

**MEMORANDUM OF UNDERSTANDING**

**Between the**

**Gibraltar Medical Registration Board**

**and the**

**Health and Care Professions Council of the United Kingdom**

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## 1. Background

- 1.1 The Gibraltar Medical Registration Board (**GMRB**) is established by the Medical and Health Act, 1997<sup>1</sup> (the **Gibraltar Act**) and is the statutory regulator in Gibraltar of the 23 allied health professions identified in Schedule 13 to that Act.
- 1.2 The Health and Care Professions Council (**HCPC**) is established by the Health and Social Work Professions Order 2001<sup>2</sup> (the **UK Order**) and is the statutory regulator in the United Kingdom of the 15 health professions identified in Schedule 3 to that Order.
- 1.3 By virtue of those enactments, both the GMRB and the HCPC are the regulators, in their respective jurisdictions, of the health professions set out in the Annex to this Memorandum of Understanding (the **relevant professions**).
- 1.4 Gibraltar is a British Overseas territory which is not part of the United Kingdom.<sup>3</sup> However, by virtue of section 24B(1) of the Gibraltar Act, a person may only practise a relevant profession in Gibraltar if that person satisfies the GMRB that he or she is:
  - of good character; and
  - registered in the relevant Part of the register maintained by the HCPC under the UK Order (a **registered practitioner**).

## 2. Aim of Memorandum

- 2.1 The aim of this Memorandum of Understanding (**MOU**) is to establish, develop and foster a good working relationship between the GMRB and the HCPC (collectively, the **Parties**) in the interest of protecting the public in their respective jurisdictions.
- 2.2 The Parties recognise the importance of ongoing communication and co-operation and, where appropriate, the co-ordination of their respective activities to ensure that the public is protected by the effective and proportionate regulation of registered practitioners.

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<sup>1</sup> Act No.1997-25, as amended

<sup>2</sup> SI 2002/254, as amended

<sup>3</sup> By virtue of Article 355(3) of the Treaty on the Functioning of the European Union, as the UK is responsible for its external relations, Gibraltar is part (but not a Member State) of the European Union. Accordingly, relevant EU legislation, notably Directive 2005/36/EC on the recognition of profession qualifications will apply to Gibraltar at it does in the UK.

### **3. Liaison Arrangements**

3.1 The Parties will each nominate a liaison officer to be the initial contact point for the GMRB and the HCPC respectively in relation to this MOU.

3.2 The role of the liaison officers will be:

- to ensure the effective exchange of information between the GMRB and the HCPC;
- to implement any joint or co-ordinated activities agreed between the GMRB and the HCPC;
- to co-ordinate the supply of evidence and information between the GMRB and the HCPC if one or other of them is taking any action against any person who is or purports to be a member of one of the relevant professions.

### **4. Sharing of information**

4.1 The GMRB and the HCPC will share information relating to the registration status of registered practitioners for the purpose of ensuring that their respective registers are accurate and that, in their respective jurisdictions, only those persons who are entitled to do so practise a relevant profession.

4.2 The GMRB and the HCPC will share information relating to a registered practitioner who resides or practises in Gibraltar in respect of:

- any allegation or complaint of substance concerning that person's fitness to practise;
- that person's conviction for a criminal offence; or
- any determination by either of them or any other regulatory body against that person.

4.3 If the GMRB takes or proposes to take any action against a registered practitioner who resides or practises in Gibraltar, it will inform the HCPC.

4.4 If the HCPC takes or proposes to take any action against a registered practitioner who resides or practises in Gibraltar, it will inform the GMRB.

4.5 If both the GMRB and the HCPC take or propose to take action against a registered practitioner who resides or practises in Gibraltar, wherever possible, the Parties will share documents for the purpose of assisting in the preparation of their respective cases, conserving resources and avoiding duplicated effort.

4.6 The GMRB and the HCPC will share information relating to any person who resides or practises (or purports to do either) in Gibraltar and who has been convicted of (or cautioned for), or in the opinion of either Party may have committed, an offence under the Gibraltar Act or the UK Order.

4.7 The exchange of information between the Parties shall, so far as practicable, be conducted in a timely and accurate fashion and confirmed in writing (or electronic form).

## **5. Data protection**

- 5.1 The Parties shall exchange information only to the extent permitted by law and, in particular, shall comply with the Data Protection Act 2004<sup>4</sup> (an Act of the Parliament of Gibraltar) and the Data Protection Act 1998<sup>5</sup> (an Act of the United Kingdom Parliament) in the respect of the exchange of any information which constitutes personal data within the meaning of those Acts.
- 5.2 Any information supplied by one Party shall only be used by the other Party for the purpose for which it was obtained and, except as required by law, shall not be used for any other purpose or passed to a third party without the consent of the Party that supplied the information.

## **6. HCPC Proceedings**

- 6.1 By virtue of the UK Order, hearings and related proceedings in relation to allegations against registered practitioners who do not reside in the United Kingdom must be heard in England.
- 6.2 If the HCPC commences or proposes to commence any proceedings against a registered practitioner who resides or practises in Gibraltar, it will inform the GMRB of those proceedings and the GMRB will provide the HCPC with such reasonable assistance in bringing those proceedings as the resources of the GMRB permit.

## **7. Resources**

- 7.1 The GMRB and the HCPC acknowledge that this MOU is not intended to impose any undue financial obligations on the Parties or to require either of them to undertake any task beyond the extent that their respective resources permit.

## **8. Review and amendment**

- 8.1 This MOU will be reviewed by the GMRB and the HCPC annually and, where necessary (and, in particular, following any amendment to the powers or procedures of either Party) any amendment to this MOU shall be agreed in writing between the GMRB and the HCPC.

## **9. Resolution of Disputes**

- 9.1 Given their good working relationship, disputes are unlikely to arise between the Parties but, in the event that a dispute does arise, the GMRB and the HCPC will seek to resolve the dispute by agreement and, in the unlikely event that a satisfactory resolution cannot be achieved, the Parties will appoint an appropriate expert to determine the matter.

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<sup>4</sup> Act. No. 2004-01

<sup>5</sup> 1998 c. 29, as amended

SIGNED on behalf of the Parties on 14-January-2015 by:

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| <br>Signature for the GMRB | <br>Signature for the HCPC |
| [Name] Dr. Vijay Kumar<br>[Title] Chairman  | Marc Seale<br>Chief Executive and Registrar  |

## ANNEX

### The Relevant Professions

| Regulated profession <sup>6</sup>            | Protected Title(s)              |
|--|---------------------------------|
| Arts Therapist                               | Art Therapist                   |
|  | Art Psychotherapist             |
|  | Drama Therapist <sup>7</sup>    |
|  | Music Therapist                 |
| Biomedical Scientist                         | Biomedical Scientist            |
| Chiropodist and Podiatrist                   | Chiropodist                     |
|  | Podiatrist                      |
| Clinical Scientist                           | Clinical Scientist              |
| Dietitian                                    | Dietitian                       |
|  | Dietician                       |
| Hearing Aid Dispenser                        | Hearing Aid Dispensers          |
| Occupational Therapist                       | Occupational Therapist          |
| Operating Department Technician <sup>8</sup> | Operating Department Technician |
| Orthoptist                                   | Orthoptist                      |
| Orthotist and Prosthetist <sup>9</sup>       | Prosthetist                     |
|  | Orthotist                       |
| Paramedic                                    | Paramedic                       |
| Physiotherapist                              | Physiotherapist                 |
|  | Physical Therapist              |
| Practitioner Psychologist <sup>10</sup>      | Clinical Psychologist           |
|  | Counselling Psychologist        |
|  | Educational Psychologist        |
|  | Forensic psychologist           |
|  | Health Psychologist             |
| Radiographer                                 | Occupational Psychologist       |
|  | Radiographer                    |
|  | Diagnostic Radiographer         |
| Speech and Language Therapist                | Therapeutic Radiographer        |
|  | Speech and Language Therapist   |
|  | Speech Therapist                |

<sup>6</sup> The regulated professions and their protected titles are set out in Part I of Schedule 13 to the Gibraltar Act and correspond to the Parts of the HCPC register and designated titles set out in the Health Professions (Parts of and Entries in the Register) Order of Council 2003, as amended (SI 2003/1571) (the HCPC Order). In that Order the Parts of the register (but not the designated titles) are expressed in the plural.

<sup>7</sup> The HCPC Order uses the corresponding title "Dramatherapist".

<sup>8</sup> This corresponds to the "Operating Department Practitioners" Part of the HCPC register.

<sup>9</sup> This corresponds to the "Prosthetists and Orthotists" Part of the HCPC register (under which the title "Prosthetist and Orthotist" is also protected).

<sup>10</sup> The HCPC Order also protects the titles "Practitioner Psychologist" "Registered Psychologist" and "Sport and Exercise Psychologist".