**Response from the Chartered Society of Physiotherapy (CSP) to the HCPC’s consultation on its registration fees**

**Introductory comments**

We find the framing of the consultation as closed (Yes/No) questions unhelpful and inappropriate. The approach seems designed to generate responses that indicate agreement to issues of principle with which it is difficult to disagree, while masking the fees/resource issues behind these. There is therefore a risk of not gaining balanced feedback and the consultation exercise lacking an appropriate transparency.

For these reasons, we have not given a ‘Yes/No’ response to the questions. Instead, we have sought to engage with the substance of each one and to indicate where we believe the HCPC needs to take action.

Our responses should **not** be interpreted as meaning that we agree with the apparent assumptions in most of the questions that the HCPC both needs to make a fresh investment to achieve change, and to increase its fee levels to make such fresh investment possible.

We would support a full appraisal of how the HCPC can best deploy its available resource (after losing social workers) to fulfil its regulatory functions and service delivery most effectively and efficiently, and how the HCPC can become a ‘smarter regulator’ through the better use of data.

**Q1 Do you agree that the HCPC should invest in preventing fitness to practise issues arising?**

We are aware that the Professional Standards Authority (PSA) has identified a number of shortcomings in the HCPC’s fulfilment of its fitness to practise (FtP) functions and that the HCPC is needing to demonstrate that it has addressed these, particularly in terms of its consistent and timely adherence to its own FtP processes. We also have direct knowledge of these issues through representing members in the HCPC’s FtP processes and advising on professional issues relating to complaints.

From our understanding, it cannot simply be a matter of the HCPC looking to see how it should invest in preventing FtP issues from arising. Rather, the HCPC needs to address some fundamental issues about how it enacts its FtP processes where these are required (please also see our response to question 3). There is also a stronger need for the HCPC to consider how it can usefully and appropriately work more collaboratively with other stakeholders to help prevent FTP issues from arising.

We remain unsure as to how far the HCPC has fully explored and projected the impact of the loss of social workers from its statutory regulation responsibilities. It seems unclear as to whether and how the HCPC has calculated the full effects of the creation of Social Work England on its remaining regulatory business. It also is unclear whether and how far the increase over recent years in the volume of FtP business is primarily related to the number of social workers that the HCPC currently regulates and the greater proportion of FtP cases relating to this profession.

Drawing on the HCPC’s own analysis of its FtP processes and caseload in 2016/17, we understand that 54.27% of initial complaints related to social workers (1226 out of 2259), with 58.7% of these resolved without a need to put them to an Investigation Committee. While this shows that a significant proportion of these complaints could be resolved at an early stage and there was no case to answer, this must still have generated a heavy workload for HCPC staff and a significant digression from other potential areas of activity.

We therefore believe that the HCPC needs to undertake an appraisal of the following:

* The impact of the loss of social workers from the HCPC’s remit to make an accurate projection of future FtP business
* The impact of the HCPC’s continued activity to ensure that employers understand their role in managing minor issues through their disciplinary processes and to reduce the number of inappropriate self-referrals that the HCPC receives and has to manage due to employers’ directing registrants as employees to this course of action; if this appraisal demonstrates that current employer engagement activity is not having the intended effect, the HCPC needs to review what would be more effective (and undertaken as part of the HCPC’s prevention activity)
* The full and longer-term impact of the HCPC’s move to having dedicated physical space for FtP hearings, and the projected, incremental impact this will have in the future (see our response to question 3)
* The nature of the specific prevention role that the HCPC can most usefully play, such that its available resources are used to best effect and as efficiently as possible; as part of this, there needs to be recognition of the significant role that education providers and member organisations already play in inculcating, promoting and supporting individuals’ professional engagement and professionalism
* How the HCPC can make better use of data collection and analysis to strengthen its capacity for prevention and mitigation activity; this then needs to be used to guide and inform its decisions about the systems and processes it needs to triangulate data acquired at different registration stages, to identify data trends, and to formulate areas of focus for its prevention activity.

We would be pleased to be involved in wider post-consultation discussions on the above points.

**Q2 Do you agree that the HCPC should invest in improved services?**

We see this as an unhelpful, leading question, for which there is not a sensible answer. It is a given that the HCPC, as a statutory regulator, has a basic responsibility to fulfil its public protection role and, as part of this, to deliver effective services to its stakeholders. This includes the public, patients and their carers, registrants, employers, education providers and government bodies.

Across a range of areas, we believe that the HCPC does need to improve the quality of its services. Examples include the following:

* The management of its FtP processes (see our response to question 3)
* Achieving more consistent rigour and reducing variation of approach in how it enacts its education approval processes (see our response to question 10)
* Attending to how it enacts its services for overseas-qualified practitioners applying for admission to the register
* Attending to how it enacts its services in relation to individuals seeking re-admission to the register after a career break
* Attending to the quality of its response to queries, with our having pursued a range of issues regarding the provision of inaccurate information and delays to securing responses on issues (including to do with FtP cases)
* Addressing how it can be more useful in how it gathers, uses and shares data relating to the profile of registrants, trends and links between different aspects of registrants’ engagement with their registration.

While we see scope for improved service delivery, we are unsure as to whether or how far this requires fresh investment to achieve positive change. We believe that it is important for the HCPC to review how it can work differently without fresh investment in order to achieve the following:

* Efficiencies and quality improvements in how it fulfils its core functions and service delivery across these functions
* An appropriate shift and redeployment of its resources to maximise their value and impact, to fulfil the HCPC’s core functions and its service delivery across these functions
* A robust approach to business modelling to project the return on investment that could be achieved through developing more robust and effective ICT systems to sustain service delivery and strengthen work on prevention (e.g. through achieving significant efficiencies in the management of its CPD processes and optimising the use of data)
* A robust approach to monitoring and optimising the benefits created by enacting different business processes, such that the quality improvements and efficiencies achieved remove the need to use resources to mitigate current inefficiencies and poor service delivery (e.g. the management of complaints, concerns and primarily paper-based processes)
* A planned approach to how pre-emptive activity can reduce the need to manage business reactively; e.g. we understand that the HCPC could significantly reduce the number of freedom of information requests it receives and to which it has to respond in a specific timeframe by making data on the number and profile of registrants more readily available in standardised formats (above and beyond the reports that are periodically published on particular topics)
* A thorough appraisal of the impact of the loss of 98k social workers from the scope of the HCPC’s business, recognising that this should lead to a material, significant decline in the volume of business, across all functions and areas of service delivery
* A considered approach to whether and how the HCPC can increase its efficiency and effectiveness by releasing its existing accommodation and being based elsewhere
* An optimisation of the use of HCPC resources to fulfil its core functions and service delivery responsibilities, including by minimising its discretionary expenditure.

**Q3 Do you agree that the HCPC should invest in the necessary resources to improve the capacity, quality and timeliness of our FtP performance?**

Again, we see this as an unhelpful, leading question. In line with our response to question 1, we see it as essential that the HCPC addresses the identified shortcomings in the enactment of its FtP responsibilities and for which it is currently scrutiny from the PSA. We are unclear whether addressing these shortcomings requires additional investment, or whether this can be achieved by using available resources differently to ensure the HCPC enacts its FtP processes effectively and efficiently.

We are also not clear whether improvements to the capacity, quality and timeliness of the HCPC’s FtP performance should happen as a matter of course as the HCPC loses social workers from its regulatory responsibilities, given the proportion of business that this registrant group currently represents.

We believe that a thorough appraisal has to be undertaken of the issues involved, rather than the assumption being made and acted on that improved performance can only be achieved by additional investment.

We see this as needing to cover the following dimensions:

* Exploring what has led to the HCPC’s lack of full and timely adherence to its FtP processes and the impact on its performance in this area
* Evaluating the full impact of the HCPC’s acquisition of dedicated space for its FtP hearings; we understand that this is now having a material, positive impact on the conduct and progress of FtP business, including by speeding up the management and throughput of cases, removing delays to the conclusion of cases, and ensuring that all parties in FtP cases are assured of a more appropriate experience – we would suggest that a full projection needs to be done of the pace at which the use and control of the new tribunal space will reduce the backlog of cases and concerns about how they are run, rather than second-guessing the full impact of this and introducing further mitigating measures
* Fully projecting the impact of the loss of social work cases from a point in 2019; given the proportion of FtP cases that currently relate to social workers, it seems reasonable to infer that the HCPC’s loss of this profession will have a significant, material impact on the regulator’s FtP caseload, and that this will contribute to its being able to manage its remaining caseload much more effectively and efficiently (including in a reduced need to manage a high level of complaints that do not need to proceed to full investigation stage)
* Appraising how current inefficiencies and poor service delivery compound issues; from our direct experience of representing registrants as members in hearings, we are aware that multiple, unnecessary delays in the HCPC’s management of business add to the regulator’s workload in dealing with complaints and concerns, rather than dealing with substantive business, as well as impacting negatively on all parties.

We would support the HCPC’s plan to move to a model through which a greater number of (less serious) cases are progressed through mediation processes, as we understand that some other regulators are currently able to do. However, we also understand that such a shift would require amendments to the HCPC’s current Order. We would support this being expedited to achieve the change in process required, and would see this as having benefits for all parties, including the public, patients, employers and registrants.

**Q4 Do you agree that the renewal fee should increase from £90 to £106 to support the proposals outlined in this consultation document?**

We see the increase of 17.8% as a disproportionate, single increase to the HCPC registration renewal fee. We do not believe that the consultation document adequately explains or justifies the fee, particularly at a point when the increase is wholly disproportionate to registrants’ pay increases, wider cost of living factors, and when payment of the fee is obviously a requirement for individuals to practise their profession in the UK and therefore their livelihood.

Our concerns about the increase relate to many of the points raised in our response to other questions. However, in summary, we do not feel that the following points are fully addressed to justify the proposed increase:

* Given the volume of business that regulating social workers currently generates (both in terms of FtP cases and the number of education approvals), we are unsure how it can be the case that the HCPC will suffer a financial loss of £9m, but only a reduction in expenditure of £3m per year
* How it can simultaneously be argued (as we have been advised on occasion) that the HCPC’s approach to its core activities has been shaped by the need to manage the volume of business generated by regulating social workers, but now it be argued that economies of scale mean that the HCPC’s operations after the loss of social workers are not sustainable without a significant increase to remaining registrants’ fees
* Why the HCPC has not kept its registration fees under regular review, as it indicated it would in 2014, in order to avoid the need for large, occasional fee increases
* Why the focus on this consultation is strongly on investment in new types of activity when the argument is put forward in the consultation document on the need to address the £6m per year shortfall created by the loss of social workers
* How the HCPC is able to demonstrate that it provides a good level of service delivery to registrants, as well as to its other stakeholders
* Why the HCPC has not pursued financial support from the government to mitigate the loss of social workers from its regulatory responsibilities when the creation of Social Work England arose from a political decision in 2016 to make this regulatory change (and that is contrary to government policy since 2011 not to expand regulatory arrangements).

**Q5 Do you agree that the scrutiny fee for applicants from approved programmes should increase in line with the renewal fee from £63 to £74?**

We can see a logic in increasing each of the HCPC’s fees by the same percentage. However, we have concerns about the size of the percentage increase, the impact of the individual fee increase proposals, and the particular impact of the increase to this fee combined with the proposed cessation of the graduate discount for the first two years of practice (see our response to question 6).

We see that these two developments will adversely affect new graduates at the start of their professional career, and particularly throughbeing introduced at apoint when many new graduates will be subject to higher levels of student loan debt.

We are unclear as to whether the scrutiny fee (including the increase) has been fully costed to ensure that it is proportionate to the amount of work involved in considering UK-qualified individuals’ eligibility for admission to the register.

**Q6 Do you agree that graduate applicants should no longer receive a 50% discount on the cost of registration?**

We are concerned about the proposal to remove the 50% discount for new graduates in their first two years of registration. This is for the following reasons:

* The combined effect of the increase scrutiny fee and a removal of the discount could be off-putting to graduates at the start of their professional career
* The planned timing for the removal of the discount will coincide with new graduates (from BSc(Hons) and MSc pre-registration programmes in England) exiting with higher levels of student loan debt
* These combined elements may put off individual graduates from securing registration, or encourage them to defer securing registration, thereby impacting negatively on workforce supply.

**Q7 Do you agree that the restoration and re-admission fees should increase in line with the increase to our registration renewal fee?**

It seems reasonable, as a point of principle, that each of the HCPC’s registration fees should be adjusted at the same time and in a proportionate way. However, as indicated in our response to question 4, we do not see that a single increase of 17.8% to any of the fees is proportionate.

We would also like to make the following points:

* In line with our response to question 9 below, we believe that the HCPC should keep all its fees under regular review, and seek to ensure that its fee increases are made are in line inflation and the retail prices index (RPI)
* We are unsure as to why the HCPC’s fees for re-admission to the register and restoration to the register are set at the same level when we would expect the work involved in the two processes to be significantly different for the HCPC
* i.e. Re-admitting an individual to the register (after a career break, etc.) is much more linked to a defined process that the HCPC effectively delegates to registrants to complete, whereas considering a case for restoration to the register is much more dependent on the HCPC visitors considering bespoke issues following a fitness to practise case that potentially carry much more significant issues for protecting the public
* As an outcome of the current consultation exercise, we would therefore expect the HCPC to review the appropriateness of having the same fee for each and the logic of setting different fees.

**Q8 Do you agree that the international and grand-parenting scrutiny fees should increase in line with the increase to our registration renewal fee?**

It seems reasonable, as a point of principle, that each of the HCPC’s registration fees should be adjusted at the same time and in a proportionate way. However, as indicated in our response to question 4, we do not see a single increase of 17.8% to all the fees is proportionate.

We have particular concerns about the already high level of the international application fee, which would be compounded by the proposed increase. This could have the effect of deterring overseas-qualified practitioners seeking registration to practise in the UK just at the time when we need more workforce supply to meet demand.

**Q9 Do you agree that we should regularly review our fees to avoid infrequent but larger increases in the future?**

We support the HCPC moving to an approach through which it keeps all its fee levels under regular review, and moves away from its current practice of making infrequent, large increases. We are aware that the HCPC previously made a commitment to move to this approach in 2014. It is now essential that this shift is made.

As part of this shift of approach, we would see it as much more appropriate that the HCPC keeps its fee levels under regular review and seeks to ensure that periodic increases to them are in line with the Consumer Prices Index, including owner occupiers’ housing costs (CPIH). This should have the following benefits:

* Ensure that increases made to the HCPC’s registration fees are fully justified, transparent and appropriately contextualised, informed by the most comprehensive measure of inflation
* Ensure that fee increases made are small in nature, rather than presenting the kind of significant, occasional increases that the HCPC has enacted and proposed to date
* Remove the need for the HCPC to enact occasional, large increases that seem disproportionate and that are difficult to justify.

We also see it as important that the HCPC reviews, and keeps under review, whether the fees it charges for different activities relating to individuals’ registration status are and remain proportionate to the amount and cost of work involved and present demonstrable value for money.

As highlighted in our response to question 7, it is not clear why the re-admission and restoration fees are currently set at the same level, with the proposal that they should be increased to the same amount, when it is not clear that they present a comparable amount of work for the HCPC.

**Q10 Do you agree that we should investigate additional charging models for services including charging for the approval of education programmes?**

We are concerned about the suggestion that the HCPC should introduce a charge for approving education programmes, based on the modelling in papers made available via the fee proposal consultation. In particular, we have a strong concern that some of the fee levels included in the modelling would have the effect of eroding professional bodies’ quality assurance and enhancement role because education providers would not be able to afford both sets of fees (and HCPC approval is clearly essential for programmes to run).

While having a significant impact on the role of professional bodies themselves, this would impact negatively on how the HCPC is enabled to undertake its education approval role, given its reliance as a multi-professional regulator on the role that professional bodies play. In turn, this would impact on how the quality of education programmes that lead to eligibility for admission to the register is assured, and put the HCPC’s fulfilment of its public protection role at risk.

We welcome the opportunity to be involved in the HCPC’s review of its education approval role, and will seek to make a strong contribution to how this is enacted and its outcomes to ensure that the quality of entry routes to registration is assured.

Through the review, we also believe that a number of efficiencies and improvement to quality could usefully be achieved. These include the following:

* Ensuring the HCPC uses its standards sufficiently robustly to identify and pursue issues that could have a material impact on the quality of learning experience and outcomes and that its approach to considering provision and setting conditions shows consistency in how different programmes are considered
* Ensuring that HCPC decision-making on when it needs to engage in an approval event (and when a paper-based exercise will suffice, or when approval is simply on-going) is sufficiently robust and rigorous, including to take full account of the changes planned to a programme and the risk of the HCPC having to consider a programme for approval at a later point (therefore compounding the work involved in relation to any one programme, increasing the HCPC’s overall workload, and adding to the workload of other parties)
* In line with the above, reviewing whether the HCPC’s conferment of on-going approval is appropriate (unless there are specific reasons to review a programme), including given the imperative that education provision is kept under regular review to meet changing population, patient and service need and changing delivery environments
* Taking stock of how the HCPC’s education approval processes need to adapt to respond to assuring the quality of degree apprenticeships, particularly in light of some decisions to indicate approval to date based upon incomplete information and poor-quality documentation
* Reviewing the need for some approval events to extend to three days, when the time within them is not always used productively for any of the stakeholders involved, or necessarily ensuring the most effective outcome
* Reviewing whether it needs to send so many visitors and officers on approval visits, when the expertise and time of these individuals does not always seem to be appropriately drawn upon
* Whether there are models through which the HCPC could delegate authority to other bodies to undertake activity on its behalf (much as it does for professions for which the route to registration is not simply via completion of an education programme).

**Q11 Do you agree that a higher fee should be charged for those who request paper renewal forms?**

We would see this as potentially discriminatory to individuals who do not have access to, or were not enabled to engage with the HCPC’s online processes. We would therefore expect the HCPC to undertake a full equality impact analysis to test out the potential, unintended consequences for registrants who seek to register through engaging with the regulatory through paper-based forms.

**Q12 Do you consider there are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one or more of the following protected characteristics, as defined by the Equality Act 2010 and equivalent Northern Irish legislation?**

As indicated in our response to question 11, we would see it as potentially not in line with equality and diversity principles to charge a higher fee to registrants who sought to use paper renewal forms.

We think that the combined effect of the proposals to increase the scrutiny fee for UK graduates and to remove the discounted registration renewal fee for the first two years of registration will have equality and diversity implications for individuals from poorer backgrounds and for graduates starting their professional career with higher levels of student debt. This runs the risk of individuals choosing not to enter the profession for which they have qualified for financial reasons.

We would also question whether charging the same fee to individuals seeking to return to the register after a lapse in registration as individuals seeking restoration to the register is neither consistent with the workload involved for the HCPC, nor in line with equality and diversity principles, since the former is more likely to apply to female registrants seeking to return after extended maternity leave than to male registrants.

We see the proposed increase to the international application fee as disproportionately high. With the proposed increase, this could negatively affect individuals from poorer backgrounds and countries.

**Q13 Do you have further comments on our proposals?**

We would be supportive of the HCPC updating many of its processes to realise its ambition to be a ‘smarter regulator’, including through its stronger use and sharing of data and its better use of effective ICT systems.

At the same time, we understand that several of the potential developments raised in the consultation document are conditional upon required changes being made to the Health Professions Order and approval being secured from the Privy Council. We would welcome more information on the likelihood of these required developments being achieved and the likely timeframe for this.

We also seek assurance that the HCPC is actively reviewing its running costs to ensure efficiency. This includes in relation to its use of its facilities and its travel and hospitality expenditure, with the overriding need to ensure that all its discretionary spend is within reasonable limits and reflective of its funding source of registrant fees.

14th December 2018