Submission to the Senate Community Affairs Committee Inquiry into National Registration and Accreditation Scheme for Doctors and Other Health Workers

From

Professions Australia

Professions Australia (PA) is a national organisation of professional associations. These associations represent more than 300,000 professionals across Australia in the broad areas of: business services; the built environment; human and animal health; and resources. A list of members is at attachment 1.

Some of our members are directly involved in the current move to national registration of the nominated health professions. Others are in allied health professions not covered by the national registration decisions of COAG or in non health related professions. However, all will have an interest in the outcomes of the decisions taken to date and in the future in respect of national registration of professions.

PA fully supports the decisions taken by COAG to move to national registration for professionals in the nominated health professions. However the transition to the new arrangements and their implementation will present considerable challenges

Professions Australia Work in this Area.

From time to time PA produces policy documents on topics of importance to the professions. National registration of the professions and accreditation processes are two such issues.

In April 2006 PA put out a document "Blueprint for National Registration of the Professions". A copy of this document is at attachment 2. The Blueprint acknowledges that Australia is a single integrated market, exposed to domestic and international competition. National registration arrangements for individual professions are a logical step to promote competition and enhance the mobility of the professional workforce.

The Blueprint sets out some of the benefits of a national system for individual professions as being:
- A single registration fee and application process

- Consistency of registration requirements and implementation of national standards
- Cost savings with elimination of unnecessary complexity and duplication
- A stronger influence on shaping international standards
- Increased innovation and more timely implementation of reforms
- A framework for maintaining consistency of state and territory regulation for individual professions
- Assist in improving regulatory quality by ensuring regulatory frameworks represent best practice and are responsive to community needs, up to date and relevant.

The Blueprint describes the key elements of a national system which are:
- Implementation of a national market
- Admission to professional practice
- Regulation of professional practice
- Consumer protection.

It also articulates principles intended to provide guidance for the development of model provisions for legislation and regulations for the regulated professions.

Subsequent to the development of the Blueprint, in June 2008 PA put out a document "Standards for Professional Accreditation Processes". A copy of this document is at Attachment 3. This document sets out the rationale for agreed standards for accreditation processes and goes on to outline good practice in accreditation of professional education.

Together these documents provide a useful set of principles to guide the implementation phase of the proposed accreditation and registration framework.

Implementation Issues

As noted above it is our view that the transition and implementation phases will present considerable challenges. Some of the issues are set out below.

Independence.

It will be vital to the maintenance of professional standards and for the interests and protection of consumers of professional services, that the National Boards are able to operate independently. It is accepted that Ministers will need to be involved in agreeing on professional standards recommended to them by the National Boards. However, in arriving at the point of recommendation of standards, National Boards should be free of political interference. Moreover, in the complaints and disciplinary procedures areas and in the area of accreditation of professional education, independence should be maintained.

Resources

To be able to act in an independent and effective manner, National Boards will need adequate financial and human resources at their disposal and under their control. It is

accepted that the National Agency may provide accommodation and other corporate services for the National Boards and their secretariats, that the National Agency will need resources for this purpose and that these resources may need to come from the National Boards perhaps on a fee for service basis. However, the setting of the Board budgets and the appointment of appropriately qualified support staff for the Boards should be matters for the Boards.

In determining budgets, it will need to be borne in mind that many of the professionals currently involved in the accreditation and registration areas to be covered by the new arrangements, provide their services on a pro bono basis or for very low fees. Whether they are prepared to continue to do so with the move to national arrangements is not known and will probably depend on the nature of the implementation arrangements.

It will also be important to keep in mind that as well as the focus on professional standards, accreditation of professional education, registration of professionals and complaints and disciplinary procedures, there will be work needed to research and maintain the evidence base on which the various activities will rely to keep up to date and in line with best practice. There will need to be opportunities for stakeholder bodies to contribute to this work.

Assessment of the qualifications of overseas trained professionals will also be involved. All of this will require funding.

Transition

In making the transition from the current state and territories based arrangements to the national arrangements it will be important not to lose the considerable body of skills and experience which has been built up in the various professions and jurisdictions. It will not be as simple as dismantling one set of arrangements and starting up new ones. Some activities may have to run in parallel for a transition period. Also in some of the activities it will be desirable to continue to operate the national arrangements at a regional level and use of the current personnel would seem to be advantageous.

Transparency

The change to, and operation of, the new arrangements will be facilitated if the standards and procedures are transparent and well documented. For example as set out in "Standards for Professional Accreditation Processes" at attachment 3, the accreditation agency should provide information about its roles and functions which describes
- The accrediting agency and its mission
- The legal and registration framework in which the accrediting system operates
- The power of the accrediting body to undertake its assessing and accrediting roles
- The governance structure for the accrediting agency; terms of reference and membership requirements, including the requirement for the profession to be represented on the accrediting body, and for membership of other specified stakeholder groups

- The bodies (expert teams/review committees/site survey teams) which assess programs acting with the accreditation agency's policies and procedures
- The agency's communication processes and mechanisms for stakeholder and community communication with the accreditation agency.

The agencies will also need high standards of accountability. They should have their own codes of conduct linked to national and/or international codes and processes for dealing with complaints. Agencies should have appeals processes and provisions for review of the accreditation standards and process.

It is our view that independence, transparency, accountability and resources availability and management will be key factors in the successful implementation of the national registration arrangements. Time will also be an important factor.

5 May 2009

Attachment 1

The member associations comprising Professions Australia are:

Australian Dental Association
CPA Australia
Pharmaceutical Society of Australia
Australian Institute of Quantity Surveyors
Australasian Institute of Mining and Metallurgy
Audiological Society of Australia
Australian Veterinary Association
Australian Computer Society
Australian Marketing Institute
Institute of Actuaries of Australia
Institute of Chartered Accountants in Australia
National Institute of Accountants
Australian Institute of Landscape Architects
Institute of Management Consultants
Planning Institute of Australia
Australian Institute of Radiography
Records Management Association of Australasia
Australian Sonographers Association

Associate Members
The System Administrators Guild of Australia
The Institution of Surveyors NSW South Wales Inc
The Victorian Institute of Teaching
Australian Dental Council
Australian Medical Council
Australian Nursing and Midwifery Council
Australian Pharmacy Council

Blueprint for National Registration of the Professions
April 2006

Professions Australia is a national organisation of professional associations representing around 400 000 Australian professionals
www.professions.com.au

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Introduction

This document, the ***Blueprint for National Registration of the Professions*** (the ***Blueprint***), has been developed by Professions Australia and its member organisations. Our objective is to promote and facilitate the implementation of national registration arrangements for those professions currently subject to state and territory based regulation.

A list of Professions Australia's member organisations is at Attachment A.

The ***Blueprint*** acknowledges that Australia is a single integrated market, exposed to domestic and international competition. National registration arrangements for individual professions are a logical step to promote competition and enhance the mobility of the professional workforce.

The reality is that many professionals are now working across state boundaries. Some are responding to large consumers of professional services who are operating in national and international markets. Others professionals are responding to changing demand for their services, seeking to take advantage of a broader range of employment opportunities and experiences or grow their businesses. New technologies are making it possible for many professionals to provide their services on a national basis.

A national system of registration for individual professions would have significant benefits including:

☐A single registration fee and application process, allowing practice anywhere in Australia;

☐Consistency of registration requirements and implementation of national standards;

☐Cost savings for both government and professionals with the elimination of unnecessary complexity and duplication;

☐More efficient utilisation of the professional workforce with the removal of the barriers to professional mobility;

☐A stronger influence in shaping international standards;

☐Increased innovation and more timely implementation of reforms; and

☐A framework for maintaining consistency of state and territory regulation for individual professions.

The pursuit of national registration arrangements for the professions would also provide the opportunity to address any remaining restraints on competition and improve regulatory quality by ensuring regulatory frameworks represent best practice and are responsive to community needs, up to date and relevant.

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National uniform standards are a necessary first step in establishing national registration arrangements for a profession. National standards have been developed for the majority of professions. National registration arrangements will in turn ensure these standards are implemented on a national basis.

The power to regulate the professions resides with state and territory governments. A number of professions are subject to state based regulation administered by statutory registration boards (see Attachment B).

The objective of these regulatory arrangements is to protect the public by ensuring a high standard of service and professional behaviour by providing:

❑ A barrier to entry to those professions by untrained persons;

❑ A mechanism for establishing and enforcing standards of training and practice;

❑ An avenue for consumers to have complaints against practitioners addressed.

In 1995, the Commonwealth, States and Territories agreed to implement a national competition policy and signed the Competition Principles Agreement and the Conduct Code agreement. The broad objective of National Competition Policy was to bring about a more competitive and integrated national market.

Under these agreements, all jurisdictions agreed to:

❑ Extend the application of Part IV of the Trade Practices Act 1974, dealing with anti-competitive practices, to partnerships of natural persons or sole practitioners and their associations;

❑ Review their legislation, including that covering individual professions, and remove all anti-competitive provisions, unless such provisions could be demonstrated to have a net public benefit and the purpose of the restrictive provisions could not be achieved other than through legislation.

As part of National Competition Policy reforms, state and territory governments reviewed their legislation to remove regulations that impede competition in professional services. This process resulted in the elimination of many anticompetitive practices and provided an opportunity for national adoption of some best practice provisions. However, there is anecdotal evidence that state legislation for some professions is becoming more divergent over time.

Commonwealth, State and Territory governments have progressively implemented Mutual Recognition Acts following the signing of the Intergovernmental Agreement on Mutual Recognition in 1992. This has benefited many individual professionals, particularly the fully regulated professions, in moving across jurisdictions. These arrangements do not, however, overcome all the costs and shortcomings resulting from different registration regimes across Australia. This is particularly the case for those professions regulated in some states and not others or where additional regulatory requirements apply to the practice of a profession in some states.

The *Blueprint* has been developed to facilitate the implementation of national registration for the regulated professions by seeking to articulate the principles which

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might guide the development of these arrangements. The options available for pursuing national registration are outlined in Attachment C.

There are many professional bodies that administer codes of conduct or accreditation arrangements which complement formal regulation, or provide for self-regulation where the level of risk to the consumer does not justify statutory regulation. The principles outlined in the *Blueprint* could provide guidance to those professions that

are subject to co-regulatory arrangements1 or wish to ensure their self regulatory arrangements are consistent with competition principles and good governance.

The complexities of implementing national registration arrangements for some professions are significant. The **Blueprint** does not seek to resolve all the issues that will need to be addressed in relation to individual professions. Rather it seeks to establish a framework in which further consultation and development of individual arrangements can take place.

Professions Australia would like to acknowledge the cooperation and support provided by various federal and state government agencies in the preparation of the **Blueprint**.

This initiative demonstrates the recognition by Professions Australia and its member organisations that such a move is in the public interest and will deliver benefits to both consumers and the professions.

1 Where regulatory responsibility is shared between government and the professions, for example, professional associations set membership requirements and administer accreditation and disciplinary arrangements to ensure professional standards are met to protect the public, while government exercises some form of regulatory oversight including accreditation of the professional body to perform these functions.

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Key Elements of the Blueprint

The **Blueprint** addresses the regulation of individual professions by state and territory governments through mechanisms such as registration, certification and licensing (hereafter referred to as "registration").

The key elements of the **Blueprint** are:

A. Implementation of a national market.
B. Admission to professional practice.
C. Regulation of professional practice.
D. Consumer protection.

The principles outlined below under each element of the **Blueprint** are intended to provide guidance to the development of model provisions in legislation (or regulations) for the regulated professions.

Many of these principles could also be used by self-regulating professions as a guide to ensure the voluntary codes and quality assurance arrangements covering their membership are consistent with competition policy principles and good governance.

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A. Implementation of a national market

Reform of regulation to bring about a national market for those professions regulated by state and territory governments should be consistent with the following principles:

1. Regulation of individual professions can only be justified where the information asymmetry cannot adequately be remedied by non-statutory mechanisms, the potential harm to the public is significant and the benefits to the community as a whole outweigh the costs.

2. Any regulation should be the minimum necessary to achieve the identified objectives, in a manner which imposes the least cost of compliance.

3. Professionals registered in one state or territory are able to practice their profession throughout Australia.

4. The objectives of statutory registration arrangements for a profession should be clearly defined in the legislation; these arrangements should not seek to duplicate the functions of existing general laws for the protection of consumers.

5. Laws regulating a profession should be consistent throughout Australia with the establishment of agreed standards for entry into the profession, subject to provision for imposition of conditions to ensure local knowledge where appropriate.

6. The laws regulating a profession should have sufficient flexibility to provide for changing circumstances.

7. Where possible, regulatory standards should be compatible with relevant internationally accepted standards and practice and consistent with our international obligations.

8. Regulation should be designed to minimise any anti-competitive effects and avoid imposing unnecessary barriers to entry, exit or innovation.

9. The administrative arrangements for a registration board(s) with statutory responsibility for oversighting an individual profession should be consistent with the following principles:

a) The key function of a registration board is protection of the public rather than to promote the interest of the regulated profession.

b) Membership of the governing board should provide an effective mix of skills and expertise, including provision for membership which is independent of government and the relevant profession(s) and which broadly reflects a balance of community interests.

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c) The registration board should operate in a way which is consistent with good governance including transparency, accountability, fairness, efficiency, adaptability and coherence.

d) Board operating policies and procedures should be documented and publicly available, including on the board's website.

e) Decision making processes should be open, clear and understandable to consumers and professionals.

f) There should be an effective and transparent system for complaints handling including provision for independent review of complaints handling decisions (reference can be made to the Australian standard on complaints handling (AS4269).

g) The complaints handling system should be supported by effective sanctions for non-compliance.

h) In-house compliance system should be in place to ensure compliance with the regulations (reference can be made to the Australian standard on compliance systems (AS3806).

i) The registration board should have a strategy in place to educate both consumers and professionals about the objectives and operations of the regulations it administers.

j) A registration board should be required to report regularly on its activities, including through an annual report.

The principles outlined in this section could also provide guidance to a professional body in establishing and administering its Code of Conduct. In this case a Code Administration Committee should be established to ensure the successful implementation and ongoing effectiveness of the Code.

10. National arrangements for registration should include provision for a mechanism to maintain regulatory consistency between jurisdictions over time, and enhanced cooperation and information sharing between regulators.

11. Performance indicators should be established to determine the effectiveness of

the regulatory arrangements over a period of time or identify areas where improvements are required.

12. Regulation should be subject to independent monitoring and review.

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B. Admission to practice and membership requirements
Requirements for professional education

The purpose of statutory regulation of professionals by government is to protect consumers by creating a barrier to entry to certain professions by untrained persons and establishing and enforcing standards of training and practice.

The purpose of self regulatory arrangements is to provide a framework for establishing and maintaining standards which allow the consumer to make decisions on the purchase of particular professional services based on quality and risk.

The purpose of a requirement that individuals have completed a course of study at a higher education institution, to gain the necessary level of knowledge and competency in a profession, is to protect consumers.

1. Professional education standards

(a) Qualification requirements

The principles that apply to the setting of professional education and training requirements for registration (or professional membership) should be as follows:

1. The objective should be the protection of the public through maintenance of professional standards.

2. The qualification requirements should ideally be competency based.

3. The requirements should be the minimum level necessary to ensure competent and safe practice.

4. The requirements should not unnecessarily restrict registration or membership.

5. The requirements should retain sufficient flexibility to provide for innovation and the development of new competencies.

6. The requirements should not impose undue costs on consumers.

(b) Accreditation of undergraduate professional education

Accreditation of undergraduate professional education programs is an important element for the assurance of quality and the maintenance of professional standards against national and international standards. Completion of an accredited course of study is generally a key criterion for registration under government legislation or membership of a professional body.

The "accrediting body" is usually the professional body representing a particular
discipline. In some cases it may be a statutory body established for this purpose.

Individual educational institutions may voluntarily request an "accrediting body" to
review their education programs for accreditation.

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The purpose of accreditation of higher education undergraduate courses should be:

❑ The protection of consumers of professional services.

❑ The provision of an adequate basis for further professional development.

The policies and procedures of the "accrediting body" should be consistent with the
following key principles:

1. Be oversighted by a committee which has responsibility for managing the arrangements in a way which is consistent with good governance principles

of transparency, accountability and fairness;

2. be supported by a clear statement of policy and procedures that govern decision making processes and ensure procedural fairness;

3. the criteria for accreditation should be objective and measurable;

4. there should be provision for effective stakeholder participation in the development and management of these arrangements;

5. mechanisms should be in place to ensure all stakeholders are informed and have ready access to documentation/information on requirements, processes, criteria and expected outcomes, including through web-based mechanisms;

6. be supported by an appeals policy which include principles, rules and grounds for appeals; and

7. there should be provision for the regular monitoring, review and update of accreditation policies, processes and criteria.

The education policy will address the broad course of study and the level of scholarship associated with a course leading to undergraduate qualifications (including articulation arrangements with other higher education or workplace learning). The education policy should ideally address the communication and other skills required of professionals working in a modern society.

2. Assessing competencies for independent practice

Completion of a period of practical or supervised training following the completion of the academic qualifications necessary for registration (and/or membership of a professional body) before being eligible for independent practice shall only be required where it is consistent with the need to protect consumers by ensuring professionals have achieved the essential competencies.

The education policy should outline the competencies to be achieved though supervised training.

3. Continuing professional development

A commitment to continuing professional development should be consistent with the objective of protecting consumers.

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Continuing Professional Development (CPD*)* is defined as:

the career long acquisition and development of knowledge, skills and attitudes, enabling a practitioner to continually enhance their professional performance for the benefit of the community.

The Principles that should guide the development of continuing professional development policies are:

1. CPD should be based on sound educational principles.

2. Consistent with the objective of protecting consumers, the aims of CPD should be to:

a. foster the development of the professional body of skills and knowledge to enable the provision of high quality services to the community;

b. promote a commitment to lifelong learning amongst members of the profession;

c. provide education which allows professionals to master new areas/specialisations;

d. to assist professionals keep up to date in their area of practice with changes and new developments in the professional body of knowledge; and

e. generally enable professionals to maintain and improve their level of

competence.

3. It is the responsibility of all professionals to keep up to date with changes and new developments in the professional body of knowledge through participation in formal and informal CPD.

4. It is highly desirable that individual professionals should complete a designated minimum number of hours of formal and informal CPD per year, relevant to their area of practice.

5. CPD can include the development of competencies gained through workplace learning.

6. The body will as far as practicable facilitate the access of their members, including those in rural and remote areas, to continuing professional education opportunities.

7. The body responsible for an individual profession's CPD policies and programs will ensure that continuing professional development activities are of a high quality, effective and relevant.

8. The body responsible for an individual profession's CPD policies and programs should have guidelines which set out the nature and general expectations of CPD. These guidelines should have the flexibility to allow

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professionals to independently decide to participate in a CPD program. These guidelines should also outline expectations for participation in CPD on return to practice after a period of absence and for moving from one speciality to another.

9. It is desirable that arrangements are put in place for the recording, audit and monitoring of participation in CPD consistent with the level of risk to the consumer.

Scope of practice

The scope of practice should only be limited where it can be demonstrated that there is a net public benefit. Legislated restrictions on the right to practice for reserved areas of practice should relate to the level of risk to the consumer.

It is recognised that wider scope of practice may facilitate more cost effective and innovative approaches to the delivery of professional services to the benefit of consumers.

It may be desirable to include a professional's area of practice on the public register

and on the practising certificate to ensure consumers have the information necessary to choose an appropriately qualified practitioner.

Specialist accreditation

Any arrangements for specialist registration should not incorporate legislative restrictions on competition unless there is a demonstrable net public benefit and there is no non-legislative way of achieving these benefits.

Specialist accreditation should ideally be achieved by means of additional accreditation (administrative means) rather than separate registration under any legislation to avoid placing an unjustifiable restriction on competition within a particular profession.

Registration of overseas practitioners

Arrangements for the accreditation of overseas practitioners should be consistent with the following principles:

1. The international movement of professionals is in the interests of increasing trade, investment and knowledge flows between Australia and its trading

partners.

2. The needs of the Australian community be served according to the highest professional standards.

3. Assessment processes should ensure applicants meet standards consistent with the standards applying to local practitioners.

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4. Policies and processes for the assessment of applications for accreditation of overseas practitioners need to be consistent with principles of good governance.

5. A period of supervised work experience in Australia may be necessary for the purpose of adjustment to local conditions before an overseas practitioner can gain unconditional registration.

Reservation of title and core practices

Statutory reservation of title and/or core practices should be limited to situations where the public would be exposed to an unacceptably high level of risk, this is the most efficient and effective option to address the identified risk and there is a net public benefit.

Ownership and business structure

Any restrictions on the ownership and/or business structure of professional practice should be justified on public policy grounds.

Where there are no or limited restrictions on the ownership and/or business structure of professional practice the same rules to protect professional independence, the standard of service and the professional/client relationship need to apply to nonprofessionally

qualified owners as to professionally qualified owners.

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C. Regulation of Professional Practice

To ensure the protection of consumers of professional services registration boards and professional bodies have established complaints and disciplinary systems to maintain the quality of services to consumers and address unprofessional conduct by professionals.

Professional conduct and ethics

Codes of conduct or ethics set out specific standards of conduct for professionals in relation to the manner in which a registration body or professional association deals with registrants/members and their relationships with consumers and clients as well as other professionals. For a professional association these standards are voluntarily agreed.

The principles that should apply to Codes of Conduct or Codes of Ethics are:

1. The purpose of the code should be to protect consumers of the professional service.

2. The arrangements adopted to ensure compliance with the code should be the minimum necessary to achieve the identified objectives and in a manner which imposes the least cost of compliance to achieve them.

3. The Code should include a clear statement of objectives.

4. The scope of the code should ideally cover:

a) key principles; and

b) the commitment of the members of the professional association to conform to, and otherwise uphold, these rules and ideals.

5. The Code will be consistent with National Competition Policy principles.

6. The Code will be supported by an administration committee and documented

policies and procedures which are readily available to stakeholders on the organisation's website. To ensure transparency of the Committee's operations provision should be made for consumer representatives on the committee.

7. Codes of Conduct/Ethics should be supported by:

a) an effective complaints handling system which is subject to the rules of procedural fairness (independence, lack of bias and decisions based on logically probative evidence);

b) provision for the complainant to exclude any member of the complaints handling body who has a conflict of interest;

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c) a mechanism for the independent review of complaints handling decisions;

d) sanctions for non-compliance which reflect the nature, seriousness and frequency of the breach. A range of sanction should be available, including requiring further education and training through to suspension or cancellation of registration;

e) a strategy for raising consumer awareness of the code, its contents and complaints handling provisions;

f) a strategy for raising the awareness of the code, its contents and complaints handing provisions with the professionals covered by the code;

g) provision for employees and agents of the professional body to receive training on code principles and procedures;

h) collection of data about the origins and causes of complaints;

i) a system for monitoring compliance with the code;

j) reports on the operation of the code which are readily available to stakeholders; and

k) regular review to ensure the standards incorporated in the code are meeting the identified objectives and current community expectations.

8. Professional associations retain the right to include additional matters in their codes of conduct/ethics where these matters are consistent with national competition policy principles and good governance.

9. Codes of ethics or rules of association of professional associations should not extend to limiting the commercial and organisational choices of members.

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D. Consumer protection

Professional indemnity insurance

Professionals should have in place adequate arrangements for professional indemnity insurance.

Quality standards

As a general principle, initiatives that seek to improve the quality of service to consumers by enhancing competencies and professionalism through education and learning are likely to be more effective in protecting consumers than arrangements based on addressing breaches of standards after the event.

Professional bodies are encouraged to implement professional standards schemes or similar initiatives and/or publish guidelines on standards of client care to ensure consumers are adequately protected. These arrangements are likely to be more effective when supported by wide coverage of the profession.

Consumer education

Where a profession is self-regulated the professional body should have a strategy in

place to educate consumers on the self regulatory scheme so consumers can make an informed choice between a member and non-member of a professional body.

The education strategy should identify the points of difference, the services their members provide and the value to be gained by choosing one of their members to provide the relevant service.

Advertising

Consumers are best protected when they are fully informed and professionals maintain professional and ethical standards.

Advertising where it involves the provision of honest and accurate information can offer benefits to consumers.

Professionals are obliged to avoid false, misleading or deceptive advertising, use of testimonials or advertising that creates an unreasonable expectation of beneficial treatment.

Professional bodies should have advertising guidelines which set minimum standards and promote best practice consistent with the principles referred to above.

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Fees

Recommended fee scales for particular professional services provided by professional bodies for the benefit of their members are likely to result in a substantial lessening of competition.

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Implementation of the Blueprint

The extent of the benefits of national registration will in part be determined by the manner in which the arrangements are implemented. In seeking to contribute to the process Professions Australia and its member organisations have resolved to support an approach to national registration where regulation and administrative arrangements are consistent with the following principles:

❑ The primary purpose of regulation is the protection of consumers of professional services.

❑ Any regulation of the professions is consistent with the COAG principles of good regulatory design.

❑ National Competition Policy principles apply to the professions.

❑ Governance arrangements reflect transparency, accountability, fairness, efficiency, adaptability and coherence.

❑ These regulatory arrangements are consistent with our international obligations.

A decision on whether to pursue implementation of national registration arrangements for regulated professions is ultimately a decision for government. The approach to be taken is a matter for further consultation between the States and Territories, the Council of Australian Governments, the relevant Ministerial Councils and individual professional bodies. Governments will need to be convinced that national registration arrangements will deliver a net public benefit and make a positive contribution to Australia's ongoing reform agenda.

Professions Australia and its member organisations look forward to further consultation on how national registration arrangements for the professions might be progressed.

Professions Australia

Attachment A: Professions Australia Member Organisations

Association of Consulting Engineers Australia (ACEA)
Audiological Society of Australia (ASA)
Australasian Institute of Mining and Metallurgy (AusIMM)
Australian Institute of Radiography (AIR)
Australasian Podiatry Council (APODC)
Australian Computer Society (ACS)
Australian Dental Association (ADA)
Australian Human Resources Institute (AHRI)
Australian Institute of Interpreters and Translators (AUSIT)
Australian Institute of Landscape Architects (ALIA)
Australian Institute of Quantity Surveyors (AIQS)
Australian Marketing Institute (AMI)
Australian Veterinary Association (AVA)
CPA Australia
Engineers Australia
Institute of Actuaries of Australia (IAAust)
Institute of Chartered Accountants in Australia (ICAA)
Institute of Management Consultants (IMC)
National Institute of Accountants (NIA)
Pharmaceutical Society of Australia (PSA)
Planning Institute of Australia (PIA)
Records Management Association of Australasia (RMAA)
Royal Australian Institute of Architects (RAIA)
Spatial Sciences Institute (SSI).

Attachment B: Professions Regulated by State Governments

Medical practitioners
Nurses
Midwifes
Dentists
Chinese medicine (Victoria only)
Chiropractors
Diagnostic radiographers, radiation therapists and sonographers. (Victoria, Tasmania, Queensland and the NT). There are also licensing authorities in Victoria, Tasmania, Queensland, South Australia and NT relating to the medical radiation sciences.
Optometrists
Osteopaths
Physiotherapists
Pharmacists
Podiatrists
Psychologists
Veterinary surgeons
Engineers (Queensland only)

Architects
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Attachment C: Options for Achieving National Registration of the Professions
Overview
Under the Australian Constitution, the Commonwealth is unable to legislate with regard to unincorporated persons who are not engaged in interstate trade. The registration of professionals in Australia is a State responsibility and is regulated by separate legislation in each State and Territory. Registration boards or similar bodies are the designated legal authorities with responsibility for administering the relevant legislation.

There are a number of options available to overcome the constitutional barriers to the development of national registration arrangements for the professions.

This paper does not attempt to identify a preferred option but addresses the range of options available and some of their advantages and disadvantages. It is also recognised that the preferred option may vary between professions depending on the nature of the issues and existing legislative frameworks applying to individual professions. It will also be dependent on the progress already made towards achieving national uniformity of standards and registration requirements for individual professions. For the majority of professions there are already agreed national minimum standards.

The options for achieving national registration for those professions subject to statutory regulation by state and territory governments are as follows:
1. Commonwealth legislation to regulate a profession with relevant state powers being ceded to the Commonwealth;
2. Template legislation;
3. Mirror or model legislation; and
4. National portability or "driver's license" model.

The first option assumes the Commonwealth wishes to take over responsibility for regulation of the professions. The other options provide alternative approaches to achieving a single regulatory regime. Whichever option is chosen it should set the foundation for improved outcomes through more coordinated and efficient mechanisms for establishing best practice professional standards on a national basis. The options are outlined below.
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Options for National Registration
Option 1: Commonwealth legislation to regulate a profession with relevant state powers being ceded to the Commonwealth
Section 51(37) of the Constitution allows the states to refer agreed powers to the Commonwealth government. A recent example is where the States referred their right to legislate on companies and securities legislation, allowing the Commonwealth to implement legislation with application across Australia.

The agreement of all jurisdictions is required to deliver a national registration system. The ability of the States and Territories to retract the referral provides an assurance that the Commonwealth will not use the referred powers inappropriately.

Under this model standards, registration and administrative arrangements would be the responsibility of a single national body. The arrangements would need to be supported by consultation and decision making mechanisms such as an Inter-Governmental Agreement, Ministerial Council and/or officials/stakeholder advisory

bodies.

The key features of this model might include:

☐ The establishment of a national body with sole responsibility for registration;

☐ A consultative process/body for establishing/agreeing national standards for a profession;

☐ Registration subject to a requirement that all applicants meet the identified national standards;

☐ Registration would confer the right to practice anywhere in Australia with only one registration fee to apply;

☐ The national registration body would be responsible for all regulatory functions including disciplinary processes; and

☐ A national register of practitioners.

A single national regulatory regime established and administered by the Commonwealth, overriding those currently run by the states and territories, would be the most direct means of achieving national uniform standards and registration arrangements for a profession.

While this model will deliver uniformity and possibly the largest efficiency gains, there may be concern that agreement on uniform regulation may lead to the lowest common denominator or the most restrictive approach to regulation.

A related concern is that it may lead to a loss of innovation. Some argue that having different systems provides the opportunity to trial innovative approaches to regulation. This benefit will of course only be realised if there is wider adoption of best practice approaches. And it is an open question whether these benefits outweigh the costs of not having a national system. Furthermore whether harmonisation delivers a net benefit depends on the quality of the harmonised laws. With cost

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savings there may be scope for jurisdictions to pool resources for research and policy development to facilitate innovation and best practice regulatory approaches.

There may be practical difficulties associated with a single national registration board with concern that a federally run body may be too far removed from its stakeholders. One option to address this issue could be for the national body to establish state offices to carry out certain functions, for example, dealing with complaints and investigations.

It is possible that this option may be the most difficult to achieve because of the need to obtain the agreement of all states and territories to the referral of powers. The lead times in negotiating the final arrangements are likely to be long.

Option 2: Template legislation

Template legislation involves one jurisdiction legislating to establish a body with the other participating jurisdictions enacting complementary legislation in an agreed form to confer powers and functions on this body and to extend its authority to operate in that jurisdiction. The laws are then applied in all other states and territories through the passage of *Application of Laws* Acts in the respective parliaments.

This approach requires agreement between state and territory jurisdictions on the required form of the legislation. This approach can be pursued independent of the Commonwealth. Any amendments that are required from time to time will need to be agreed by the participating jurisdictions. It also requires agreement to the establishment of mechanisms to support policy development and decision making on

changes to regulation such as an Inter-Governmental Agreement, a Ministerial Council and/or other consultative or advisory bodies.

The key features of this model might include:

☐ A single national body with responsibility for registration of professionals against agreed national standards;

☐ Registration having recognition in all jurisdictions with only one application fee to apply;

☐ The national body to operate on full cost-recovery;

☐ The national body to establish a register of practitioners;

☐ Responsibility for disciplinary and compliance activities to be the responsibility of the 'home jurisdiction'; and

☐ Mutual recognition of disciplinary orders issued by bodies responsible for compliance activities in each Australian jurisdiction.

An advantage of this option is that, following agreement between jurisdictions, only one parliament need pass the amending legislation and it is then automatically adopted as law in the other jurisdictions. This will ensure all future agreed amendments to the template legislation are applied throughout Australia at one time and through a much speedier process.

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This option, like Option 1, will deliver a high level of uniformity. There should also be some efficiency gains.

This option may provide less flexibility for including provisions to deal with local circumstances. Funding and resourcing arrangements for local compliance activities may be an issue particularly in the smaller jurisdictions.

One of the disadvantages of this option is that referencing is rarely done although there are examples such as the Road Transport Authority and the Australian Pesticides and Veterinary Medicines Authority.

Option 3: Mirror/model legislation

Another method for achieving a national legislative framework is where the states agree on "model laws", and then all agree to enact the same legislation and regulations in each state. An example of this in recent times is the agreement by the states to enact model laws in relation to the implementation of a national market for the legal profession.2

State and territory governments can adopt mirror legislation among themselves without reference to the Commonwealth. Whether this is desirable will depend on existing arrangements for individual professions.

The key features of this model might include:

☐ A consultative mechanism is established to agree appropriate national standards for registration;

☐ Responsibility for registration rests with the registration body in the 'home jurisdiction';

☐ Professionals required to seek registration from 'home jurisdiction';

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Commonwealth, State and Territory Attorneys-General have endorsed comprehensive model provisions and regulations as a basis for consistent laws to remove barriers to the national practice of law and deliver a range of benefits for lawyers and consumers.
Under the proposed reforms, Australian legal practitioners will be able to practice anywhere in Australia with the one practicing

certificate.

The Model Bill and Model Regulations provide the foundation for adoption and implementation of the model reforms by each State and Territory in Australia. The model provisions are categorised as those which are core and require textual uniformity in adoption (CU), those which are core but do not require textual uniformity (CNU), and non-core provisions (NC).

These signposts are intended to guide the way the model provisions will be incorporated by governments into the State and Territory regulatory regimes. They simply reflect the degree to which model provisions are thought necessary to overcome the 'road blocks' experienced in the operation of the national legal services market. Accordingly, differing degrees of local variation can be expected as the Model Bill and Model Regulations translate into State - and Territory - based legislative reforms on matters other than those designated as core and requiring textual uniformity.

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Registration is fully transportable and recognisable in each Australian jurisdiction with no additional fees to apply;

Mutual recognition of any restrictions or conditions placed on the registration certificate by the 'home jurisdiction';

Recognition of disciplinary orders issued by registration bodies in each Australian jurisdiction;

A national register of practitioners; and

Regulatory bodies to share information and cooperate in investigations.

If jurisdictions wish to pursue further administrative efficiencies, the legislation can confer powers and functions on a "national" body as occurred with professional standards legislation (in this case the NSW Professional Standards Council now effectively operates as a national body). The national body can be given designated functions such as registration against agreed national standards while some functions could be carried out by the individual jurisdictions.

As managing the regulation of a profession across State and Territory boundaries will be an ongoing and long term project it will be necessary to establish consultation and decision making mechanisms to make the necessary changes to the model legislation. These might include an Inter-Governmental Agreement, Ministerial Council and/or officials/stakeholder advisory bodies.

Mirror legislation is less flexible than template legislation because any subsequent changes need to be passed by all parliaments. This is likely to lead to delays in the implementation of changes. It may also lead to some lack of consistency where jurisdictions are given the flexibility to include provisions to deal with their own individual circumstances. As a result there may be some loss of uniformity over time.

The fact that a professional will only need to pay one application fee may have implications for the viability of registration boards in smaller jurisdictions.

If the legislation is not enacted in each state, or is enacted differently in each state, the outcome is not ideal. However this option may be the most realistic.

Option 4: National portability or "driver's license model"

Under this option the relevant state acts would need to be amended to include provision for registration to be "deemed" for an appropriate category of registration.

Registration by one registering authority would provide permission to practice throughout Australia.

The key features of this model might include:

Professionals required to seek registration from 'home jurisdiction';

Registration being fully transportable and recognisable in each Australian jurisdiction with no additional fees to apply;

☐Responsibility for regulation to be that of the 'home jurisdiction';

☐Mutual recognition of any restrictions or conditions placed on the registration certificate by the 'home jurisdiction';

☐Recognition of disciplinary orders issued by registration bodies in each Australian jurisdiction; and

☐Regulatory bodies to share information and cooperate in investigations.

This model has the advantage of simplicity and is likely to be the easiest option to implement. However it raises a number of difficulties. Not all registration boards have the same statutory responsibilities. It has implications for the financial viability of registration boards particular in the smaller states and territories where fees might need to increase reducing any efficiency gains. For some professions local registration boards need to know who is practising in their jurisdiction. It may also pose problems in terms of pursuing complaints about incompetence or misconduct. This option is likely to deliver the lowest level of uniformity with the risk of administration and enforcement becoming more divergent over time. Professionals working across state borders will still be required to understand and comply with different local state or territory laws which may limit professional mobility. And where there are differences in standards there may be concerns about the quality of service to the consumer.

The major disadvantage of this option for some professions is that it will not deliver national registration arrangements because, under current arrangements, registration is not a requirement in all jurisdictions. For some professions this option may not deliver a net benefit over current mutual recognition arrangements.

Professions Australia
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Standards for Professional Accreditation Processes

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Prepared by Theanne Walters (Australian Medical Council) and members of the Professions Australia Accreditation Forum

Professions Australia www.professions.com.au is a national organisation of professional associations, with 29 member associations representing around 350,000 Australian professionals.

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AGREED STANDARDS FOR PROFESIONAL ACCREDITATION PROCESSES

Rationale for agreed cross-profession standards for accreditation processes

1. To provide an agreed standard against which professional accreditation authorities can
assess their own behaviour and performance, and thereby to improve quality.

2. To provide greater transparency in professional accreditation practices.

3. To demonstrate to stakeholders the standards which professional accreditation bodies set
for their own practice.

4. To promote greater uniformity and consistency in accreditation practices between professional accreditation bodies, to the benefit of institutions which undergo accreditation
by a range of professional bodies.

5. To extend the opportunities for sharing accreditation databases and resources between
accreditation bodies and thereby to reduce costs.

In adopting these standards, it is acknowledged:

☐that each accreditation agency has evolved in response to the overriding purpose of the
accreditation process and the professional context, including the settings/environment in
which the profession is practiced, the public interests protected by setting standards for
education of practitioners; and the specific knowledge, skills and professional attitudes
required for practice in the profession;

☐that there are a diversity of approaches to, and purposes for, external quality evaluation,
but that these approaches can be underpinned by some common agreed principles.

These standards are adapted from the following sources:

☐AS/ISO International standards for quality assurance: ISO 17011 on conformity
assessment, and the International Network for Quality Assurance Agencies in Higher Education Guidelines of Good practice http://www.inqaahe.org

☐International standards and benchmarking processes relevant to specific professions, for
example World Federation for Medical Education/World Health Organisation Guidelines
for Accreditation (http://www.wfme.org).

☐The collective experience of the professional accreditation agencies.

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GOOD PRACTICE IN ACCREDITATION OF PROFESSIONAL EDUCATION

Aims of the accreditation process

The accreditation agency defines the purpose and scope of the accreditation process. The link
between accreditation of programs and registration of the graduates of accredited programs is
stated.

In addition to quality assurance, the stated aim of the accreditation process includes continuous improvement of the quality of professional education and training to respond to
evolving community need and professional practice.

The accreditation standards

The accreditation agency has defined accreditation standards or criteria, set in advance of the
assessment of courses. The standards are used to assess whether or not the institution seeking
accreditation has met the defined requirements for accreditation.

The accreditation agency supports its standards or criteria with research and an evidence base.

Standards are reviewed regularly. The accreditation agency indicates the opportunities available to stakeholder bodies to contribute to the development of the standards. The accreditation agency makes its standards public.

Responsible body

The accreditation agency provides information about its role and functions. This describes:

☐the accrediting agency and its mission

☐the legal and registration framework in which the accreditation system operates

☐the power of the accrediting body to undertake its assessing and accrediting roles

☐the governance structure for the accreditation agency; terms of reference and membership
requirements, including the requirement for the profession to be represented on the accrediting body, and for membership by other specified stakeholder groups

☐the bodies (expert teams/review committees/site survey teams) which assess programs
acting with the accreditation agency's policies and procedures

☐the agency's communication processes and mechanisms for stakeholder and community
communication with the accreditation agency.

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Business practices of the accreditation agency

The accreditation agency has a code of conduct, linked to national and/or international codes

of conduct for accreditation bodies in its profession or in the professions in general. The accreditation agency describes the independence of its quality assessment. An accreditation agency is independent to the extent that it has autonomous responsibility for its

operations and that the judgments made in its reports are not influenced by third parties.

The agency describes policies that apply to the conduct of business, including:

☐confidentiality regarding documentation and proceedings

☐management of conflicts of interest

☐document control and records management

☐continuous review processes and internal auditing

☐resources available, including staff training and development

☐collaboration with other accreditation agencies locally and internationally and with other

bodies in the profession

☐funding the accreditation system including infrastructure costs and the costs of assessments

of individual programs and institutions.

Accreditation cycle

For established programs/institutions

The accreditation agency has a cyclical accreditation process, providing for regular reassessment

of accredited/approved institutions in order to verify that they continue to comply with the approved standards.

The accreditation agency's policies describe the accreditation cycle, including the duration of

full accreditation, and factors that may impact on the timing of assessments.

For new programs or institutions

The accreditation agency has a process for assessing proposed new programs in the discipline.

The process entails:

☐an assessment of capacity

☐initial accreditation or approval to proceed before students commence in the program.

The accreditation agency's policies describe the accreditation cycle for new programs,

including requirements for monitoring during the implementation phase and the way in which

the period of accreditation is determined.

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For major changes to established programs

The accreditation agency describes the procedures for institutions to report on plans for change
to their accredited program. It defines the major changes which would affect the accreditation
status of an already accredited program.

The accreditation agency has a process for assessing institutions' plans to make major changes
to established and accredited programs. The process entails initial accreditation of the program
before students commence in the changed program.

The accreditation agency's policies describe the accreditation cycle for programs which are
undergoing major change, including requirements for monitoring during the implementation
phase and way in which the period of accreditation is determined. The policies also specify
requirements for assessment and monitoring of the 'teach out' of the old program.

Review committees / assessment teams

The accreditation agency describes the role and responsibilities of its assessment teams, the
qualifications required, and the way in which the team composition is determined. It has
policies on the selection, appointment, training, and performance review of team members. Its
policies provide for the use of competent and knowledgeable individuals, who are qualified by
experience and training, to assess professional education and training programs. The members
of the review or assessment team should include a majority with a background in education or
practice in the relevant profession and other skills appropriate to the specific assessment.

The accreditation agency's policies provide for the institution being assessed to be informed
about the proposed members of the assessment team and to have the opportunity to draw
attention to potential conflicts of interest. The agency's policies describe how it manages
conflict of interest in the survey team and confidentiality.

Key components of the accreditation process

The accreditation agency's policies describe the key components of the process, and list the
forms to be completed or documentation to be provided. They also describe essential pre- or
co-requisites (e.g. other necessary accreditation).

The process of accreditation must include the following stages:

☐ Self-assessment by the institution seeking accreditation. The self-assessment is an

important planning instrument to enable the institution to identify strengths and

weaknesses and areas for improvement. The self-assessment should provide the basis for

the institution to develop its accreditation submission.

☐An external assessment, by a team appointed by the accreditation agency, and based on the

accreditation submission, team visits and meetings, and if necessary the collection of stakeholder feedback.

☐A final report by the team after the external assessment, containing recommendations

regarding the decision on accreditation.

☐The decision on accreditation.

☐Ongoing monitoring and reporting by accredited institutions to the accreditation agency.

Team visits and meetings
The accreditation agency's policies describe in detail the role of site visits and/or meetings

with the institution; how this program is negotiated and conducted, and the duration and scope;

and the respective responsibilities of the accreditation agency and the host institution for

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organising and informing participants about the interactions between the team and institutional

representatives.

The agency describes how the team will gather information during the interactions between

the team and institutional representatives. This should include a variety of methods such as

collection of documents and statistics (e.g. study guide, reading lists and statistical material on

pass/failure at exams); individual interviews (with dean, department heads, etc.); group

interviews (at meetings with the committee or group responsible for the self-evaluation,

curriculum committee, students, etc.); and/or direct observation (at visits to facilities, departments and classrooms).

The accreditation agency describes the feedback provided to the institution during and at the

end of these interactions.

Feedback to the institution and review of reports
The accreditation agency's policies describe the nature of reports provided to the institution

(e.g. draft written or preliminary verbal, final written etc), opportunities for review and

comment, timeframes for comment.

The policies should include provision for the institution being assessed to correct errors of fact

in a draft report.

The accreditation decision

The agency's polices describe the range of accreditation options available.
Decisions on accreditation must be based on the assessment against the accreditation criteria
or standards. Accreditation must be valid for a fixed period of time. Categories of accreditation decisions:

1 Full accreditation for the maximum period is conferred if all criteria or standards are fulfilled.

2 Conditional or limited accreditation, the seriousness of the problem is to be reflected in
the specification of conditions:

☐accreditation may be conferred for the entire period stated but with conditions, and specific actions to be reported; OR

☐accreditation is granted for a shorter period of time, in cases where some criteria or
standards are only partly fulfilled or more criteria or standards are not fulfilled, and
a specific review process must be followed.

3 Denial or withdrawal of accreditation in the event that the quality of the program
cannot be remedied within an appropriate period. Concerns about quality would be
signified by failure to meet criteria or standards. Whether the agency provides
remediation and assistance in these circumstances should be clear.

The final report

The final report addresses the accreditation standards. The report describes the
program/institution's performance against the standards or criteria and gives a brief account of
the evidence supporting the assessment. The report includes recommendations to the
accreditation agency regarding the decision on accreditation.

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The accreditation agency provides the report to the registration agencies as well as to the
institution. It has a public policy on the release of accreditation reports to other bodies and
individuals.

The agency maintains a public list of the accredited programs/institutions.

Process for ongoing monitoring of accredited institutions and programs

The accreditation cycle provides for the monitoring of accredited institutions to ensure the
agency is appraised of developments in the accredited programs, and to verify their continued
compliance with the standards.

The accreditation agency's policies describe the cycle for accredited institutions to report; the
nature of the reports, and how periodic reports are considered. Any special procedures for
notifying potential or actual changes to the training program should be described.

The agency has developed procedures to be followed in the event of unsatisfactory progress by
an accredited institution. These specify whether the agency provides remediation and
assistance in these circumstances.

Appeals process

The agency describes the principles, rules and grounds for appeals against accreditation
decisions as well as the cost of such appeals processes.

Evaluation and feedback

The accrediting agency has processes to review the accreditation standards and process.

The agency should describe its process for ongoing monitoring and evaluation of its performance, and the performance of its teams.

Complaints

The accreditation agency has a process for dealing with complaints.

The accreditation agency has a process to consider complaints it receives about accredited
programs. The policy should specify the range of complaints that the agency is able to consider. These should relate to the agency's accreditation standards. The policy should also
specify the processes for assessing and responding to complaints, the circumstances in which
the accredited institution is asked to respond to a complaint, and whether confidential complaints can be made.

The agency's procedures need to ensure the timely, fair, and equitable handling of all complaints related to the standards and procedures for accreditation/approval.