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## **The Health and Care Professions Council response to consultation on the Regulation and Inspection of Social Care (Wales) Bill**

### **1. Introduction**

- 1.1 The Health and Care Professions Council (HCPC) welcomes this opportunity to respond to the consultation on the general principles of the Regulation and Inspection of Social Care (Wales) Bill.
- 1.2 The HCPC is a statutory UK regulator of 16 health and social care professions, governed by the Health and Social Work Professions Order 2001. We maintain a register of professionals, set standards for entry to our register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our main role is to protect the health and wellbeing of those who use or need to use our registrants' services.
- 1.3 Our remit covers the regulation of social workers in England only. However we have agreed a Memorandum of Understanding with the Care Council for Wales which establishes a framework for co-operation and comparability of education and standards for social workers between the two countries. Registration with the HCPC confers eligibility to apply for registration with the Care Council for Wales, and vice versa. In addition we have a particular interest in the regulation of adult social care workers and how useful parallels may be drawn to regulation of this workforce in England.
- 1.4 We have set out our responses regarding the general principles of the bill below.

### **2. Removal of voluntary registration**

- 2.1 The HCPC supports the intention of Welsh Ministers to remove the option of voluntary registration for domiciliary care workers and adult residential home care workers.
- 2.2 The Explanatory Memorandum accompanying the draft bill acknowledges that there are limitations to voluntary registers; we agree. Our view is that significant shortcomings in voluntary registers have the potential to affect their effectiveness and ability to command public confidence. They include the following:
  - Although an employer might make registration a condition of employment, there would be no legal compulsion for an individual to be registered.
  - The regulator would be unable to demand information or compel witnesses as part of fitness to practise proceedings.

- A registrant removed from a voluntary register owing to serious concerns about their conduct or competence could remain in practise.
- There is potential for public confusion generally around the status of voluntary and statutory registers being held by the same organisation.

2.3 We think that a preferable system for regulating this section of the workforce would be one which allows for the removal of individuals who do not adhere to a minimum standard of conduct, as set out in section 3 below.

### **3. Prohibition scheme**

3.1 We support proposals to introduce a power for Welsh Ministers to establish a prohibition scheme for social care workers undertaking certain ‘designated activities’ who are not legally required to register with the workforce regulator. We view this as a proportionate way of providing public protection and assurance about the suitability of those working in social care. Such a scheme would also support other initiatives aimed at improving the quality of services provided in the care sector, such as efforts toward professionalisation of the workforce.

3.2 The HCPC has previously proposed a similar system with respect to unregistered adult social care workers in England – that is, establishing a statutory code of conduct and a ‘suitability scheme’ (also known as a ‘negative register’). This regulatory model would deal effectively with the small number of individuals who are found unsuitable to work in the sector without placing a disproportionate regulatory burden on the remainder of the workforce.

3.3 Our proposal for such a scheme would involve the following:

- A statutory code of conduct would clearly set out what the public expects of all adult social care workers in England.
- The regulator could investigate serious concerns about these workers and if found unfit to work in social care, they could be entered onto a ‘negative register’.
- It would be a criminal offence to engage in adult social care in England whilst included in this list.

3.4 We believe that a suitability scheme for unregistered adult social care workers in England, like the proposed prohibition scheme in Wales, would provide an important ‘safety net’ and a system of accountability similar to that of professional statutory regulation but in a more proportionate manner.<sup>1</sup>

### **4. Extending the regulation of workforce training**

4.1 We are supportive of proposals to allow for the regulation of training of a wider section of the social care workforce in Wales. We believe that enabling the

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<sup>1</sup> Our full proposal for a suitability scheme for adult social care workers is available here: <http://www.hcpc-uk.org/assets/documents/10003F1AHPCPCpolicystatement-RegulatingadultsocialcareworkersinEngland.pdf>

regulator to set and maintain standards for training of certain categories of social care workers would provide a means of enhancing the quality of care provided in the sector.

## **5. Rule-making**

- 5.1 We note the proposal to remove from rules and include explicitly in primary legislation the processes for registration of the social care workforce, including fitness to practise processes. We support the intention in doing so to provide a legislative framework within which the workforce regulator can develop its own operational procedures in rules without the need for these to be approved by the Welsh Ministers.
- 5.2 The ability to write and amend rules which are not subject to a formal approval process by the Welsh Ministers would significantly reduce the burden and timescales for this process, enabling the regulator to respond to changing needs or risks in the sector in a more timely way.

## **6. Co-operation and joint working**

- 6.1 We welcome provisions in the proposed bill which provide specific powers for the Welsh Ministers and Social Care Wales to co-operate in the exercise of their functions, as well as a duty on the regulatory body to disclose information if it is considered necessary to protect the well-being of an individual. Additionally we would support references – if not in legislation, then as a matter of policy – to the importance of co-operation between the workforce regulator in Wales and other professional regulators, including the HCPC.
- 6.2 We see value in joint working and information sharing among social care professional regulators across the UK as a means of achieving greater assurance about the quality of care and the fitness to practise of those providing it. For example, where concerns are raised about a social worker who is dual registered with both Social Care Wales and the HCPC, effective information sharing would ensure that appropriate regulatory action can be taken in a timely manner.