

## 15 November 2023

### Internal Audit report – Regulatory Policy Development

#### Executive Summary

As part of the 2023-24 Internal Audit Plan as approved by the Committee, BDO LLP have undertaken a review of HCPC Partners.

The purpose of this review was to assess the work that the Policy team has completed to date on developing a framework for managing consultations. BDO used best practice guidance and undertook a gap analysis to identify whether there were any improvements required in the processes that the team proposes to establish. BDO also assessed whether HCPC anticipates the resources required for likely future demands for policy development work.

As a result of the audit, BDO were able to provide MODERATE assurance over the design and operational effectiveness of the HCPC’s arrangements in place in relation to Regulatory Policy.

Previous consideration	The report has been reviewed by ELT
Decision	The Committee is invited to discuss the report.
Next steps	Recommended actions agreed with the Executive will be tracked for progress in the Committee’s standing recommendation tracker report.
Strategic priority	All
Risk	As detailed in the findings
Financial and resource implications	The cost of the audit is included in the Internal Audit annual fee.
Author	BDO LLP



**HEALTH AND CARE PROFESSIONS COUNCIL**

# REGULATORY POLICY DEVELOPMENT

Internal Audit Report - Final  
NOVEMBER 2023

**LEVEL OF ASSURANCE:**

DESIGN

MODERATE

EFFECTIVENESS

MODERATE

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## DISTRIBUTION LIST

FOR ACTION	Rachael Gledhill	Head of Policy & Standards
	Anna Raftery	Head of Assurance and Compliance
	Mark Platt	Policy Lead
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## REPORT STATUS

LEAD AUDITOR:	Abdul Muqsit
REVIEWED BY:	Heather Buckingham, Bill Mitchell
DATES WORK PERFORMED:	21 August 2023 - 07 September 2023 & 13 September 2023
LAST PIECE OF INFORMATION RECEIVED:	September 2023
DRAFT REPORT ISSUED:	18 October 2023
MANAGEMENT RESPONSES RECEIVED:	27 October 2023 & 2 November 2023
FINAL REPORT ISSUED:	3 November 2023

### RESTRICTIONS OF USE

The matters raised in this report are only those which came to our attention during our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.





# EXECUTIVE SUMMARY

LEVEL OF ASSURANCE: (SEE APPENDIX I FOR DEFINITIONS)

DESIGN	MODERATE	Generally, a sound system of internal control designed to achieve system objectives with some exceptions.
EFFECTIVENESS	MODERATE	Evidence of non-compliance with some controls, that may put some of the system objectives at risk.

SUMMARY OF FINDINGS (SEE APPENDIX I)			# OF AGREED ACTIONS
H	0		0
M	1		1
L	3		3
TOTAL NUMBER OF FINDINGS: [4]			

- OUR TESTING COVERED THE FOLLOWING AREAS:
- ✓ Consultation governance process
  - ✓ Policy management
  - ✓ Environmental impact
  - ✓ Lessons learnt
  - ✓ Future requirements

## BACKGROUND

As part of the internal Audit Plan for 2023/24 agreed by the Audit and Risk Assurance Committee we have undertaken an Advisory review of Regulatory Policy Development and in particular, the approach to consultations.

The Policy and Standards team (Policy team) has many new members and is still in the process of formalising its internal policies, procedures and guidance across several areas of responsibility. One of these areas of responsibility is to manage HCPC consultations, both in respect of changes to areas that the team is directly overseeing, or on behalf of other areas of the organisation.

The Policy team comprises several members who have not yet run a full end-to-end consultation within the HCPC, although a number of members have consultation expertise developed in other organisations. The Team has recently completed a consultation on Preceptorship and one on the fees set by the organisation. A further consultation is currently underway on proposed changes to the Standards of Conduct, Performance and Ethics and another is being developed on English Language proficiency. Insight into elements of best practice in running consultations has been sought from external third parties and the Team is using its recent experiences in managing the consultations referenced to begin to develop an HCPC toolkit for running consultations.

HCPC is required to run different types of consultation, including consulting on fee increases whenever an increase is sought. However, the focus of this review will be the processes surrounding the governance of public consultations where HCPC proposes changes in its regulatory approach.

The review considers two key risks:

1) Whether the development of regulatory policy has been undertaken with due consideration of stakeholders

(well written and widely consulted policy is likely to clarify the position of the regulator over professional matters and reflect and anticipate and mitigate the risks to patient safety); and  
2) whether the framework for the development of regulatory policy is fit for purpose.

## PURPOSE

The purpose of this review was to assess the work that the Policy team has completed to date on developing a framework for managing consultations. We used best practice guidance and undertook a gap analysis to identify whether there are any improvements required in the processes that the team proposes to establish. We also assessed whether HCPC anticipates the resources required for likely future demands for policy development work.

## CONCLUSION

The Policy team have several good controls in place to manage consultations of which some are informal and as the team and the consultation numbers grow in both size and complexity, these processes will require formalising. For example, the informal lessons learnt process which is in place at present.

As part of our work, we identified one MEDIUM and three LOW priority findings. The MEDIUM finding relates to:

- ▶ A lack of evidence to show whether the strategic risk register, and subsequently the risk appetite, is considered when deciding to progress with a consultation and the optimum manner to proceed with a consultation.

As a result of our audit, we are able to provide MODERATE assurance over the design and operational effectiveness of the HCPC's arrangements in place in relation to Regulatory Policy.



# EXECUTIVE SUMMARY

## SUMMARY OF GOOD PRACTICE

- ▶ We reviewed the ‘Standards of conduct, performance and ethics’ and the ‘Fees’ consultation conducted by the Policy team and identified both consultations were completed and are now in the implementation phase. Documented evidence is retained of the consultation process.
- ▶ Whilst no formal policies and procedures are in place, the Policy team use consistent consultation documents for guidance, i.e., for a policy review, the relevant team member can access the documents for a similar consultation on the shared company G-Drive which is the standard repository for the Policy team.
- ▶ Consultations were undertaken once approval was obtained from the Executive Leadership team (ELT) and the Council. Proposals are initially reviewed by ELT before being recommended to Council for approval. Approval was documented within Council meeting minutes. Key information regarding the proposals including detail such as risk in regard to external stakeholders and the impact on them of policy changes, and the potential impact the consultation might have on the HCPC and its operations is considered within governance papers for ELT and the Council.
- ▶ As a part of stakeholder engagement, pre-consultation surveys and workshops are conducted which include individual survey forms and corporate surveys. As per discussion with the Policy team, these are used to assess the scope of the consultation.
- ▶ Mid consultation webinars are conducted by the Policy team and are also available in a recorded format to all stakeholders afterwards via YouTube. The webinars are for the Policy team members to inform stakeholders of the overall consultation and policy changes looking to be introduced and to facilitate engagement with the consultation.
- ▶ As per discussion with the Policy team, as part of their post consultation engagement they will collect feedback to capture stakeholders’ perceptions of the consultation. This is expected to inform the approach to future consultation documents.
- ▶ The Governance and Quality Assurance (QA) teams track progress against the workplan through regular milestone check-ins with the Head of Policy & Standards and quarterly risk and assurance meetings.

We reviewed the work plan created and managed by the Head of Policy & Standards. The work plan highlights upcoming cyclical consultations with their start dates due by quarters. Consultations are then assigned based on individuals’ workloads. This helps to ensure that staff are not overwhelmed with work, distributing work to officers with

capacity. This also helps to manage staff wellbeing and staff development. In addition, the consultation projects themselves have more generic detailed plans covering milestones, governance and engagements.

## SUMMARY OF KEY THEMES

Despite the good practice mentioned, we noted one MEDIUM and three LOW priority findings where HCPC could enhance the Regulatory Policy review process. The MEDIUM finding relates to the following:

- ▶ Whilst risk is considered, the risk appetite itself of the area being consulted on is not clearly considered and documented as part of the decision-making process for consultations.

# DETAILED FINDINGS



# DETAILED FINDINGS

## RISK 1: Consultations take place inconsistently leading to insufficient stakeholder engagement.

FINDING 1 - Lack of policies, procedures and guidance			TYPE
<p>Policies, procedures and guidance provide guidelines, agreed methodologies and promotes consistency in the way tasks are undertaken, which also supports efficiency.</p> <p>Via discussion with the Policy team, we confirmed that consultation policies, procedures and guidance have not been developed. As of now, the Policy team uses the standard templates from previous consultations and senior staff for guidance.</p> <p>Initially, there was a plan to develop 'go to' documents which would provide guidelines for cyclical and non-cyclical consultations, but this was put on hold until after this audit review.</p>			DESIGN
IMPLICATION			SIGNIFICANCE
<p>Where policies, procedures and guidance are not in place and up to date there is a risk that consultations are managed inconsistently, ineffectively and do not allow for a forum whereby stakeholders can voice their concerns or thoughts. As a result, the outcomes from consultations may not be effective in impacting future policies and ensuring buy in from key stakeholders to their implementation.</p>			LOW
RECOMMENDATIONS	ACTION OWNER	MANAGEMENT RESPONSE	COMPLETION DATE
<p>1. HCPC should develop policies, procedures and guideline which cover the below suggested areas:</p> <ul style="list-style-type: none"> <li>• Strategy and Planning: Consultation strategy and planning, how, who and when the planned consultations will be undertaken including how non-cyclical consultations will be factored in the plan.</li> <li>• Pre-consultation guidelines - things to be considered pre the consultation activity starts.</li> <li>• Milestones: Consultation key timeliness, stage wise reporting, documentation storage.</li> <li>• Stakeholder engagement: including pre-consultation surveys, during consultation surveys, webinars, workshops etc.</li> <li>• Consultation reporting: Post consultation final report content, areas to consider, internal reporting process.</li> <li>• Feedback: Post consultation feedback from internal and external</li> </ul>	<p><i>Rachael Gledhill, Head of Policy &amp; Standards</i></p>	<p><i>Building on recommendations of audit and expertise in team, develop a standardised consultation procedure</i></p>	<p>Q1 24-25</p>



<p>stakeholders.</p> <ul style="list-style-type: none"><li>• Publishing: How to externally publish and report any policy changes.</li><li>• Lessons learnt from consultations and shared within the Policy team</li><li>• Management and oversight: Consultation with ELT and Council approval, what will be included in an ELT paper e.g., risk assessments, scope of consultation, main key stakeholders etc.</li></ul>			
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## DETAILED FINDINGS

### RISK 2: HCPC does not have the desired mechanisms in place to run effective consultations.

FINDING 2 - Adherence to HCPC's risk appetite			TYPE
<p>When undertaking any activity, it is imperative that the activity is undertaken in line with an organisation's overall risk appetite for that area. This helps to ensure that the right level of risk is taken, to recoup the desired outputs and maximise opportunities. The consultation process is a mechanism to manage the risk of not understanding an organisation's stakeholders and to help ensure that any key changes are managed in a manner to get maximum stakeholder 'buy in'.</p> <p>The HCPC have a legislative obligation to consult in certain circumstances: Article 3(14), of the Health Professions Order states, "Before establishing any standards or giving any guidance under this Order the Council shall consult representatives of any group of persons it considers appropriate including, as it sees fit, representatives of— (a) registrants or classes of registrant; (b) employers of registrants; (c) users of the services of registrants; and (d) persons providing, assessing or funding education or training for registrants or prospective registrants."</p> <p>On review of the Fees Consultation Arrangements ELT paper, we noted a risk assessment was undertaken which highlighted current risks as well as the impact for: cross organisational, external stakeholders, strategy and corporate plan and EDI. However, there is no direct link to risk appetite, nor a direct link to a risk on the strategic risk register such as:</p> <p>HCPC has an appetite category of "risk seeks" for Risk 4: <i>We do not understand our stakeholders needs and so are unable to be as effective a regulator as we can be.</i></p> <p>This risk 4 of the strategic risk register at the time of this audit (August 23) had an associated risk appetite of 'risk seeks'. When proposed consultations are taken to ELT and the Council for final approval it would be beneficial to note the risk appetite, tolerance and confirm how the consultation and subject matter will fair.</p>			DESIGN
IMPLICATION			SIGNIFICANCE
There is risk that consultations and the respective subject matters where not compared to HCPC's strategic risk register may not align with HCPC's risk appetite. This could lead to reputational damage for HCPC.			MEDIUM
RECOMMENDATIONS	ACTION OWNER	MANAGEMENT RESPONSE	COMPLETION DATE
2. HCPC should align its risk assessment for individual consultations directly to the strategic risk register and report this in its papers to ELT and the Council. The paper should set out whether the subject matter risk sits within the risk appetite or outside of the risk appetite. Where the consultation subject matter sits outside, HCPC should consider whether additional controls are required such as what additional actions will be undertaken because of the risk assessment. HCPC can also consider the 'phrasing' of consultations to ensure	Anna Raftery, Head of Assurance and Compliance	Working with Governance, discuss how we might include risk assessment and risk appetite within governance paper cover sheets across the organisation.	Q4 23-24



appropriate for the risk and to enable stakeholder buy-in.			
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# DETAILED FINDINGS

**RISK 4:** Areas of improvement and efficiencies are not identified and used to make process improvements.

FINDING 3 - Lack of lessons learnt being shared			TYPE
<p>Undertaking lessons learnt exercises during and post consultations help to highlight areas that worked well and areas for improvement. These identified areas can then be used to influence future performance.</p> <p>There is no formal process in place to share good practices identified from consultations highlighting areas to help future consultations and engagements. At the time of the audit (August 2023, September 2023), there was only a handful of staff in the Policy team with the current process for sharing learning via face to face catch ups and other informal processes.</p>			DESIGN
IMPLICATION			SIGNIFICANCE
Where no formal lessons learnt process is in place there is a risk that learnings will not be fully identified and able to make a positive impact on future consultations and team efficiency and effectiveness.			LOW
RECOMMENDATIONS	ACTION OWNER	MANAGEMENT RESPONSE	COMPLETION DATE
3. A formal process for undertaking and reviewing lessons learnt should be established.	<i>Rachael Gledhill, Head of Policy &amp; Standards</i>	<i>Incorporate this into the consultation process outlined in Finding 1</i>	Q1 23-24



## DETAILED FINDINGS

### RISK 4: HCPC are unable to manage the consultation process for future activities on the horizon.

FINDING 4 - Workforce management			TYPE
<p>To ensure staff are fully resourced and not under or over utilised, it is important to have an effective ‘work’ tracking system in place, which is consistently monitored.</p> <p>The Policy team use a 'Policy &amp; Standards work plan' to highlight upcoming cyclical consultations and planned non-cyclical consultations and their scheduled work split by quarters. Work is assigned based on individuals' workloads. The work plan does not indicate who will be responsible for consultations, which could help to highlight if sufficient and appropriate resources are available to manage consultations in the pipeline.</p> <p>It may be the case that during the year additional issues arise which may require a consultation. Whilst it is difficult to plan for these within the workplan before they occur HCPC could try and consider the likelihood as part of quarterly reviews. This will further support resource requirements of the Policy team and ‘contingency’ time could be built into staffs workplans.</p>			DESIGN
IMPLICATION			SIGNIFICANCE
Staff may be over or underutilised within the Policy team, which may impact staff well-being and overall team performance.			LOW
RECOMMENDATIONS	ACTION OWNER	MANAGEMENT RESPONSE	COMPLETION DATE
<p>4. The Policy team should use the work planner to include staff assigned to consultations to demonstrate workloads and where alternative approaches to the current workforce may be required.</p> <p><i>As per recommendation 1, a formalised approach should be put in place for work planning and work force management.</i></p>	<i>Rachael Gledhill, Head of Policy &amp; Standards</i>	<i>Incorporate into Team work planning for 2024-5</i>	Q4 23-24

# APPENDICIES





# APPENDIX I: DEFINITIONS

LEVEL OF ASSURANCE	DESIGN OF INTERNAL CONTROL FRAMEWORK		OPERATIONAL EFFECTIVENESS OF CONTROLS	
	FINDINGS FROM REVIEW	DESIGN OPINION	FINDINGS FROM REVIEW	EFFECTIVENESS OPINION
<b>SUBSTANTIAL</b>	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
<b>MODERATE</b>	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally, a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non-compliance with some controls, which may put some of the system objectives at risk.
<b>LIMITED</b>	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
<b>NO</b>	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non-compliance and/or compliance with inadequate controls.

## RECOMMENDATION SIGNIFICANCE

<b>HIGH</b>	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
<b>MEDIUM</b>	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
<b>LOW</b>	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.
<b>ADVISORY</b>	A weakness that does not have a risk impact or consequence but has been raised to highlight areas of inefficiencies or potential best practice improvements.



## APPENDIX II: TERMS OF REFERENCE

### EXTRACT FROM TERMS OF REFERENCE

#### PURPOSE

The purpose of this review was to assess the work that the Policy and Standards Team has completed to date on developing a framework for managing consultations and using best practice guidance and undertake a gap analysis to identify whether there are any gaps in the processes that the team proposes to establish. We also assessed whether HCPC anticipates the resources required for likely future demands for policy development work.

#### KEY RISKS

The key risks with this area of activity are whether:

- Consultations take place inconsistently leading to insufficient stakeholder engagement.
- HCPC does not have the desired mechanisms in place to run effective consultations.
- Consultation results are misinterpreted, are unclear, or are ignored when drafting changes.
- Areas of improvement and efficiencies are not identified and used to make process improvements.
- HCPC are unable to manage the consultation process for future activities on the horizon.

#### SCOPE

- Determine whether there is a defined and documented governance process in place for the consultation process relating to policy changes.
- Determine whether there is a set methodology for how HCPC manages policy within HCPC and how this aligns to HCPCs risk appetite.
- Determine how HCPC account for external challenges when managing policy changes and consulting with key stakeholders.
- Determine whether HCPC undertake lessons learned activities after each consultation and if the information gathered is used to make improvements.
- Review resource planning going forward.



# APPENDIX III: LIMITATIONS AND RESPONSIBILITIES

## MANAGEMENT RESPONSIBILITIES

The Board is responsible for determining the scope of internal audit work, and for deciding the action to be taken on the outcome of our findings from our work.

The Board is responsible for ensuring the internal audit function has:

- The support of the Company's management team.
- Direct access and freedom to report to senior management, including the Chair of the Audit Committee.
- The Board is responsible for the establishment and proper operation of a system of internal control, including proper accounting records and other management information suitable for running the Company.

Internal controls covers the whole system of controls, financial and otherwise, established by the Board in order to carry on the business of the Company in an orderly and efficient manner, ensure adherence to management policies, safeguard the assets and secure as far as possible the completeness and accuracy of the records. The individual components of an internal control system are known as 'controls' or 'internal controls'.

The Board is responsible for risk management in the organisation, and for deciding the action to be taken on the outcome of any findings from our work. The identification of risks and the strategies put in place to deal with identified risks remain the sole responsibility of the Board.

## LIMITATIONS

The scope of the review is limited to the areas documented under Appendix II - Terms of reference. All other areas are considered outside of the scope of this review.

Our work is inherently limited by the honest representation of those interviewed as part of colleagues interviewed as part of the review. Our work and conclusion is subject to sampling risk, which means that our work may not be representative of the full population.

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

Our assessment of controls is for the period specified only. Historic evaluation of effectiveness may not be relevant to future periods due to the risk that: the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or the degree of compliance with policies and procedures may deteriorate.



## APPENDIX IV: STAFF INTERVIEWED

BDO LLP APPRECIATES THE TIME PROVIDED BY ALL THE INDIVIDUALS INVOLVED IN THIS REVIEW AND WOULD LIKE TO THANK THEM FOR THEIR ASSISTANCE AND COOPERATION.

Mark Platt	Policy Lead
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