

Audit Committee, 16 March 2016

Internal Audit Report – Consultation arrangements

Executive summary and recommendations

Introduction

As part of the Internal Audit Plan for 2015-16 Grant Thornton have undertaken a review of arrangements for consultations.

Decision

The Committee is asked to discuss the report

Resource implications

None

Financial implications

Grant Thornton's annual fee for 2015-16 is £38,523 plus VAT.

Appendices

None.

Date of paper

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Health and Care Professions Council

Consultation arrangements - final

Last updated 2 March 2016

Distribution		Timetable	
For action	Michael Guthrie, Director of Policy and Standards	Fieldwork completed	12 February 2016
		Draft report issued	26 February 2016
For information		Management comments	2 March 2016
		Final report issued	2 March 2016

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Glossary

- 1** The following terms are used in this report:
- 5** HCPC Health and Care Professions Council

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It is the responsibility solely of the Health and Care Professions Council's management to ensure that there are adequate arrangements in place in relation to risk management, governance and control.

1 Executive Summary

1.1 Background

Context

OECD research on effective consultation highlights that it typically increases the level of transparency and helps to improve regulatory quality by:

- Bringing into the discussion the expertise, perspectives, and ideas for alternative actions of those directly affected;
- Helping regulators to balance opposing interests;
- Identifying unintended effects and practical problems;
- Providing a quality check on the administration's assessment of costs and benefits;
- Identifying interactions between regulations from various parts of government.

Effective consultation is a key part of how any regulator delivers its work and engages its stakeholders in regulatory or other key changes. In addition, and specific to the Health and Care Professions Council (HCPC), there have been a number of important regulatory and other changes (such as changes to fees) which means that it is important that consultations are effectively designed and operating in a proportionate and effective way.

Therefore, we agreed with management and the Audit Committee that the audit plan would include a sample deep dive review into recent consultations to assess how effectively they had been undertaken.

Consultation process - general

HCPC consult with stakeholders whenever there is a proposed change in standards or guidance. The number of consultations carried out from year to

year can vary but is likely to be around five. The decision to consult has to be formally approved by (in most cases) the Education and Training Committee and Council. Generally, standards are reviewed every five years. Policy changes may also be consulted on if HCPC feels that it should do so.

Consultations are communicated via:

- HCPC's website
- E-mails to interested stakeholders where they have expressed an interest in being consulted (filtered by profession where appropriate)
- Other stakeholders (such as education providers), as appropriate
- Other more general communications such as HCPC's 'In Focus' newsletter

Responses are largely received via online surveys, which ask 'yes/no' questions and also given an opportunity for free text comments. Comments can also be submitted by e-mail or in hard copy. Respondents can answer as individuals or on behalf of an organisation.

Consultations normally last for 12 weeks, although this can be shortened if there is a need for more urgency.

Collating responses

Responses are collated and into an analysis report, which gives both quantitative and qualitative feedback, and shows the number of respondents making a particular point. The report includes a decisions section, which sets out the action the HCPC is proposing to take on the basis of the consultation response. The report is submitted to the Education and Training Committee and then the Council for sign-off. Publications such as standards are then

submitted to the Plain English Campaign so that wording can be adjusted according to their standards and documents can receive the Crystal Mark.

1.2 Scope

The key objectives of the review were to assess:

- how the consultation process had been approached to maximise the access to stakeholders through the different communication mediums available
- whether the end to end process was operating 'as expected'
- whether HCPC was handling consultation responses in the right way, with the right quality at the more detailed level and particularly how the detailed analysis of responses was carried out to inform management and the Board (with particular focus on the quality of analysis, not just process)

In consultation with the Director of Policy and Standards, we selected the following consultations for detailed review:

- Standards of conduct, performance and ethics
- Fees

Further details are included in Appendix A.

1.3 Overall assessment

HCPC is clear about the reasons before consultation and why and how it should take place, and has a clear process in place to support it. Stakeholders are given the opportunity to respond via a number of methods, principally an online Survey Monkey tool which is easy for respondents to use. HCPC also recently took the opportunity to gather feedback on its consultation methodology, which was largely positive. Consultation responses are thoroughly analysed and HCPC's Council is involved at all stages of the consultation launch and recommendation approval process.

While the process itself is working well, we have identified a number of

ways in which consultation could be made more efficient and effective, principally around producing management information on the costs and benefits of consultation, and on how many of the potential respondents actually provide feedback. There is also a need to consider, in some cases, how best to give fair weight to the responses received from individuals and those received from organisations.

1.4 Key findings

Risk / Process	High	Medium	Low	Info.
Cost/benefit analysis	-	1	-	-
'Reach' of consultations	-	1	-	-
Consultations on website	-	-	1	-
Weighting of responses	-	1	-	-
Consultation checklist	-	-	1	-
Total	-	3	2	-

Refer to Appendix B for definitions of internal audit recommendation ratings.

The following three findings were rated as 'medium':

- HCPC does not currently carry out any cost / benefit analysis of the consultation process. Doing this in future may help to inform how and when consultation could best be carried out.
- HCPC has not carried out analysis on the number of responses that could potentially be received to a consultation, and the number that are actually received. This management information could help HCPC assess the effectiveness of the consultation process.
- Consultation responses can be received from individual respondents, or those responding on behalf of organisations (such as universities or trade unions). The weighting given to responses in the eventual analysis does not always reflect who the response is from, and so sufficient weighting may not be given to responses submitted on behalf of a significant number of stakeholders.

Further details of our findings and recommendations are provided in Section 2.

1.5 Basis of assessment

Our overall assessment is based on the following controls being in place:

Consultation on standards of conduct, performance and ethics

- HCPC commissioned research from organisations that work with patients and / or service users, in order to inform the proposed changes
- In addition, HCPC commissioned a professional liaison group (PLG) to undertake an initial review of the standards and make recommendations prior to formal consultation. The PLG included representation from each of the following:
 - NHS employers
 - service users
 - educators
 - trade unions
 - the HCPC Council

Each body was asked to put forward their own representative(s) so that they could ensure those nominated would have sufficient commitment to the group's work

- It was determined that consultation needed to be undertaken with all professional bodies, as this is one of the 'core' standards that applies to all registrants
- The consultation was publicised in the newsletter, 'In Focus', in April 2015
- In order to garner more responses, HCPC held four workshops, one in each country of the UK, to which service users and carers were invited
- There was evidence that the consultation and responses had been seen and approved by the ETC and Council, as follows:

Body	Consultation	Response
ETC	5 March 2015	10 September 2015
Council	26 March 2015	24 September 2015

Consultation on fees

- The consultation was prompted by a proposed increase in the Professional Standards Authority for Health and Social Care (PSA) levy and HCPC therefore needed to balance costs and income
- As this was a more straightforward consultation than the Standards consultation, it was considered that there was no need for additional research, workshops etc.
- The consultation document clearly set out how registrants' fees are spent, giving transparency to the process
- Clarity was given in the consultation document over the implications for registrants
- The analysis document clearly distinguished between responses from individuals and responses on behalf of organisations
- There was evidence that the consultation and responses had been seen and approved by the ETC and Council, as follows:

Body	Consultation	Response
ETC	Not required	14 May 2015
Council	26 March 2015	14 May 2015

1.6 Acknowledgement

We would like to take this opportunity to thank the staff involved in for their co-operation during this internal audit.

2 Detailed Findings

1.	Medium	Cost / benefit analysis
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Finding and Implication	Proposed action	Agreed action (<i>Date / Ownership</i>)
<p>At present, HCPC do not carry out analysis on the costs and benefits of consultation.</p> <p>While there is an obligation on HCPC to consult, and most changes require consultation by statute, there are some decisions which are within HCPC's gift, such as how often (and how) to review standards (and, by implication, to carry out the associated consultation).</p> <p>Consultation is a time-consuming (and, by implication, expensive) process and it would be useful for HCPC to analyse the costs and benefits of consultation in order to inform future decisions around how and when to consult.</p>	<p>HCPC should establish, as far as possible, the costs and benefits of consultation, and use this to inform future decisions about how and when to consult.</p> <p>This could be achieved by:</p> <p>Cost:</p> <ul style="list-style-type: none"> • analysing the proportion of staff time spent on consultations (this could include not just Policy staff but time spent by staff preparing Council reports, updating the website etc.) • establishing other costs, which could include, for example: <ul style="list-style-type: none"> ○ research costs ○ the costs of running service user workshops, where applicable ○ printing costs <p>Benefits:</p> <ul style="list-style-type: none"> • measuring the number of responses received, and the 	<p>The majority of consultations are required by the Health and Social Work Professions Order 2001. Very few consultations (estimated as under five in the last ten years) are 'discretionary'. As a result, the Executive considers that such a cost/benefit analysis is less important than for other areas of work which are not mandated. The non-staff costs of a consultation are typically minimal (unless other costs such as research commissioned in the policy development phase are attributed to a particular consultation). The Executive can point to numerous anecdotal benefits of consultations but the benefits (relative) are also difficult to establish in absolute terms.</p> <p><i>Agreed actions:</i> The Executive will pilot including cost/benefit analysis for a consultation as part of the next internal review of the consultation process. The last department-led review of the consultation process concluded in 2014-2015, so the next review will take place by 2019-2020.</p>

1.	Medium	Cost / benefit analysis
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Finding and Implication	Proposed action	Agreed action (Date / Ownership)
	diversity of comments received, i.e. benefits for engagement <ul style="list-style-type: none"> measuring the effects of implementing any changes arising from consultation (for example, where improved clarity in standards has made fitness to practice decisions more straightforward) 	Owner: Michael Guthrie, Director of Policy and Standards

2.	Medium	'Reach' of consultations
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Finding and Implication	Proposed action	Agreed action (Date / Ownership)
<p>HCPC recognises the importance of consultation as part of fulfilling its statutory responsibilities and helping to improve its regulatory approach.</p> <p>At present, HCPC does not produce management information on the 'reach' of consultations, i.e. how many stakeholders might reasonably be expected to respond to a consultation, and how many actually respond.</p> <p>Without this information, it is difficult for HCPC to be confident that it is effectively engaging with its stakeholders and that changes to its policies, standards etc. balance the needs of those stakeholders.</p>	<p>HCPC should carry out analysis of its consultation 'reach' by establishing who could reasonably be expected to respond to consultations, and who actually responds. This should be compared to other available information, such as the number of registrants, in order to establish trends over time and help assess how to consult most effectively.</p>	<p>The number of responses to consultations has increased over time, partly as a result of growth in the register and partly because of making responding more accessible via an online survey tool. The majority of responses we now receive are from individuals.</p> <p>Reaching the right individuals / organisations for a particular consultation is more important than quantity. The audience of interest (e.g. all stakeholders; particular professions; educators) will also vary between consultations. Our approach should also recognise that some stakeholders are best / most effectively</p>

2.	Medium	'Reach' of consultations
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Finding and Implication	Proposed action	Agreed action (<i>Date / Ownership</i>)
		<p>reached in the policy development phase before a formal consultation (e.g. service users and carers).</p> <p>Previous internal reviews of the consultation process have looked at numbers of responses over time.</p> <p><i>Agreed actions:</i></p> <p>The next internal review of the consultation process will include analysis of number of responses compared to number of registrants or other known stakeholders. Next review by 2019-2020.</p> <p><i>Owner:</i></p> <p>Michael Guthrie, Director of Policy and Standards</p>

3.	Low	Links to consultations on website
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Finding and Implication	Proposed action	Agreed action (<i>Date / Ownership</i>)
<p>HCPC recently undertook an exercise to garner feedback from stakeholders about their consultation process. One comment received was that the links to consultations on the website could be made more prominent. During the audit, we also found that the consultations area of the website was not intuitive to find, particularly for registrants who might click on the 'Registrants' link first, expecting to find information about consultations there.</p> <p>Consultations help to improve transparency and if stakeholders perceive them to be difficult to access, it may create poor perceptions of HCPC.</p> <p>We note that HCPC were preparing to make changes to the website at the time of the audit and that some changes have been effected since the fieldwork.</p>	<p>HCPC may wish to give further thought to how consultations are promoted on its website. This could include, for example, use of a 'banner' scrolling across the screen when a consultation is live, to draw attention to it.</p>	<p>Where we are consulting on a topic which has a wide interest, a 'spotlight' appears on the front page which links to the consultation pages. This has been used, for example for consultations in the past year on the registration fee and the standards of conduct, performance and ethics. There were no live consultations during the audit period.</p> <p><i>Agreed actions:</i></p> <p>Continue to use a 'spotlight' on the home page to promote consultations. Policy input into forthcoming project to redevelop the website to ensure that consultations are appropriately promoted. Ongoing and 2016-2017.</p> <p><i>Owner:</i></p> <p>Michael Guthrie, Director of Policy and Standards</p>

4.	Medium	Weighting of consultation responses
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Finding and Implication	Proposed action	Agreed action (<i>Date / Ownership</i>)
<p>Consultation respondents can either respond on their own behalf, or on behalf of an organisation such as a university, trade union or service user group.</p> <p>We reviewed the analysis document for the Standards consultation and spoke to those involved in putting together the analysis. We were able to establish that in the write-up there was little difference in the weighting given to the comments received from individuals, and those on behalf of organisations. However the summaries for each question did note where there were differences in quantitative statistics between different groups such as individuals and organisations.</p> <p>Given that organisations may have many hundreds or thousands of their own stakeholders, and indeed may have consulted them on the organisational response, the weighting given to comments in the analysis may not be proportional.</p> <p>We note that the Fees consultation analysis better reflected the mix of respondents.</p> <p>There is no written guidance on how to analyse consultation responses.</p>	<p>HCPC should produce internal guidance on how consultation responses are to be analysed. This should include guidance on how organisational and individual responses are weighted.</p>	<p>The Executive will always weight organisational responses where it is appropriate to do so. However, in many cases the themes in responses are consistent across different respondent types so it is not necessary to do so to any significant degree. The Executive also routinely reports differences between organisations and individuals in statistics.</p> <p>The Executive agrees that it might be useful to produce short internal guidance about analysing consultation responses to ensure, amongst other things, that response documents are clear about how to approach reflecting similarities and differences in different types of respondent.</p> <p><i>Agreed actions:</i></p> <p>Internal guidance on analysing consultation responses. By July 2016.</p> <p><i>Owner:</i></p> <p>Michael Guthrie, Director of Policy and Standards.</p>

5.	Low	Use of consultation checklist
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Finding and Implication	Proposed action	Agreed action (<i>Date / Ownership</i>)
<p>HCPC have in place a consultation checklist, which sets out each stage of the process to be followed during consultations (there are around 50 tick boxes in total). However, this is largely used as an aide memoire, rather than being completed and ticked off during the consultation process.</p> <p>Without completion of the checklist, there is a small risk that part of the consultation process may be overlooked.</p>	<p>Given that there is a checklist in place, HCPC may consider it useful to complete it for each consultation as additional assurance that all necessary steps have been followed.</p>	<p><i>Agreed actions:</i></p> <p>Agreed. Consultation check list will now be completed for each consultation and saved in the project folder.</p> <p><i>Owner:</i></p> <p>Michael Guthrie, Director of Policy and Standards.</p>

A Internal audit approach

Approach

Our internal audit was based upon the underlying principles of the UK Corporate Governance Code (September 2012), i.e. that it is for an organisation's management to determine the nature and extent of the significant risks it is willing to take in achieving its strategic objectives.

Our role as internal auditor is to provide objective and independent assurance to the Health and Care Professions Council's management that it is doing so successfully for each of the areas being audited.

Our audit was carried out in accordance with the guidance contained within the Public Sector Internal Audit Standards (2013).

Our approach focussed on (through a mixture of interviews with key staff within the HCPC and document reviews) understanding:

- how the overall consultation timetable was developed, key stages outlined and executed and how any past lessons (if appropriate) from similar consultation processes were incorporated in how the overall consultation was approached and carried out
- how HCPC determined the scope, approach and required benefits from any engagement prior to formal consultation and the specific benefits it delivered
- how the timing of the consultation was determined
- how information was made useful and accessible: based on an assessment of who needs to be consulted and ensure that the consultation captures the full range of stakeholders affected
- how information provided was made easy to comprehend: easily understandable format, use of plain language and clarify the key issues
- whether the purpose & scope of consultation was transparent: including managing expectations around what aspects of the policy

were being consulted on are open to change and what decisions had already been taken

- whether information provided was sufficient to facilitate whether comments: e.g. relevant documentation being posted online to enhance accessibility and opportunities for reuse
- whether information received has been collated and effectively utilised and particularly the analysis provided a meaningful insight into the feedback received from different stakeholder groups
- how responses received have been used and how this has been communicated: for example publishing consultation responses within a set and reasonable timetable.

Additional information

Client contacts

The following were consulted as part of this review:

- Nicole Casey – Policy Manager
- Laura Coveney – Policy Officer
- Michael Guthrie – Director of Policy and Standards

Documents received

The following documents were received during the course of this audit:

Standards of conduct, performance and ethics

- Published standards of conduct, performance and ethics (January 2016)
- Overview of research for the review of the standard, conduct, performance and ethics

- Consultation on revised standards of conduct, performance and ethics – consultation document
- Agenda for service user and carer workshop on standards of conduct, performance and ethics review (18 June 2015, Cardiff)
- Consultation on revised standards of conduct, performance and ethics – consultation responses
- Consultation on revised standards of conduct, performance and ethics: Analysis of responses to the consultation and our decisions as a result
- Standards of conduct, performance and ethics (first version returned by and final version with amendments made by Plain English Campaign)
- Professional Liaison Group – draft timetable and indicative plan of work
- Minutes of Professional Liaison Group meetings June 2014 – November 2014

Fees

General

- Consultation process checklist (blank)
- Review of our online survey tool in HCPC consultations
- Minutes of Education and Training Committee 5 March 2015, 14 May 2015 and 10 September 2015
- Minutes of Council 26 March 2015, 14 May 2015 and 24 September 2015

Locations

The following locations were visited during the course of this review:

- Health and Care Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

B Definition of internal audit recommendation ratings

Audit issue rating

Within each report, every audit issue is given a rating. This is summarised in the table below.

Rating	Description	Features
High	Findings that are fundamental to the management of risk in the business area, representing a weakness in control that requires the immediate attention of management	<ul style="list-style-type: none"> • Key control not designed or operating effectively • Potential for fraud identified • Non-compliance with key procedures / standards • Non-compliance with regulation
Medium	Important findings that are to be resolved by line management.	<ul style="list-style-type: none"> • Impact is contained within the department and compensating controls would detect errors • Possibility for fraud exists • Control failures identified but not in key controls • Non-compliance with procedures / standards (but not resulting in key control failure)
Low	Findings that identify non-compliance with established procedures.	<ul style="list-style-type: none"> • Minor control weakness • Minor non-compliance with procedures / standards
Improvement	Items requiring no action but which may be of interest to management or best practice advice	<ul style="list-style-type: none"> • Information for department management • Control operating but not necessarily in accordance with best practice



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