Executive Summary

This paper sets out the background to the Council for the Regulation of Health Care Professionals; some of the intentions, powers, and procedures around it; ministers' and senior officials' speculation about it; and HPC's possible work with it after it is set up in 2003.

COUNCIL FOR THE REGULATION OF HEALTH CARE PROFESSIONALS

The Council for the Regulation of Health Care Professionals (CRHCP) will be set up in 2003. It started as a proposal for a UK-wide Council of Health Regulators in the NHS Plan (for England) in summer 2000. In summer 2001 Professor Ian Kennedy's report on the Bristol Royal Infirmary strongly urged the creation of this Council, but under its present (changed) name.

In autumn 2001 DoH published a consultation paper which led to the proposals for CRHCP in the NHS Reform and Health and Social Care Professions Bill in November 2001. This Bill was debated over November 2001 – March 2002 and is about to receive Royal Assent.

The main purpose of CRHCP will be to seek to align the procedures of the health Statutory Regulatory Bodies (SRB). CRHCP is able to exploit the order-making powers in the Health Act 1999 to create this legislative alignment where needed.

CRHCP's membership will be wholly appointed by the Secretary of State but with one nominee from each appropriate SRB. Proposals for the appointment of lay members were published In May, and conform to all the same principles applied to the (Shadow and substantive) HPC. An approach for a nominee from HPC is now awaited.

Its main role will be to make recommendations to the SRBs about their procedures. The reserve power to direct SRBs to change procedures now has to be confirmed by an Affirmative Resolution of both Houses of Parliament. This has allayed the fear that the Secretary of State could use CRHCP to over-ride decisions – and at any level of detail – taken by HPC or the other SRBs. A schedule of these functions drawn up by DoH is attached.

John Hutton MP stated at the HPC launch on 17 April 2002,

> " Our goal is to improve the consistency and effectiveness of professionally led self-regulation. The new UK Council for the Regulation of Healthcare Professionals, together with the work of the National Care Standards Commission and the Commission for Health Improvement will all have an impact on the work of healthcare professional staff and therefore on the work of the HPC itself. In these new circumstances, a partnership approach, with the closest possible collaboration and communication will be essential. "

On 21 November 2001 Andrew Foster, Head of the Human Resources Division at DoH, answered a question about CRHCP's intentions and specified as an example that CRHCP could direct HPC to change its registration policy to allow more flexible practice across professional boundaries.

On 3 December 2001 Robin Heron, the head of the Regulatory Branch at DoH, described another function as being to act as a clearing house for new groups seeking regulation. CRHCP would decide if regulation is in the public interest, and, if so, what body should regulate the group. This would be a very helpful and beneficial development.

The greatest role, however, will be around consistency between SRBs on conduct proceedings where there has been a real cause for concern in recent years.

HPC (and CPSM) liaised with other bodies in the creation and debates over CRHCP. DoH has set up a reference team to advise it on setting up CRHCP. DoH will seek a nomination for CRHCP in due course and HPC will wish to exploit the benefits of CRHCP and work with it.

The Education and Training Committee at its meeting on 3 July 2002 discussed the implications of CRHCP being able to make "directions" on issues which were also specified in the HPO. ETC was very clear that HPC could not afford to assume that it could surrender discretion to CRHCP, but that it must develop its own standards, Rules and procedures on its own initiative and authority whilst being mindful of CRHCP's eventual competence here for the future, especially to review and recommend aligning procedures across statutory regulatory bodies.

Council for the Regulation of Health Care Professionals

The NHS Reform and Health Care Professions Bill completed its Parliamentary stages on 13 June and will go to Her Majesty the Queen for Royal Assent shortly. The relevant parts of the Bill say, in summary:
The Council for the Regulation of Health Care Professionals

Section 25: The Council for the Regulation of Health Care Professionals
Establishment of a Council for the Regulation of Health Care Professionals; gives the Council the functions of promoting the interests of patients and other members of the public in the way that the existing (and any future) statutory regulatory bodies carry out their work, and promoting co-operation between them.

Schedule 7 - more detailed provisions about the constitution of the Council with the purpose of enabling it to operate independently from the Government.

Section 26: Powers and duties of the Council: general
powers and duties to be exercised by the Council in carrying out the functions given to it by *section 25.* The Council is given the power to do what is necessary or expedient in carrying out its functions. It can investigate and report on the performance of a regulatory body and make recommendations to a regulatory body about they way the regulatory body performs its functions.

Section 27: Regulatory bodies and the Council
underpinning powers for the Council and duties on the regulatory bodies, in order to ensure that the Council can do its work effectively; requires each regulatory body to co-operate with the Council; a reserve power to direct a regulatory body to make rules for a particular purpose; Parliamentary control over the Council's use of directions; Secretary of State to make regulations concerning the procedure.

Section 28: Complaints about regulatory bodies
power for the Secretary of State to set up in Regulations a complaints scheme under which the Council would acquire powers to investigate complaints about the regulatory bodies. These Regulations are to be made by the affirmative resolution procedure.

Section 29: Reference of disciplinary cases by Council to court
power for CRHP to refer a fitness to practise decision by a regulatory body to the High Court where this seems to it to be necessary for the protection of the public. Where such a case was referred to the High Court, the Court would have the power to substitute its own decision for the one referred to it, or if it preferred to refer the case back to the regulatory body for re-hearing. Existing Court Rules protect the rights of the professional whose case was being heard by ensuring that he or she becomes a "respondent" in the appeal, that is, has a right to be represented at the appeal hearing.

There is not at present an up to date text of the Bill on the Web – the one on the Parliament website is rather old now. After Royal Assent the text of the Act will be available at:http://www.legislation.hmso.gov.uk/acts/acts2002.htm

Next steps

The Department of Health will be in contact with all regulatory bodies in the next few days about the next steps required, and in particular about arrangements for the regulatory bodies to appoint their members of the Council. We shall need to have these names no later than the end of October. We expect the Council to be established in April 2003. We will be in regular touch with regulatory bodies in the meanwhile to keep them informed of progress.