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### Internal Audit report – Safeguarding Controls

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#### Executive Summary

As part of the 2021-22 Internal Audit Plan as approved by the Committee, BDO LLP have undertaken a review of the HCPC’s Safeguarding Controls.

The objective of the audit was to provide assurance over the processes and controls intended to identify, prevent and respond to safeguarding issues relating to the prior or current conduct of HCPC registrants.

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Previous consideration	None.
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	<ul style="list-style-type: none"><li>• Controls are in place to identify and assess risks arising from an applicant registering for the first time, or for existing registrants when re-registering.</li><li>• Registrants receive appropriate guidance on managing safeguarding risks, and standards of conduct for registrants are clearly set out.</li><li>• Complaints or referrals relating to a registrant’s conduct are specifically risk assessed for safeguarding issues and are then promptly and appropriately investigated.</li><li>• Controls are in place to identify safeguarding issues arising out of a registrant’s conduct prior to a complaint being made by member of the public.</li></ul>

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Financial and  
resource  
implications

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The cost of the audit is included in the Internal Audit annual fee.

Author BDO LLP  
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# HEALTH & CARE PROFESSIONS COUNCIL

## INTERNAL AUDIT REPORT - FINAL REPORT

### SAFEGUARDING CONTROLS

JANUARY 2022



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Document history			Distribution	
Final Report	[00296398]	23/02/2022	Health & Care Professions Council	Version 2

Auditor: Colin McNeill  
Reviewed by: William Jennings

# 1 Executive Summary

## Introduction

- 1.1 This audit was completed in accordance with the approved annual Internal Audit plan for 2021/22.
- 1.2 HCPC is a UK-wide regulator of 15 health and care professions with a statutory responsibility of regulating these professions so that the registered professionals meet required standards, including setting the standards for professionals' education, training and conduct. The primary purpose of doing so is in order to protect members of the public who receive care.
- 1.3 Safeguarding issues can arise where HCPC's registrants come into contact with vulnerable patients, with vulnerabilities taking a range of different forms not always linked to learning or age. Where a number of healthcare professions will have DBS criminal background checks performed by their employers, the HCPC regulates a number of professions where registrants may practise in a self-employed, and often one-to-one, basis. Trust in the individual professional, the profession as a whole and its regulators, could easily be undermined by a lack of sufficient mitigation of safeguarding risks.
- 1.4 HCPC requires those applying to join the register from the UK to complete an application form, applicants provide their personal details, education and training, details of practices outside the UK, character and health self-declarations. International applicants are required to complete a similar application form that intends to apply principles as for UK applicants, but places more emphasis on their previous education and experience.
- 1.5 Those on the register are required to re-register every two years by stating that they continue to comply with the standards and conditions set out in their application and that there have been no changes in their circumstances that would affect their ability to practice.
- 1.6 For existing registrants, HCPC can be notified of potential character or behaviour issues not only by members of the public, colleagues, employers, but also from third party organisations such as the DBS and the Police.
- 1.7 Where a potential health or character issue is identified, either on application or while practising, these are investigated by HCPC's Fitness to Practise (FtP) team through an established process resulting in a panel review.

## Review objectives and approach

- 1.8 The objective of the audit was to provide assurance over the processes and controls intended to identify, prevent and respond to safeguarding issues relating to the prior or current conduct of HCPC registrants. The key risks with this area of activity were whether:
  - Controls are in place to identify and assess risks arising from an applicant registering for the first time, or for existing registrants when re-registering.
  - Registrants receive appropriate guidance on managing safeguarding risks, and standards of conduct for registrants are clearly set out.
  - Complaints or referrals relating to a registrant's conduct are specifically risk assessed for safeguarding issues and are then promptly and appropriately investigated.
  - Controls are in place to identify safeguarding issues arising out of a registrant's conduct prior to a complaint being made by member of the public

- 1.1 Our approach was to conduct interviews to establish the processes that have been designed relating to risk management. We then obtained and reviewed relevant documentation to evaluate the design of the processes and confirmed that they have been built as described. We then undertook sample testing as required for three risk areas in order to confirm that controls were operating as intended.

### Key conclusions

 (Green-Amber)

Generally, a good control framework is in place. However, some minor weaknesses have been identified in the control framework or areas of non-compliance which may put achievement of system or business objectives at risk.

#### Self-declaration on admission and renewal

- 1.2 Domestic and international applicants complete an application form to join the HCPC register, which contains a number of declarations relating to their current and prior adherence to standards of conduct and behaviour. Applications cannot be progressed unless these declarations are completed. Once admitted to the register, registrants must, every two years, confirm they continue to comply with the behaviour and standards they agreed to when they first joined. In principle, this control puts the onus on registrants to declare matters HCPC might find relevant to decisions around admittance to the register, and may serve to prevent admission to the register for prospective registrants who declare a serious issue.
- 1.3 For many registrants, they are employed by the NHS or private providers. As employers, suitable checks on registrants, including DBS or equivalent checks are undertaken. HCPC effectively benefit indirectly from these checks, as it would be reasonable to expect that employers would refer issues arising from such checks to HCPC. While there is a final declaration stating that providing false information to HCPC is a criminal offence, there are no active steps taken to verify whether applicants' declarations of no previous criminal convictions are true. Given the prevalence of self-employed registrants in some professions regulated by HCPC, we consider that the safeguarding risks of admitting onto the register or renewing are not mitigated to the same level.

#### Clarity of standards & educating registrants of the requirements

- 1.4 The HCPC standards of conduct underpin all aspects of how they expect registrants to behave as applicants and members of the register. There are 10 standards of conduct with Standards 6 and 7, which relate to the safety or well-being of children or vulnerable adults, being the most applicable standards to managing safeguarding.
- 1.5 HCPC has an in-house Professional Liaison Service whose purpose is to educate registrants through holding virtual webinars on the standards of conduct, further educating the registrants on each standard. While there is some guidance available through the Standards, HCPC does not have specific published safeguarding materials to assist registrants identify and manage safeguarding risks which they may encounter during their roles, including referring fellow professionals. When we compared this with other peer healthcare professions regulators (for example the GMC and the NMC) we found that other professional regulators contained detailed guidance on their websites about safeguarding, intended to assist their registrants effectively manage safeguarding risks which they may encounter during their professional roles.
- 1.6 However, we noted that there were opportunities to make guidance for initial and returning registrants more prominent with regards to consequences of making false declarations as the current method exposes HCPC to a level of risk.

#### FtP referrals and complaints about registrants

- 1.7 FtP cases are assessed at several key stages (triage, threshold, investigation, hearing) to ensure that the attention it receives, and action on the registrant, is proportionate to the severity of the complaint. We confirmed this operates from our detailed review of a sample of cases. Each case had been assessed at the key stages that were applicable based on the criteria of the case. This includes a detailed risk assessment at triage stage to evaluate the severity of the case. There is a process in place whereby if a case is deemed serious through a risk assessment at triage, this bypasses the “threshold” stage of the process and is then managed by the Serious Case Team. This ensure that cases involving serious issues are dealt with more quickly to minimise risks to patients while cases are being investigated. HCPC has a case manual “FtP Operational Guidance” document which sets out detailed guidance on determining what a “serious” issue is. By design this is a good control as it uses a risk-based approach to minimise the amount of time in the FtP process to take any required action.
  
- 1.8 As part of the decision-making process for fitness to practice cases, a risk assessment is conducted the assessment asks 32 questions with a “yes/no” as well as several questions with narrative boxes to prompt answers. One of the 32 questions specifically addresses safeguarding, with staff being asked whether “the registrant has failed to safeguard appropriately”. However, there is no specific procedural guidance to assist staff making these assessments nor identify what standards of behaviour do, or do not, equate to “safeguarding appropriately”, for the purposes of the risk assessment. In the absence of detailed guidance on how to make safeguarding assessments, there is a risk that safeguarding concerns are missed or treated in an inconsistent way when conducting risk assessments of FtP cases.
  
- 1.9 Monitoring the conduct of HCPC registrants is mostly a reactive process on receipt of a complaint or referral from a third party. In addition, active channels are in place with organisations working with HCPC registrants which allows for possible conduct issues to be identified prior to a patient or third party raising a complaint. HCPC has active communication channels in place with the Disclosure and Barring Service (DBS) where we have seen in our review that information is proactively shared by the DBS where a registrant is either arrested or convicted of a serious offence, which is underpinned by HCPC having a formal Memorandum of Understanding with the DBS. This allows HCPC to be made aware of registrants’ negative behaviour proactively and provides heightened assurance on the integrity of the HCPC register. However, the DBS only covers England, Wales and Northern Ireland, and so similar formal arrangements are not in place covering Scotland, which is a control weakness, despite the fact that Disclosure Scotland provides information without a formal agreement. As a result, there is still a risk that a registrant within Scotland has committed a serious criminal offence and is not promptly removed from the register.

Recommendations summary table

1.10 The following table summarises the recommendations made across the key risks audited, grouped by priority ratings:

Key risk area	Rating	Recommendation Priority rating		
		1	2	3
1 First time registrants and re-registrants	Green	-	-	1
2 Guidance on managing risks	Green Amber	-	1	-
3 Investigating complaints	Green Amber	-	1	-
4 Proactive identification	Green Amber	-	1	-
Total recommendations made		-	3	1

1.11 The following tables in Section 2 Key Findings show the results of our analysis by each key risk area. Areas for improvement are highlighted with the key recommendations in the right-hand columns.

## 2 Key Findings

Key Risk Area 1: Controls to identify and assess safeguarding risks

Assessment:

Green

### Background

To ensure a regulator's members behave in a manner fitting of their respective professions, applicants are usually required to undergo an application process that removes candidates that do not meet the required standards. Registrants should be required to show their continued adherence to standards by facing the same scrutiny as original applicants through their renewal process.

### Findings & implication

#### Positive findings

- As part of the application process to join the HCPC register, both domestic and international applicants must complete an application form, relevant parts of which contain declarations relating to conduct and behaviours. Similarly, once admitted to the register, registrants must, every two years, confirm they continue to comply with the behaviour and standards they agreed to when they first joined.

#### Areas for improvement and implication

- In completing the application form applicants are required to sign a declaration that they will comply with the standards of conduct and agree to several other declarations with a final declaration stating that providing false information to HCPC is a criminal offence. HCPC does not, on initial application to join the register, take active steps to verify whether applicants' declarations of no previous criminal convictions is true. Whilst we acknowledge that this practice is consistent with similar regulators it does leave HCPC with an exposure to a degree of risk, particularly with the number of self-employed individuals on the register who will not be subject to the same level of pre-employment checks to healthcare professionals employed by private companies or NHS trusts.
- We noted that there were opportunities to make guidance for initial and returning registrants more prominent with regards to consequences of making false declarations. For example, while the final series of declarations have a warning that making false declarations may lead to criminal convictions, this could be made more clear to set out that failing to declare a relevant prior issue, regardless of its potential seriousness, could be interpreted as dishonesty which will result in an FtP process with potential sanctions.

### Recommendation

- In addition to the warnings provided at initial and re-registration, we recommend that within the declarations section of the form, applicants are made aware that the failure to disclose relevant information could be treated as dishonesty and result in an FtP investigation more serious than the matter not declared from the outset.

Priority 3



### Management response

Accept

Action: Review the declarations section of the form to make the guidance more prominent with regards to consequences of making false declarations.

Action Owner: Richard Houghton

Completion date: 30 April 2022

Key Risk Area 2: Guidance to registrants on standards and safeguarding risks

Assessment:

Green Amber

Background

Registrants of profession regulators typically give comprehensive guidance that helps them manage safeguarding risks. Guidance should be provided in the form of easily accessible policies that provide practical guidance and examples of how to identify potential safeguarding issues, and steps to take where safeguarding issues are encountered.

Findings & implication

Positive findings

- Underpinning the expected behaviour of applicants are the HCPC standards of conduct. Complying with these 10 standards is a requirement of the application/re-registration process.
- The standards provide registrants guidance on how to act, with some standards specific to managing safeguarding risks. Standard 6 “managing risk” requires registrants to take reasonable steps to reduce the risk of harm to patients, and Standard 7 “reporting concerns”, requires registrants to take appropriate action if they have concerns about the safety or well-being of children or vulnerable adults, including harm inflicted by fellow professionals.
- HCPC has an in-house Professional Liaison Service whose purpose is to educate registrants through holding virtual webinars on the standards of conduct, further educating the registrants on each standard. We noted it is the intention of the Professional Liaison Service to continue to deliver more specific webinars in 2022, as the service continues to grow, and that managing safeguarding risks is a possible future topic.

Areas for improvement and implication

- HCPC does not have specific published safeguarding materials to assist registrants identify and manage safeguarding risks which they may encounter during their roles. There is a risk that without having specific safeguarding guidance available to registrants, registrants may be unable to fully understand their safeguarding responsibilities, and specific risks relevant to their professions, leading to safeguarding failures which may reflect poorly on HCPC as the professional regulator.
- When we compared this with other peer healthcare professions regulators (for example the GMC and the NMC) we found that other professional regulators contained detailed guidance on their websites for safeguarding intended to assist their registrants effectively manage safeguarding risks which they may encounter during their professional roles. This information included definitions of safeguarding, references to legislation, step-by-step action to be taken in safeguarding situations and a link to a safeguarding policy.

Recommendation

2. HCPC should develop a suite of safeguarding materials aimed at assisting registrants manage key safeguarding risks which they may encounter during the course of their professional roles. These materials should be readily available to registrants through HCPC’s website. This should be benchmarked against the safeguarding materials provided by other healthcare professions regulators.  
HCPC should also consider delivering specific safeguarding guidance sessions as part of the programme of Professional Liaison Service webinars.

Priority 2



Management response

Accept.

While we have materials relevant to safeguarding (eg #MyStandards webinars) these are not readily accessible or specifically flagged as safeguarding materials. There is an opportunity to review our materials and update/improve them via the planned review of our Standards of Conduct, Performance and Ethics, due in 2022/23.

Action: (1) Add to 2022/23 Policy and Comms team workplans. (2) Add safeguarding to 2022/23 Prof Liaison event programme.

Action Owners: Emma Leary (Head of Policy), Kellie Green, (Head of Professionalism), Tony Glazier (Communications Lead)

Findings & implication	Recommendation
	Completion date: Completed - workplans already updated to include the review and addition to events programme

Key Risk Area 3: Responding to complaints or referrals relating to a registrant’s conduct

Assessment:

Green Amber

Background

The Fitness to Practise (FtP) process to investigate referrals / complaints about registrants should be operating in risk-assessed way so that incidents with likely safeguarding implications are prioritised for investigation to minimise the time between a safeguarding concern being raised and potential sanctions being applied.

Findings & implication

Positive findings

- FtP cases are assessed at several key stages (triage, threshold, investigation, hearing) to ensure that the severity of the complaint is proportional to the attention it receives. This includes a detailed risk assessment at triage stage to evaluate the severity of the case.
- Where a case is deemed serious through a risk assessment at triage stage, this bypasses the “threshold” stage of the FtP process and is passed straight to the Serious Case Team for prompt investigation. This reduces the amount of time a FtP case takes to investigate, with interim-order applications used in the most severe cases to limit risk exposures to patients while cases are being investigated.
- HCPC has a case manual “FtP Operational Guidance” document which sets out detailed criteria on applying the threshold policy for FtP investigations, specifically on what constitutes a “serious concern”. The guidance sets out that serious concerns relate to one or more of a number of factors including (but not limited) allegations of serious violence, sexual assault or indecency, improper sexual, emotional or financial relationship with a service user, or serious or reckless errors which have, or have the potential to cause, serious harm or death to a service user. Our review of this guidance concluded that it was sufficiently detailed to enable assessors identify risks in the categories of behaviour listed.
- HCPC has a formal Safeguarding Policy which is applicable for HCPC’s staff. This policy provides its users with guidance relevant to the key aspects of safeguarding including: what safeguarding is, the legislation underpinning key safeguarding considerations, the responsibilities of HCPC and HCPC staff and partners in relation to safeguarding and reporting concerns.
- Our sample testing found that for the four cases reviewed each case had been assessed at the key stages that were applicable based on the criteria of the case, and that the information was held on Nexus (the FtP system) and had been managed in compliance with applicable KPIs.

Areas for improvement and implication

- As part of the decision-making process for fitness to practice cases a risk assessment is conducted, the assessment asks the assessor 32 questions with a “yes/no” as well as several questions with narrative boxes to prompt answers. While one of the 32 questions specifically

Recommendation

- 4 The Case Management Manual document should be formally reviewed and updated to ensure that it accurately reflects the latest case management processes. As part of this review, specific guidance on identifying safeguarding concerns should be detailed within the document. This could be done by also making reference to HCPC’s internal Safeguarding Policy.

Priority 2



Management response

Accept

Action: The Case Management Manual is in the process of being replaced with a series of Best Practise Standards (BPS). This includes a BPS on Risk Assessment.

Developing FtP approach and guidance on safeguarding referrals for the wider team is a workplan activity for 2022-23.

Action Owner: Laura Coffey

Completion date: BPS development and go live by end of April 2022.

Safeguarding procedure for FTP development, training and roll out by end of Q3 2022-23.

Findings & implication	Recommendation
<p>addresses safeguarding, with staff being asked whether “the registrant has failed to safeguard appropriately”, there is no specific procedural guidance to assist staff making these assessments identify what standards of behaviour do, or do not, equate to “safeguarding appropriately” for the purposes of the risk assessment. In the absence of detailed guidance on how to make safeguarding assessments there is a risk that safeguarding concerns are missed or treated in an inconsistent way when conducting risk assessments of FtP cases.</p> <ul style="list-style-type: none"><li>• The Case Management manual has not been reviewed in line with the agreed date of 2<sup>nd</sup> December 2019, our review found that the KPIs within this policy differ from the KPIs used by the Fitness to Practice Team.</li></ul>	

## Key Risk Area 4: Controls to identify safeguarding issues identified through DBS

Assessment: Green Amber

### Background

While monitoring the conduct of HCPC registrants is likely to be a mostly reactive process on receipt of a complaint or referral from a third party, having active channels in place with organisations working with HCPC registrants allows for possible conduct issues to be identified prior to a patient or third party raising a complaint.

### Findings & implication

#### Positive findings

- HCPC has active communication channels in place with the Disclosure and Barring Service (DBS) in England, Wales and Northern Ireland whereby information will be proactively shared by the DBS where a registrant is either arrested or convicted of a serious offence. This allows HCPC to be made aware of allegations relating to a registrant in advance of complaint or referral from a patient or member of the public, and commence an FtP investigation where appropriate. As part of our review we were noted an example in which a referral from the DBS resulted in an FtP case being opened.

#### Areas for improvement & implication

- While HCPC has active communication channels with the DBS in England, Wales and Northern Ireland, no formal agreement exists with Disclosure Scotland to identify proactively registrants arrested on suspicion of, or convicted of, serious criminal offences. Although there is no formal Memorandum of Understanding in place in Scotland similar to the DBS, we note that information is still received relating to registrant conduct. Nonetheless, there remains a risk that a registrant within Scotland has committed a serious criminal offence and is not promptly removed from the register.

### Recommendation

- 5 HCPC should explore the feasibility of having a formal relationship with Disclosure Scotland as it currently has with the DBS, whereby the DBS proactively alerts the HCPC of registrants who have been arrested or convicted for a serious criminal offence.

Priority 2



### Management response

Accept

Action: The DBS covers both England and Wales and NI. We do have a relationship with Disclosure Scotland and receive information from them, but we do not have a formal MOU with them. The feasibility of implementing a formal relationship will be explored.

Action Owner: Roy Dunn

Completion date: 31 July 2022

## A Audit objectives, Risks & Scope

Terms of reference	
Objectives	The objective of the audit is to provide assurance over the processes and controls intended to identify and respond to safeguarding issues relating to the prior or current conduct of HCPC registrants.
Key risk areas	<ul style="list-style-type: none"> <li>• Controls are in place to identify and assess risks arising from an applicant registering for the first time, or for existing registrants when re-registering.</li> <li>• Registrants receive appropriate guidance on managing safeguarding risks, and standards of conduct for registrants are clearly set out.</li> <li>• Complaints or referrals relating to a registrant's conduct are specifically risk assessed for safeguarding issues and are then promptly and appropriately investigated.</li> <li>• Controls are in place to identify safeguarding issues arising out of a registrant's conduct prior to a complaint being made by member of the public</li> </ul>
Scope	<p>The audit was focused on safeguarding risks facing members of the public who receive care from an HCPC registrant, and the controls HCPC has in place to identify and investigate safeguarding concerns prior to, and throughout, a professional's registration.</p> <p>We assessed what steps are taken to identify whether applicants on registration, or registrants on re-registration, have historic safeguarding related cautions, warnings or criminal prosecutions indicating a potential risk. Where these are identified we focused on what steps are followed to manage those risks. We will also sought to compare HCPC practices with those of other healthcare professions regulators (e.g. with regard to investigating potential criminal backgrounds of any applicants).</p> <p>We reviewed the clarity of HCPC standards and guidance documents for registrants in identifying and managing safeguarding risks.</p> <p>Where complaints or referrals are made to HCPC relating to a registrant's conduct we assessed whether controls are in place to specifically assess whether safeguarding risks arise. We then performed a detailed review of a sample of cases to determine whether these have been investigated in line with current procedures.</p> <p>We assessed and benchmarked controls and practices in place for HCPC to identify potential safeguarding issues relating to the conduct of registrants prior to complaint or notification being made by a member of the public.</p>
Approach	The review was undertaken via MS Teams interviews with key staff and review of documentation.

## B Audit definitions

Opinion/conclusion	
 (Green)	Overall, there is a sound control framework in place to achieve system objectives and the controls to manage the risks audited are being consistently applied. There may be some weaknesses but these are relatively small or relate to attaining higher or best practice standards.
 (Green-Amber)	Generally a good control framework is in place. However, some minor weaknesses have been identified in the control framework or areas of non-compliance which may put achievement of system or business objectives at risk.
 (Amber)	Weaknesses have been identified in the control framework or non-compliance which put achievement of system objectives at risk. Some remedial action will be required.
 (Amber-Red)	Significant weaknesses have been identified in the control framework or non-compliance with controls which put achievement of system objectives at risk. Remedial action should be taken promptly.
 (Red)	Fundamental weaknesses have been identified in the control framework or non-compliance with controls leaving the systems open to error or abuse. Remedial action is required as a priority.

Any areas for improvement are highlighted with the key recommendations in the right-hand columns. The symbols summarise our conclusions and are shown in the far right column of the table:

- Good or reasonable practice 
- An issue needing improvement 
- A key issue needing improvement 

Recommendation rating	
Priority ranking 1:	There is potential for financial loss, damage to the organisation's reputation or loss of information. This may have implications for the achievement of business objectives and the recommendation should be actioned immediately.
Priority ranking 2:	There is a need to strengthen internal control or enhance business efficiency.
Priority ranking 3:	Internal control should be strengthened, but there is little risk of material loss or recommendation is of a housekeeping nature.

## C Staff consulted during review

Name	Job title
Richard Houghton	Head of Registration
Laura Coffey	Head of Fitness to Practice
Andrew Smith	Executive Director of Regulation
Jack Lewis	Case Team Manager, Case Reception and Triage, FtP
Rebecca Bryan	Operational Manager - Investigations, FtP
Kellie Green	Head of Professionalism and Upstream Regulation

We would like to thank these staff for the assistance provided during the completion of this review.

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