' that, without a more formalised agreement, we would not be made aware of.

A MoU in this instance therefore serves to assure both parties that there is a clear process in place in the event that high risk information is shared, to prevent it being overlooked by either party. Establishing MoUs for this purpose also supports the HCPC in its prevention agenda, allowing us to be more intelligence led and encourage a culture whereby we will share information and concerns at as early a point as possible, prevent harm comes to pass.

- 2) To boost public confidence in the parties and our registered professions

MoUs may also be established in order to boost public awareness of the relationship between the parties and their respective roles. Whilst we routinely cooperate with bodies, a MoU allows us to set out clearly what we will do and expect of one another in a publicly available document.

MoUs also allow us to better demonstrate information sharing for external bodies, such as Government or the PSA. The PSA in particular cite 'exchange of information through memoranda of understanding' as an example of evidence that can demonstrate we meet standard 2 of the PSA's Standards of Good Regulation relating to fitness to practise.

3) To otherwise access information we would otherwise not be aware of

Finally, we may establish a MoU with an external body which we would otherwise not have regular contact with, or to agree a particular matter regarding co-working that benefits from a more formalised approach. MoUs can serve to boost collaboration, and therefore are particularly useful if we are seeking more information from a party or are looking to strengthen our relationship.

This is particularly the case where we have sought MoUs with non-UK Governments whose laws require professions to be on the HCPC register. These MoUs therefore serve to ensure a closer working relationship with an organisation which we would otherwise not engage with frequently, and ensures that we are made aware of concerns relating to overseas registrants that we would otherwise not have the statutory authority to pursue.

4.2 Where we determine not to pursue a MoU, we will nonetheless continue to share concerns and / or relevant information as requested and when appropriate.

5. Decision

5.1 We invite Council to consider the above and discuss our approach to developing MoUs.

Appendix B: Summary of existing MoUs

Link	Date signed	Parties	Purpose	Key commitments
http://www.hcpc-uk.org/assets/documents/10003FC6IoMHCPMoU.pdf	April 2013	HCPC Department of Health of the Isle of Man	A person may only practise in the Isle of Man if they are registered with the HCPC. This MoU seeks to build upon the good working relationship between the parties, to ensure that service users are protected by the effective and proportionate regulation of registrants.	<ul style="list-style-type: none"> Establishes liaison officers to ensure effective exchange of information between the parties Information sharing relating to registrants' FTP, criminal convictions or any determination by either party or any other regulatory body against a registrant Where the parties propose to take any action against a registrant, they will inform the other and share documents The parties will share information about persons convicted of an article 39 / 39A offence or Article 3 of the Manx Order Hearings against registrants who do not reside in the UK must be heard in England, and the Isle of Man will provide 'reasonable assistance in bringing those proceedings'
http://www.hcpc-uk.org/assets/documents/1000434CSocialwork-MemorandumofUnderstanding.pdf	Nov 2013	HCPC Care Council for Wales Northern Ireland Social Care Council Scottish Social Services Council	Set out a working relationship in relation to the regulation of social workers and the approval of social work education across the UK	<ul style="list-style-type: none"> Establishes principles of cooperation Recognition that training programmes across the UK, and the standards to approve qualifications, are comparable Mutual agreement of the threshold education level for social work in the UK

				<ul style="list-style-type: none"> • Recognition that registration with any party confers eligibility to apply for registration with another Council • Cross-referral of concerns • Establishes that where a social worker is registered with multiple Councils, the Council in the country where the alleged complaint took place will lead on investigating • Regular sharing of information relating to FTP • Sharing of media, publications and evidence to Government where likely to affect the work of any other party
http://www.hcpc-uk.org/Assets/documents/100048D5MOUbetweenHCPCandCQC.pdf	Sept 2014	HCPC Care Quality Commission	Establish the framework for the working relationship in order to safeguard the wellbeing of the public receiving health and adult social care services in England	<ul style="list-style-type: none"> • Establishes principles and areas of cooperation • Cross-referral of concerns relating to each party's regulatory functions • Routine circulation of FTP information and feedback about particular providers to assist with upcoming CQC inspections • Advance warning of public announcements or publications which the other would need to know about, or might have implications for specific healthcare providers
http://www.hcpc-uk.org/Assets/documents/10004A36Gibraltar-Medical-Registration-Board-MoU.pdf	January 2015	HCPC Gibraltar Medical Registration Board	It is a requirement of registration with the GMRC that a person be registered by the HCPC. This MoU is therefore to establish, develop and foster a good working relationship between the parties in the interest of	<ul style="list-style-type: none"> • Establishes liaison officers to ensure effective exchange of information between the parties • The parties will share information sharing relating to registrants' FTP, criminal convictions or any determination by either Party or any

			protecting the public in their respective jurisdictions.	<p>other regulatory body against a registrant</p> <ul style="list-style-type: none"> • Where the parties propose to take any action against a registrant, they will inform the other and share documents • The parties will share information about persons convicted of offences under the Gibraltar Act or UK Order • Hearings against registrants who do not reside in the UK must be heard in England, and Gibraltar will provide 'reasonable assistance in bringing those proceedings'
http://www.hcpc-uk.org/Assets/documents/10004F2DMoUwithRQIA.pdf	February 2016	HCPC Regulation and Quality Improvement Authority	To set out a framework to support the working relationships between the Parties, in order to safeguard the wellbeing of the public receiving health and social care in Northern Ireland.	<ul style="list-style-type: none"> • Establishes principles and areas of cooperation • Cross referral of concerns which fall within the remit of the other
http://www.hcpc-uk.org/Assets/documents/10004DFBHCPCNHSProtectMOU.pdf	April 2016	HCPC NHS Protect (England) NHS Counter Fraud Services (Wales) Department of Health Anti-Fraud Unit	To ensure service users and the public are protected and allegations of suspected fraud, corruption or theft, which are received by the HCPC, can be passed to CFS for investigation	<ul style="list-style-type: none"> • Exchange of information, with both parties developing mechanisms to systematically and routinely share data • Sharing of intelligence relating to either parties' function, such as complaints, whistleblowing or referrals, and where there is a 'significant risk' to the public or of criminal activity to the NHS then this will be shared 'at the earliest possible opportunity' • When the parties need to take concurrent investigations, each will take steps to ensure that they do not undermine the progress / success of the others investigation

				<ul style="list-style-type: none"> • Sharing of outcomes of enforcement action • Agreed areas of communication, such as sharing experiences of investigations or trends and sharing of expertise and experience
http://www.hcpc-uk.org/Assets/documents/10005046/Mou-Jersey.pdf	May 2016	HCPC Health and Social Services Department of the States of Jersey	A person may only practise a profession in Jersey if they are registered by HCPC in that profession. This MoU seeks to build upon the good working relationship of the Parties, to ensure service users are protected by the effective and proportionate regulation of registered practitioners.	<ul style="list-style-type: none"> • Establishes liaison officers to ensure effective exchange of information between the parties • The parties will share information sharing relating to registrants' FTP, criminal convictions or any determination by either Party or any other regulatory body against a registrant who resides or practises in Jersey • Where the parties propose to take any action against a registrant, they will inform the other and share documents • The parties will share information about persons convicted of an article 39 offence or equivalent under Jersey law • Hearings against registrants who do not reside in the UK must be heard in England, and Jersey will provide 'reasonable assistance in bringing those proceedings'
http://www.hcpc-uk.org/Assets/documents/10005145/MoUbetweenHCP CandOfsted.pdf	August 2016	HCPC Ofsted	To enable both HCPC and Ofsted to share relevant information that supports their ability to exercise their differing functions and	<ul style="list-style-type: none"> • Establishes principles of cooperation • Information sharing when a concern falls within the remit of the other • Sharing of information to be determined on a case-by-case basis,

			thereby protect and promote the safety of children, young people and, where appropriate, vulnerable adults	with each party assisting 'as much as possible'
http://www.hcpc-uk.org/Assets/documents/1000519_DNHSScotlandCounterFraudServicesMoU.pdf	September 2016	HCPC NHS Scotland Counter Fraud Services	To ensure service users and the public are protected and allegations of suspected fraud, corruption or theft, which are received by the HCPC, can be passed to NHS Protect or DH AFU for investigation	<ul style="list-style-type: none"> • Exchange of information, with both parties developing mechanisms to systematically and routinely share data • Sharing of intelligence relating to either parties' function, such as complaints, whistleblowing or referrals, and where there is a 'significant risk' to the public or of criminal activity to the NHS then this will be shared 'at the earliest possible opportunity' • When the parties need to take concurrent investigations, each will take steps to ensure that they do not undermine the progress / success of the others investigation • Sharing of outcomes of enforcement action • Agreed areas of communication, such as sharing experiences of investigations or trends and sharing of expertise and experience
http://www.hcpc-uk.org/Assets/documents/1000574_BMOUHCPCandHIW2018-English.pdf	Jan 2018	HCPC Health Inspectorate Wales	To set out a framework for a working relationship between the parties.	<ul style="list-style-type: none"> • Establishes principles and areas of cooperation • Cross-referral of concerns when a party believes it falls within the remit of the other • Work together with the other bodies of the Wales Concordat Cymru to improve services for patients, service users and their carers, whilst

				<p>eliminating unnecessary burdens of external review on front line staff</p> <ul style="list-style-type: none"> • Advance warning of public announcements which the other would need to know about
http://www.hcpc-uk.org/Assets/documents/10005827MoUGuernsey.pdf	July 2018	HCPC States of Guernsey Committee for Health and Social Care	<p>A person may only practise in Guernsey if they are registered with the HCPC. This MoU is therefore to establish, develop and foster a good working relationship between the parties in the interest of protecting the public in their respective jurisdictions.</p>	<ul style="list-style-type: none"> • Establishes liaison officers to ensure effective exchange of information between the parties • The parties will share information sharing relating to registrants' FTP, criminal convictions or any determination by either Party or any other regulatory body against a registrant • Where the parties propose to take any action against a registrant, they will inform the other and share documents • The parties will share information about persons convicted of offences under the article 39 of the UK Order or section 5 of the Registered Health Professionals Ordinance 2006 (offences and penalties) • Hearings against registrants who do not reside in the UK must be heard in England, and Guernsey will provide 'reasonable assistance in bringing those proceedings'