

## **Executive Summary**

This paper describes the issue of reserving employment in the public sector only to state practitioners, the position as at 31 March 2002 and the anomalies remaining then, and the action HPC might wish to take in the short term.

## **CLOSURE OF EMPLOYMENT UNDER HEALTH AND SOCIAL SERVICES LEGISLATION**

### **1. Background**

- 1.1 As each new profession up to 1999 came into regulation at CPSM the UK Health Departments, through their powers in the legislation creating the NHS and local authority social services (LASS) in the late 1940s, enacted separate subordinate legislation to reserve employment in the NHS and LASS Departments only to practitioners on the appropriate register at CPSM.
- 1.2 Other large public and private sector employers of CPSM's registrants then tended to follow suit as part of their employment policy, for example the Prisons Service or BUPA.

### **2. Position as at 31 March 2002**

- 2.1 The last three Boards were set up at CPSM in 1999 (for Clinical Scientists (CSc), Paramedics, and Speech & Language Therapists (SLT) ). The subordinate legislation to reserve employment in the NHS and LASSDs to state registered practitioners in these three last professions had still not been enacted by 31 March 2002.
- 2.2 The anomaly this creates is that unregistered, and unregistrable, practitioners can still work in the NHS and LASSDs perfectly legally. Most NHS Trusts and LASSDs have moved on their own initiative to end the anomaly without waiting for Ministers to take action. Inevitably, however, some employers have not yet closed employment and some practitioners have evaded their employers' procedures.
- 2.3 The anomaly becomes acute when CPSM – and now HPC – started to be notified of misconduct – eg. convictions – and was asked to take appropriate disciplinary action. The regulatory body cannot take action against a person neither on its register nor legally required to be registered with it.
- 2.4 CPSM kept this matter constantly before Ministers' and senior officials' attention and commended HPC to do the same.

### **3. Action for the Future**

- 3.1 In the longer term the protection of common title solves the problem completely and saves the need for separate legislation on employment to run in parallel with HPC's regulatory powers.
- 3.2 In the short term, the problem is one which can only be solved by the UK Health Departments and HPC may wish to take a view on how vigorously to pursue it. The anomaly is patently counter to the intention of all the relevant legislation and operates against the public interest.
- 3.3 To be consistent with the spirit of the HPO, and of the government's views expressed in debate on the HPO, the Council could consider if it might make a joint approach to Ministers on this together with the Allied Health Professions Forum, whose members are equally concerned about the anomaly.