

1. Is the Act achieving its purpose? Please explain.

2. What evidence supports your answer?

3. What, if any, comments do you have on the adequacy of evidence available about the success of the Act and any changes needed – including, for example, any reporting requirements that might ensure more open access to evidence that the Act is being effective.

We are unable to comment on 1,2,3 as counselling, as yet, is not currently registered though it should be noted it is likely NZAC will put forward an application for the registration of 'counselling' under the HPCAA early next year. We are not aware of any evidence, anecdotal or otherwise regarding the success of the Act.

4. Are the provisions in section 7 of the Act operating in a way that ensures that non-qualified persons do not claim or imply to be qualified practitioners and what, if any, changes do you recommend (note that issues around enforcing breaches are dealt with in the section titled 'Enforcement of the Act' which is set out below)?

While it is possible this provision may be working currently for some professions we note some possible difficulties arising where scopes of practice are overlapping. Psychologists, Social Workers, Psychotherapists and Counsellors, share similar scopes of practice, Counselling and Psychotherapy, in particular.. Internationally some Associations claim Counselling and Psychotherapy can not be distinguished (here reference BACP, IACP; CACP, ACA etc.), in fact, it is not possible to say when counselling stops and psychotherapy begins or vice versa

5. Are the provisions in section 8 operating effectively and what, if any, changes would you recommend?

As above, it would be difficult to ascertain that a counsellor or psychotherapist is practising within their registered scope of practice. In fact, it is assumed that some counsellors will practise counselling from a psychotherapeutic framework and some psychotherapists will include counselling in their work. Issues around shared scopes of practice may surface should Counselling also become a registered profession.

6. Are the provisions in section 9 and the current list of restricted activities operating effectively and what, if any, changes, amendments or additions would you recommend?

We recommend an amendment of section 9 (e) with a further, more explicit definition of what is to be considered a 'serious mental illness'.

This provision will become an issue in the event Counselling does not become a registered profession under the HPCAA. There are over 2,000 counsellors, many of whom work with serious mental health issues through their contracts with ACC, PHO's and DHB's.

7. Is the Ministry approach to enforcement of the Act in keeping with the purpose of the Act and what, if any, changes would you recommend?

8. Are scopes of practice achieving their intent? Please explain.

We are unsure the new concept of defining scopes of practice will work. In part 4 and 5, we suggest the scopes of practice among interrelated professions are difficult and sometimes impossible to delineate.

9. What, if any, comments do you have on the operation of the powers that registration authorities hold to allow conditions or authorisations on individuals' scopes of practice?

It seems useful in principle, however we do not know how this is working in practice.

10. Is the process for developing scopes of practice operating well (eg, are there suitable mechanisms for ensuring scopes of practice reflect service need) and what, if any, changes would you recommend?
11. Do prescribed qualifications reflect scopes of practice? Please explain with reference to particular scopes of practice and considering whether a) the levels of qualification are too low or too high when considering their purpose of assuring public safety, and b) whether they meet the requirements of section 13.

We would like to make a general comment here.

Counselling and psychotherapy are professions that rely heavily upon the ability of the therapist to create and work within a professional relationship and therefore require a great deal of self-knowledge, wisdom and maturity and especially, ability to establish and work proficiently within a therapeutic relationship. For this reason, someone may be academically proficient but seriously deficient in interpersonal skills. Such a person may understand the theory but may inadvertently do clients harm in their practice through lack of self-knowledge and/or interpersonal skills.

12. With regard to their purpose of assuring the competence of registered professionals, how well are the current recertification regimes working (where possible refer to particular professions)?

As in 11, recertification regimes for counsellors and psychotherapists would need to include an assessment of the interpersonal skills crucial to these professions.

13. What changes, if any, are needed to improve the evidence available to answer the previous question?
14. Where recertification arrangements are in place, what issues arise and what changes, if any, would you suggest (eg, in respect of the nature of the programmes, the level of compliance, monitoring practitioners' compliance, the costs and other impacts on practitioners employers etc)?
15. Where recertification programmes have not been introduced how do the authorities assure competence, and are there ways that these processes could be improved?

16. What would be the gains or problems associated with requiring all authorities to institute recertification programmes?

We believe it is essential professional development is maintained by the practitioner, must be ongoing and maintained on an annual basis as a requirement of a recertification programme.

17. Registration authorities have to judge when a practitioner 'may pose a risk of harm to the public' and trigger notification: is this working effectively and what, if any, suggestions do you have to improve effectiveness?

17. Is it appropriate that authorities must notify a particular set of agencies: what changes, if any, are needed?

Yes, It is essential agencies should be notified when it is judged a practitioner may pose a risk of harm.

19. At what times, if any, other than when there is a concern of a risk of harm to the public, should a registration authority exercise its power to review the competence of a health practitioner?

20. Is voluntary reporting by practitioners of possibly unfit practitioners working, on what do you base this opinion, and, in the light of experience, what are your views on making it a requirement to report concerns about a possibly unfit practitioner?

21. Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?

22. Are the interests of the public and of practitioners being balanced when dealing with the risk of harm from practitioners who are deemed to fail to meet required standards of competence? Please explain.

23. In practice, do competence and recertification programmes differ, are both sets of provisions needed or should changes be made?

Recertification cannot ensure competence. It is possible a practitioner may attend a recertification programme, pass exams or assessments, complete further practical training, have their records examined and yet, may still not be competent to practice.

24. Should any other parties be obliged to inform the registrar of a practitioner's inability to perform their required functions because of a mental or physical condition?

25. Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.

26. Are protected QAAs operating in areas you are familiar with: are they valuable, are there any problems, are the reporting requirements appropriate, should there be any changes to the QAA arrangements, should QAAs continue? Please explain.

27. Are PCCs being used by the registration authorities you are familiar with, how often and for what reasons?

28. To what extent is the suspension of an annual practising certificate and referral of a practitioner to the HPDT effective in protecting the public?

The effectiveness would be dependent on how quickly the suspension could be expedited.

29. What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?

30. What, if any, benefits or problems have arisen from having a single tribunal for all regulated professions and what, if any, changes would you recommend?

31. Is the current membership structure of the HPDT operating and are there any changes you would recommend (for example, the mix, the selection and appointment processes, training of members)?

We don't know if current structure is operating, however the mix under paragraph 3 seems consistent with fair representation of professional peers. "A single tribunal" makes sense, again as long as those who are subject to a hearing believe they are getting fair representation by and of peers who have a working knowledge of their scope of practice.

32. Is there a need for the HPDT to have the capacity to deal with multi-practitioner/ team-based disciplinary matters and, if so, how should this be organised?
33. Are the current arrangements for financing and supporting the HPDT, appropriate and what, if any, changes would you recommend (including the costs of taking cases to the tribunal and sustaining the operation of the tribunal)?
34. Are the appeal provisions operating well and what, if any, changes would you recommend?
35. How do you think the current number and mix of professions and authorities is operating and what, if any, changes do you think should be made?

If counsellors become registered we would prefer a smaller number of authorities covering several professions in order to reduce costs. For example, Counselling, Psychotherapy and Psychology could share functions under one authority.

36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?

It remains to be seen how well it will work, as we will soon see a proliferation of professions applying under the Act.

37. Are the current membership and appointment provisions working (eg, is the size and mix right, are people with the best skills being appointed, should the power to hold elections be retained and/or used, are lay and professional members appropriately trained and supported) and what changes, if any, would you recommend?

We would prefer elections be held, or other means created for input towards appointments to the Board rather than solely the discretion of the MoH.

38. What deletions, amendments or additions, if any, do you recommend to the list of functions – and why?
39. How well are authorities carrying out their functions and what changes, if any, do you recommend?
40. Are there any specific legislative requirements that regulatory authorities are currently subject to that they should not be? Please explain.
41. Are there any specific legislative requirements that regulatory authorities should be subject to that they are currently not? Please explain.
42. To what extent are the current powers of the Minister of Health appropriate to the purpose and effectiveness of the Act and what changes, if any, do you recommend?
43. What changes, if any, do you recommend to matters covered by the provisions of Part 7 of the Act?
44. What changes, if any, do you recommend to specific wording in the Act in order to clarify or address technical issues not otherwise covered already?
45. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?

It appears that the Act will continue to encompass far more professions than the original authors envisaged. In view of this, the original conceptualisation of the Act should be amended to include socio-

cultural perspectives as well as the present focus on a medical model and the present bias toward acute illness settings and practice.

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