1 October 2020

**The Health and Care Professions Council response to the Welsh Government consultation: ‘Welsh Language Standards (Healthcare Regulators) Regulations**

1. **About the Health and Care Professions Council (HCPC)**
   1. The HCPC is a UK-wide statutory regulator of 15 health and care professions, set up to protect the public. To do this we maintain a register of professionals (“registrants”); set standards for entry to our register; approve education and training programmes for registration; and process concerns where a professional may not be fit to practise.
   2. Our role and functions as a statutory regulator are set out in the Health Professions Order 2001.
   3. We currently have over 267000 registrants, of which about 13000 (less than 5%) list their home address as in Wales. The vast majority of registrants are based in England. We have one office in Kennington, London. All our full-time permanent staff are based at this office.
   4. We are committed to fulfilling our obligations under the Welsh Language Act 1993, and published our first Welsh language scheme in 2011. This sets out our commitment to the principle that in the conduct of public business in Wales, we will treat the Welsh and English languages on the basis of equality. The scheme was amended and approved by the Welsh Language Commissioner in February 2013. In 2015, we prepared a comprehensive evaluation report of the scheme alongside an implementation plan of key priorities for the period 2015-17. Since then, our review of our Welsh language scheme has been put in hold in light of the Scheme soon being replaced by Welsh Language Standards. In 2016, we responded to the first consultation ‘Welsh Language Standards – Improving services for Welsh speakers within the health sector’ where we provided our views on the proposed Standards. We welcome the further opportunity to respond to these.
2. **Consultation Response**

**Question 1: Do you have any comments on the service delivery standards proposed in the regulations?**

In general, the HCPC is in favour of the service delivery standards proposed in the regulations and continues to be committed to treating the English and Welsh languages on the basis of equality. Our existing Welsh Language Scheme already meets many of the Standards relating to service delivery and ensures that the Welsh language is treated no less favourably than the English language.

Where we have set out our concerns with specific standards below, we have done so because we believe that the standard will impose an unreasonable or disproportionate obligation on the HCPC and/or a disproportionate impact on the registrants across the four countries of the UK who pay registration fees.

We exist to protect the public and our role and regulatory functions are set out in the Health and Social Work Professions Order 2001. As such, our Welsh Language Scheme is primarily focused on ensuring that the Welsh-speaking public can access our services. We would be concerned that directing unreasonable or disproportionate resources toward meeting the requirements of some of the standards would place additional burdens on our ability to meet our wider duties to protect the UK public.

We are a UK-wide body that performs functions in Wales but we do not have an office in Wales, and are funded entirely by the fees paid by our members (the vast majority of whom practice in England). We work diligently to provide members with a responsive, accountable and cost-effective service and any financial shortfall resulting from the costs of complying with the standards would ultimately need to be funded through an increase in registrants’ fees. Such a situation would be contrary to official UK Government policy, which seeks to reduce the cost of regulation. We are also concerned that any associated fee increases could be seen to unfairly impact on registrants from outside of Wales.

As an organisation with a single office based in London, the HCPC does not currently have employees who can speak Welsh. While this may change in the future, we are concerned that some of the standards can create an expectation among the public about their ability to engage in Welsh with the HCPC which may not be met in the medium term.

***Standard 1,2,3 and 4***

We are supportive of these standards which broadly align with the obligations in our Welsh Language Scheme.

***Standard 5***

We seek clarity on this standard, in particular, to what extent an individual should expect to receive assistance over the phone in Welsh.

Currently do not have any Welsh-speaking members of staff. Nor do we believe that it is reasonable or proportionate for the organisation to specifically appoint a Welsh-speaking member of staff, in light of our role in regulating registrants across the four countries, and the very low number of requests for Welsh language services we receive each year. This appointment would come at a cost, which given we are funded entirely by registrant fees would need to be proportionate. We would be reluctant to move away from our UK-wide approach to registrant fees, but should additional requirements be placed on us for Welsh registrants we would need to undertake an impact assessment to establish what approach would be required to ensure there were no disproportionate impacts on registrants from the other three countries.

***Standard 6***

The HCPC does not believe that this Standard is reasonable and proportionate. The organisation receives a minimal number of calls each year where the caller wishes to speak Welsh. Implementing this standard would require a new automatic telephone service and would necessitate a significant expense for the organisation.

As an organisation funded by the registration fees of registrants from all four countries of the UK, we do not believe that this financial outlay can be justified given the limited use the service is likely to experience.

The HCPC is also concerned that the automated phone service presenting options in Welsh could serve to misrepresent an individual’s ability to receive assistance in Welsh – in line with our response to standard 5 above.

***Standard 7***

We support the Standard insofar as it requires the HCPC to ensure that its Welsh language services are advertised and not treated any less favourably than English language services. We are however concerned about the disproportionate cost of the system which would be required in Standard 6 and that Standard 7 could create a misperception about the organisation’s ability to field calls using the Welsh language.

***Standard 8***

We have some concerns about this Standard, which would create significant obligations for the HCPC. As we have set out our Impact Assessment in Annex B, we are concerned about the potential high costs involved with interpretation – especially for meetings with few attendees and which are of short duration. Estimating costs for standards 8 and 9 is extremely challenging but the costs of high-quality simultaneous translation could be in excess of £8,000 per meeting in Wales.

***Standard 9***

We note the three different thresholds set out in Standard 9 and would support Standard 9C which requires simultaneous translation for meetings in Wales where at least 30% of invitees have asked for the meeting to be conducted in Welsh.

However, if the level of interest is less than 30% then we do not think the costs involved can be justified.

Our current Welsh Language Scheme makes similar provision only for public events held in Wales and creating this obligation for meetings could be a significant new obligation. While we appreciate the need for thresholds, we believe that it would be reasonable and proportionate to allow bodies some form of discretion, especially where meetings have fewer than 10 people in attendance.

***Standard 10***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 11***

We seek clarity on the definition of ‘invitation’ in this standard. Where someone is invited to an event and can register their attendance online, would this standard require the invite and registration process to be available in Welsh?

In many cases, the HCPC would make use of an online tool to invite individuals to an event and to allow them to register for an event where necessary. Where we make use of outside software it may not always be reasonable to provide the total online registration process in Welsh even if the event’s invitation will be available in Welsh.

***Standard 12***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 13***

We are broadly supportive of this standard insofar as it requires the HCPC to ensure that in the advertisement of events the Welsh language is treated no less favourably than the English language.

However, we are concerned that the definition of advertisement should not extend to include online events management tools which the organisation would make use of for events.

***Standard 14***

In many cases, the HCPC would rent a venue for an event in Wales and would not have full control over the wider venue. This can include the level of Welsh language services which the venue’s staff may be able to provide, the level of signage in Welsh and announcements which may be made centrally and intended for a wider audience than the HCPC’s participants.

We would suggest that this standard be amended to apply only to those announcements, services and signage which we are reasonably able to control.

***Standard 15***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 16***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 17***

We seek clarity on the definition of ‘public exhibition’ and how this differs from ‘meetings open to the public’ and ‘events’ organised in Wales.

***Standard 18***

We broadly support this standard and its intention to allow public who use the Welsh language to access the services of the HCPC.

We do however have concerns about the once off and ongoing costs of maintaining forms in Welsh and the cost of translation into English in order to be addressed by the HCPC’s staff.

***Standard 19***

We do not believe that this standard is reasonable or proportionate.

A ‘form to be included on the register’ is a broad term which may cover several different processes within the HCPC including applications, renewals, readmission, returning to practise and Continuing Professional Development.

The organisation’s main focus is public protection. In light of this focus we support measures and standards which aim to make our services more widely available and accessible to the Welsh-speaking public. However, updating all of the HCPC’s registrant-facing services would involve significant expenditure and changes to the online infrastructure we use to handle these processes. Given the small number of registrants who practise in Wales and have previously indicated their interest in engaging the renewal process in Welsh, we do not believe that this Standard constitutes a reasonable and proportionate measure for the HCPC or for our stakeholders in the general public.

***Standard 20***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 21***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 22***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standard 23A***

We seek clarity on this standard as it applies to registrants (a person ordinarily resident in Wales registered with a body or applying to be registered with a body) but refers to legal proceedings taking place in England. The HCPC’s governing legislation holds that:

*Hearings and preliminary meetings of Practice Committees at which the person concerned is entitled to be present or to be represented are to be held in—*

*(a) the United Kingdom country in which the registered address of the person concerned is situated; or*

*(b) if he is not registered and resides in the United Kingdom, in the country in which he resides; and*

*(c) in any other case, in England.*

As such, any person considered a registrant for the purposes of the Standards must also have their proceedings take place in Wales. The HCPC’s Welsh Language Scheme already makes provision for legal proceedings which take place in Wales to be conducted in Welsh where requested.

We consider that creating a new obligation to provide Welsh language proceedings to registrants whose proceedings take place in England would not be reasonable or proportionate. Providing these services in England is far more onerous and costly than our current commitment to provide them in Wales. We believe that the staff and financial resources needed to meet this obligation is disproportionate to the likely demand for these services in England.

***Standard 24, 24A and 25***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme and our commitment to facilitate hearings in the Welsh language.

***Standard 26***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme. Our Welsh Language Scheme’s aim is for the HCPC to deliver on our public protection function for members of the public who use the Welsh language.

***Standard 27***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme. Our Welsh language offering on our website is hosted under a ‘Cymraeg’ section on the website’s top navigation panel.

We are however concerned about the one off costs of these changes to our website and the ongoing time commitments necessary to update the English language pages as content becomes available on our Welsh language pages and to ensure functionality across the various pages.

***Standard 28***

While we are committed to ensuring that Welsh speakers can interact with the organisation on the basis of equality with English speakers we are concerned about the possible implications of this standard.

As we are unable to estimate the future volume of social media messages we will receive and reply to in Welsh, it is not possible to fully understand the impact of this standard on the organisation. While meeting this standard should be possible under the current volume, we would like to raise that, if the volume of social media messages received in Welsh increased significantly, we may not be able to meet this standard due to the high costs involved.

The HCPC’s social media presence is run by a small team within the organisation’s Communications Department. While we always aim to respond to all correspondence as speedily as possible, the inevitable delays caused by translations may mean that messages sent to us in English can be answered more quickly than those in Welsh.

Similar to our responses to Standards 5 and 6 we are also concerned that this standard could serve to misrepresent an individual’s ability to receive assistance in Welsh when contacting the HCPC, and lead to an influx of Welsh queries which would have cost implications.

***Standard 29***

We seek clarity the definition of an ‘official notice’ and what would be defined as a ‘service provided in Wales’. This second definition would be useful as almost all of the HCPC’s services are available to individuals and to registrants in Wales as the services are largely provided online or remotely. This could therefore extend to almost all statements that we issue.

This would be particularly challenging if, for example, we were required to display all fitness to practise or hearing decisions in Welsh. This would involve a significant expense which would be disproportionate.

***Standard 30***

We are supportive of this standard, which broadly aligns with the obligations in our Welsh Language Scheme.

***Standards 31 and 32***

We are supportive of these standards, which broadly align with the obligations in our Welsh Language Scheme.

***Standard 33***

We seek clarity on this standard. The HCPC’s corporate identity includes the organisation’s official name in Welsh and logo with our Welsh name. While we support the Standard’s aims that updates to the English language corporate identity must take place at the same time as updates to the Welsh language corporate identity, the wording ‘present’ is unclear.

**Question 2: Do you have any comments on the interpretation of standards as set out in Part 3 for the Service Delivery Standards? (The interpretation of the standards have been included in the notes implications column along with footnotes to cite the relevant paragraph of the interpretation section.)**

We do not have any comments on the interpretation standards.

**Question 3: Do you have any comments on the policy making standards proposed in the regulations?**

***Standard 34, 35, 36, 37, 38 and 39***

We have fairly significant concerns about the impact of these standards, and do not believe these standards are reasonable or proportionate for the HCPC. As a four-country regulator responsible for 15 different professions, the HCPC deals with a wide range of policy issues which impact on our registrants across the UK. The HCPC would need to use staff time and other resources proportionally and we do not believe it would be proportional to prioritise the Welsh language in this way.

It is also important to emphasise that it is not a requirement of our standards that registrants speak Welsh. Whilst we recognise the importance of Welsh language in Wales, and do not prevent registrants from learning or delivering services in Welsh, from a standards perspective we can only mandate the ‘minimum standards for safe and effective practice’ across the UK. We have sought legal advice about the legality of this positon in light of our Welsh Language requirements and have confirmed that there is no expectation that Welsh Language also be included in the standards (given it is not threshold for all UK applicants). This means we only require English language skills. It is therefore not of specific relevance to us, from a policy perspective, to assess the opportunities for Welsh speaking as it is not a regulatory requirement.

Despite this, we are mindful of our Welsh language responsibilities and the need to treat Welsh no less favourably than English in the delivery of our public services. With that in mind, the impact of our Welsh Language obligations forms part of our Equality Diversity and Inclusion Impact Assessments. We use these to inform key policy decision-making. This would include when the formulation, review or revision of a policy was likely to have positive or negative effects on people’s ability to use the Welsh language or the equity between the Welsh and English languages.

***Standards 40, 41 and 42***

As stated above in response to standards 35-39, the HCPC is a UK wide regulator with registrants working in every part of the UK and slightly less than 5% of our registrants are based in Wales. Our research outputs are therefore intended for general application across the UK, for the benefit of all our registrants. We are also funded entirely by our registrant’s fees, which includes any budget we have allocated for research. We therefore do not believe that it is reasonable or proportionate to prioritise the Welsh language in this way when commissioning research.

The impact on the Welsh language is unlikely to be relevant to a large amount of the research the HCPC commissions. It is important to emphasise that it is not a requirement of our standards that registrants speak Welsh. As our standards set the minimum standards for safe and effective practice across the UK, they only require English language skills. It is therefore not of specific relevance to us, from a research perspective, to assess the opportunities for Welsh speaking. Instead our research outputs tend to have broader aims, for example identifying features of professionalism or establishing views on changes to particular standards or policies.

As part of our wider obligations in the Standards / Scheme, we would consider if the outputs of our research require translation. However, dedicating specific time / cost from a research budget to Welsh would be disproportionate.

**Question 4: Do you have any comments on the operational standards proposed in the regulations?**

***Standards 43, and 44***

We believe the operations standards proposed are reasonable and proportionate for the HCPC

***Standard 45***

The HCPC is broadly in support of this goals of this standard but we are concerned that it constitutes a significant expansion on the obligations of our Welsh Language Scheme.

As an organisation with a single office in London, we are concerned that marking all our vacant posts in this way will constitute a considerable investment of staff resources while it would remain unlikely that we attract a Welsh speaking person to a role.

**Question 5: Do you have any comments on the record keeping standards and standards dealing with supplementary matters proposed in the regulations?**

***Standards 46, 47 and 48***

We are supportive of these standards which broadly align with the obligations in our Welsh Language Scheme.

***Standard 49***

We would seek clarity on this standard. Insofar that it requires the creation of a standalone complaints procedure relating to our commitments in these standards, we do not believe this would be reasonable or proportionate. The HCPC does not have any standalone complaints processes and instead operates a general process for registrants, applicants, members of the public and other stakeholders to raise concerns.

We believe that it would be disproportionate to require a standalone complaints procedure given that complaints about our Welsh Language Scheme represented less than 1% of all complaints we received in the previous year.

Instead we would update our information about making complaints to expressly include the standards set out here. We would also sign post this information to users of our Welsh language website.

***Standards 50 and 51***

We are supportive of these standards which broadly align with the obligations in our Welsh Language Scheme.

**Question 6: We would like to know your views on the effects that these regulations would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

The HCPC is generally in favour of the standards and we have outlined our concerns where we believe specific standards are not reasonable or proportionate for the organisation. We remain committed to treating the English and Welsh languages on the basis of equality but we do not have the resources or the expertise to meaningfully estimate the impact of these standards on the Welsh language and/or people’s ability to use Welsh.

**Question 7: Please also explain how you believe the regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

The HCPC remains committed to treat the Welsh and English languages on the basis of equality. However we do not have the expertise or resources to be able to meaningfully answer question 7.

**Question 8: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed**

We have do not have anything to address at this time.