
Council, 10 September 2009

CHRE performance review 2008/2009

Executive summary and recommendations

Introduction

In July 2009, the Council for Healthcare Regulatory Excellence published its 2008/2009 performance review of the regulatory bodies, including its performance assessment of the HPC.

This paper discusses the outcomes of the 2008/2009 performance review, providing a summary and discussion of the CHRE's assessment of the HPC's performance and highlighting other areas of interest.

Decision

The Council is invited to discuss the attached paper.

In particular, the Council is invited to discuss the issue of disclosure of complaints outlined in section 5.1.2.

Background information

None

Resource implications

None

Financial implications

None

Appendices

Council for Healthcare Regulatory Excellence, Performance Review of health professional regulatory bodies 2008/09 – Promoting improvement in regulation (July 2008) – HPC's performance review

Date of paper

26 August 2009

CHRE performance review 2008/2009

1. Introduction

This paper:

- summarises and discusses the HPC's 2008/2009 performance review, highlighting areas of good practice and areas which may merit further discussion;
- highlights the areas that the CHRE considers to be good practice across the regulatory bodies, and areas of interest in the other regulators' performance reviews; and
- where helpful and relevant, informs the Council of ongoing or planned work by the HPC Executive.

References to specific paragraphs are references to the full CHRE report. The section on HPC's performance is appended to this paper.

2. About the CHRE performance review process

The CHRE has a statutory responsibility to report on the performance of each of the regulators and to publish a report of its findings (paragraphs 7.1 to 9.5).

The performance review process works on the basis of a self-assessment against CHRE's standards of good regulation (appendix B in the performance review report).

The HPC is normally sent a self-assessment template to complete in around November of each year, with submission to the CHRE due in January the following year. This involves the HPC Executive putting together a written response, which includes links to relevant council / committee papers and other documents.

For the 2008/2009, new compared to previous years, the CHRE contacted a range of patient, public and professional organisations to seek feedback on the regulators' performance.

The CHRE then assesses all the material, and requests further information or clarification as appropriate before meeting with the regulator to discuss its findings. The HPC has the opportunity to provide information / comment on drafts of the performance review before the CHRE finalises its report.

3. CHRE performance review 2007/2008

Every year the CHRE also looks for evidence that any areas for further work identified in its performance review in the previous year have been addressed.

In the 2007/2008 performance review, the CHRE identified the following areas of good practice:

- communication with the public around the Register and about the work of the HPC;
- development of a skills audit and appraisal of Council members; and
- the quality of management information and data collection.

In the 2007/2008 performance review, the CHRE identified the following areas for development. The areas are listed with a commentary explaining the work the Executive has undertaken to meet these areas.

3.1 Systems for the assessment, appraisal and reappointment of fitness to practise panel members.

The 2008/2009 performance review report notes that the HPC has implemented this system and has also undertaken refresher training for panel members (paragraph 19.14).

We have now undertaken refresher training for the majority of fitness to practise panel members with the final session for this financial year due to take place in September 2009.

3.2 Updating the Register so that conditions of practice are attached to individual registrants' entries.

The 2008/2009 performance review report notes that this suggestion has been met (paragraph 19.9).

Previously, the Register would be annotated where a caution or conditions of practice order was in force but there was no facility for a direct link between the register entry and the decision reached at the fitness to practise hearing. This was available in the complaints section of the website, meaning that information about registrants with a current fitness to practise order was not as easy to find as it could be. If a registrant is suspended or struck-off, their entry does not appear in the public-facing online Register (as the Register only includes those who are currently registered), but the decision of the fitness to practise panel will be published in the complaints section of the website.

A project was completed in 2008/2009 to amend Net Regulate (the registration database) to provide a direct link between the online register and the findings of the fitness to practise panel in their case. A member of the public accessing the online register can now click on the name of a registrant who is subject to a caution or conditions of practice order and will be taken to the relevant page of the complaints section of the website which sets out the decision reached by the fitness to practise panel in that case.

The content and accessibility of the regulators' registers continues to be a key focus for the CHRE. In the 2008/2009 performance review, the CHRE notes that a number of other regulators have also made changes to their registers in order to make fitness to practise information about registrants more accessible.

The CHRE also notes a debate about whether registers are simply a 'regulatory tool' or whether they should also perform a role in providing more information about registrants and their practice to members of the public (paragraph 12.12). The CHRE is launching a project to look at the content and accessibility of registers. The Executive will keep the Council informed about the progress of this project.

3.3 Processes for ensuring that patients' views are taken account of in assessments of educational providers.

In the 2007/2008 performance review, the CHRE asked that the HPC should consider ways in which the views of patients and service users should be taken into account in the assessment of education and training programmes. To date, the Education and Training Committee has taken the view that it might be more meaningful for the standards of education and training and supporting guidance to be amended to better support service user involvement, rather than moving to include a service user as part of a visit panel.

The HPC consulted on revised standards of education and training between August 2008 and November 2008. As part of this, respondents to the consultation were asked for their views about how the standards might better support service user involvement in the design and delivery of programmes. This topic was also explored at seminars for education and training providers and visitors run by the Education Department.

At its meeting on 25 March 2009, the Education and Training Committee considered recommendations from the Executive in light of the feedback from the consultation process and education provider and visitor seminars. The Committee agreed to a number of changes to guidance that supports the standards of education and training and a number of changes to the approval and monitoring processes in order to encourage and support service user involvement in the design and delivery of programmes. These changes will be effective from September 2009.

The Education Department is also undertaking further research into the possible value and effectiveness of extending the composition of the visit panel to include service users and plans to report back to the Education and Training Committee in March 2010.

The HPC made its performance review submission before the Education and Training Committee discussed this topic and agreed the changes referred to above. The CHRE has highlighted this topic as one which it would wish to further explore as part of next year's performance review process (paragraph 19.22).

4. Overview of HPC performance review 2008/2009

Overall, the HPC received a very positive performance review report this year, with the CHRE concluding that the HPC was a 'transparent well-organised, efficient and cost-effective regulator.' (Paragraph 19.1)

4.1 Areas of excellence or good practice

The following areas of excellence or good practice were identified:

4.1.1 Communication with the public, employers and others about the role of the HPC and its work. In particular, the 'Be Healthwise' campaign and work to highlight the need to check whether a professional is registered.

In 2008/2009, we launched a communications campaign targeted at older people, and their careers. This was developed in light of commissioned research which revealed that awareness of the HPC amongst older people was low.

The 'Be Healthwise' campaign aims to increase awareness of the HPC amongst older people and their carers. This campaign includes:

- Attendance at events aimed at older people and older people care providers including the National Care Forum conference and English Community Care Association to talk to participants and distribute public information literature.
- A direct mail of public information literature. In February and March 2009, the HPC mailed out to 22,000 nursing and care homes with an introduction letter, HPC checklist, poster and leaflet pack for care home managers.
- A regional media campaign based on local case studies.

In November 2008, we also hosted a seminar on regulation and older people, an event organised by the Joint UK regulators' PPI group. The seminar discussed what more could be done to communicate with older people.

The Communications Department also undertakes regular activity to encourage individuals and employers to check the Register. This activity has included:

- Advertising on Google and the Yellow Pages.
- Distribution of public information material on request, at events, as a part of a mail out to GP Surgeries, Citizens Advice Bureaus and Community Health Councils.
- Events aimed at employers.

See paragraphs 19.5 and 19.10.

4.1.2 The regular updates provided to complainants during the fitness to practise process; the fitness to practise freephone telephone number; and fitness to practise service standards which do not purely focus on how quickly cases are dealt with.

The Fitness to Practise Department updates complainants on a monthly basis prior to the consideration of their complaint by an investigating panel.

In the 2008/2009, a freephone telephone number for the Department was introduced. The number is publicly available and complainants are also advised of the number on receipt of their complaint.

The Fitness to Practise Department's service standards were considered by the Fitness to Practise Forum in September 2008.

The CHRE highlighted the service standards as an area of excellence or good practice because they do not only focus on how quickly the Department responds to correspondence and disposes of cases. Instead, the service standards set out what individuals contacting the Department should expect. This includes a dedicated case manager allocated to each complaint and the provision of information in clear English avoiding unnecessary jargon.¹

See paragraph 19.12.

4.1.3 Engagement with employers to help them understand when a case should be referred to its fitness to practise procedures.

The CHRE highlights the HPC's work with employers to increase understanding of when a case should be referred.

In particular, the Communications Department runs employers events in the four countries in each year. These events have been revised following feedback from participants and now include a presentation and question and answer session with members of the Executive, followed by breakout sessions on CPD and fitness to practise. The fitness to practise session includes a presentation on the HPC fitness to practise followed by an interactive exercise with participants to explore the circumstances it would be appropriate to provide information to the HPC.

The next employer events take place in London, Cardiff, Belfast and Glasgow in November and December 2009.

4.1.4 The investigative practice training provided to all staff in the fitness to practise department.

The HPC Fitness to Practise team (excluding recent joiners) have now completed a BTEC in Investigative Practice. In addition, in 2008/2009 the following training took place:

- Building profession specific knowledge
- Dealing with mental health or high level of stress
- Vexatious or abusive complaints
- Conflict management
- Personal security
- Getting organised

The Department is now undertaking contact management training.

¹ Fitness to Practise Department Service Standards
www.hpc-uk.org/assets/documents/1000243220080917-enclosure11-Servicestandards.pdf

In addition, the Department has produced 'Fitness to Practise Operating Guidance' for all employees which explains various elements of the Department's functions – including the management and investigation of allegations.

4.1.5 The actions HPC takes to ensure that it is a UK-wide regulator that is sensitive to the devolved systems of healthcare.

This includes the work of the Public Affairs and Stakeholder Manager, supported by other members of the Executive, on working with government, parliamentarians and other stakeholders. This includes regular visits to the four countries to meet with government and other stakeholders.

4.2 Areas for consideration in the next performance review

The CHRE has identified the following areas for further consideration in the next performance review (paragraph 19.3):

- Patient involvement in the assessment of education providers (see section 3.3).
- The HPC's practice in relation to disclosing the registrant's response to a complaint before consideration by the initial change fitness to practise committee (see section 5.1.2).
- Outcomes of research into complainants' expectations (see section 5.1.5).

Section 5 discusses some areas for further consideration, arising from both the HPC's performance review and those of the other regulators.

5. Areas for further discussion

5.1 Fitness to practise

The fitness to practise function was the main focus of this year's performance review. A number of areas of good or excellent practice were identified in this area (see section 4.1) and the CHRE report concludes that the HPC's fitness to practise processes 'remain well-organised and well defined' (paragraph 19.11).

5.1.1 Length of time

Although no comments are made about the HPC's performance in this area, the length of time taken to dispose of fitness to practise cases is identified as a key overall area in the performance review report.

In the overall summary of the review, the CHRE notes that the timely resolution of fitness to practise cases is a key issue in protecting the public from registrants who are not fit to practise; in maintaining public confidence in registrants and regulation; and in ensuring that registrants are treated fairly. The CHRE concludes that: '...regulators must balance the need for speed with the important issue of ensuring quality of process and decisions.' (Paragraph 12.20) The CHRE acknowledges the reasons for variation in the time taken to resolve cases and recommends that regulators consider: '...how they can publish more regularly meaningful information about timescales for the investigation of fitness to practise cases and their performance against their service standards.' (Paragraph 12.21)

The length of time taken to conclude cases is specifically mentioned in three of the regulators' performance reviews.

In the General Dental Council's (GDC) report, the CHRE notes that the time from receipt of a complaint to it reaching a final hearing has reduced from 20 months to 74 weeks (approximately 17 months), reduced in part by the introduction of a service level agreement between the GDC and its legal advisors. The CHRE welcomes this improvement but encourages the GDC 'to continue its targeted activity to improve this further'. (Paragraph 15.11)

In the General Optical Council's (GOC) report, the CHRE concludes: '...the length of time for cases to progress through the GOC's fitness to practise procedures is long (median of 19 months).' The CHRE notes that the GOC plans to investigate ways in which this can be improved with its audit committee (paragraph 16.13).

In the Nursing and Midwifery Council's (NMC) report, the CHRE notes that the median time between receipt of allegation and closure of the case at a final hearing is 15 months and that there has been a gradual reduction in the number of cases which have been waiting for a hearing for over 9 months.

It is difficult to make a direct comparison between the HPC's performance in this area and that of the other regulators as comparative data is not provided in the report for six of the nine regulators. Although the figure given for the NMC and GOC is stated as the median figure from receipt of complaint to final hearing, it is not stated whether the figure quoted for the GDC is also the median figure. In addition, as recording of complaints data varies between the regulators, it is

unclear whether these figures are inclusive of all the different possible types of case closure decision (e.g. administrative closure prior to investigating panel).

In 2008/2009, the length of time between receipt of an allegation and conclusion at a final hearing was a mean of 18 months and a median of 16 months (see table below). This compares favourably to the GDC and GOC statistics given on the previous page.

The length of time for receipt of an allegation to consideration at investigating committee was a mean of 7 months and a median of 5 months. The length of time from investigating committee to the conclusion of case (where a final case decision has been made) was a mean of 11 months and a median of 10 months; in the 2009/2010 year to date, this has improved slightly to 10 and 9 months respectively.

We are continually looking at mechanisms to ensure that cases are being managed expeditiously. This includes the further development of our service level agreement with our legal advisors, development of the fitness to practise forecasting model and regular and detailed scrutiny of our management reports.

The progress of fitness to practise cases is subject to regular internal scrutiny. Case Managers review case files on a monthly basis and Lead Case Managers conduct case file audits to ensure that procedures are being followed and that cases are being managed appropriately and expeditiously.

As part of improving the accessibility of information about the fitness to practise process, the Executive is planning to provide more information about the work of the Fitness to Practise Department in the HPC Newsletter and on the HPC website, including statistics and a commentary.

Allegations made - conclusion of final hearing 2003-4 to 2009-10

Number of Months	Cases 2003-4	Cases 2004-5	Cases 2005-6	Cases 2006-7	Cases 2007-8	Cases 2008-9	Cases 2009-10YTD
1-4	1	0	0	0	1	0	1
5-8	10	15	14	5	1	10	5
9-12	9	16	19	33	25	29	19
13-16	2	4	12	28	57	52	13
17-20	1	0	5	18	37	35	11
21-24	0	4	3	12	14	24	14
25-28	0	1	3	7	15	15	2
29-32	0	0	1	2	4	2	6
33-36	0	0	0	1	1	6	2
Over 36	0	0	0	0	0	2	2
Mean Months	9	12	13	16	17	18	18
Median Months	9	10	11	15	16	16	16
Total Cases	23	41	57	106	156	175	75

The CHRE does not publish any expectations for the length of time to dispose cases as part of its performance review standards. However, the CHRE has recently indicated that it plans to include more 'comparative data' in the performance review reports next year.

5.1.2 Disclosure of complaints

The issue of disclosing the registrant's response to a complaint to the complainant prior to a case to answer decision being taken by the Investigating committee is identified as one the CHRE will revisit during the next performance review. This issue is cited in the HPC's and the General Chiropractic Council's (GCC) performance review report and in the CHRE's summary of the salient issues arising from the performance review.

The CHRE reports that of the nine regulators, five routinely share the registrant's response to the complaint; three only disclose the response if there are significant points of dispute; and one regulator does not share the response with the complainant. The CHRE considers that two of the regulators who only disclose on a case by case basis have a 'high threshold' which must be met (paragraph 12.16). As this issue is only specifically cited in the reports of the HPC and the GCC, it is hard to make more informed comparisons between the different regulators' policies.

The CHRE argues that disclosure is necessary to enhance the decision-making of the Investigating Committee, ensuring that appropriate decisions are made which are fair to the registrant and complainant. However, disclosure might not be appropriate where it might cause harm to the complainant or registrant or unduly delay the case. (Paragraph 12.17)

- **HPC's existing policy**

Our existing approach in this area aims to balance the need to gather all relevant information for the consideration of the investigating committee, the need to be fair to both registrant and complainant, and the need to avoid unnecessary delay to cases.

In respect of the role of the Investigating Committee in considering allegations, Article 26 (2) of the Health Professions Order 2001 says:

(2) Where an allegation is referred to the Investigating Committee it shall—

- (a) notify without delay the person concerned of the allegation and invite him to submit written representations within a prescribed period;
- (b) where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the Committee in respect of those representations;
- (c) take such other steps as are reasonably practicable to obtain as much information as possible about the case;

The legislation does not therefore give complainants a general 'right of reply' but does enable the HPC to seek clarification from the complainant on specific points raised in the response where this is helpful. We have sought to develop processes which follow that legislative intent and which are reasonable and proportionate and for that reason do not, as a matter of course, provide complainants with a copy of the registrant's full response. The Executive would be concerned that a general policy of disclosing to the complainant would lead to

unnecessary and unhelpful delays in the progress of cases and risk unnecessary disclosure of sensitive personal information about registrants (for example, by disclosing details of the registrant's physical or mental health).

On receipt, each complaint is allocated to a Case Manager. If the Case Manager identifies that further information or documents are necessary at that stage, they will seek further information / clarification from the complainant. If issues arise from a registrant's subsequent response which need clarification then the Case Manager will contact the complainant and seek that clarification. This does arise occasionally but will vary significantly from case-to-case. For example, it may range from requiring verification of a single date to answering a substantial list of questions. The Executive believes that proceeding in such a way demonstrates sensitivity to the specific circumstances and investigatory needs of each case and ensures that information is gathered and cases are concluded expeditiously. Lead Case Managers carry out regular audits of case files to ensure that cases are being handled appropriately; including ensuring that relevant information is being gathered for the consideration of the Investigating Committee.

A panel of the Investigating Committee considers all the available information in order to determine whether there is case to answer. In doing so panels may wish to request further information, if this would clarify the matters being considered and enable a case to answer decision to be made. This happens very rarely as normally panels consider that there is sufficient information gathered from complainant, registrant and any other relevant sources to make its decision. It should be noted that a registrant cannot be compelled to respond to an allegation or requests for further information from the Investigating Committee and some choose not to engage with the fitness to practise process at all.

Following discussion with the CHRE after our initial performance review submission, we undertook a manual search of 723 open or recently closed fitness to practise case files. We found 21 instances where we had sought clarification directly from a complainant following the registrant's response.

The Executive does not consider that the current policy described above amounts to a 'high threshold' for disclosure or that the HPC only discloses to the complainant 'in exceptional circumstances'. (Paragraphs 12.16 and 19.15) The Executive invites the Council to particularly discuss this area in light of the CHRE's comments.

- **Information commissioner**

In paragraphs 19.17 to 19.19 of the HPC's performance review, the CHRE refers to a case regarding the disclosure of information to the complainant considered by the Information Commissioner and Information Tribunal.

In summary, the HPC appealed to the Information Tribunal against the notice of the Information Commissioner to disclose the registrant's response to a complaint in a particular case to the complainant.

In its appeal, the HPC made a number of arguments, which mirror those put forward in explanation of the existing policy on the previous page. This included our concern that to disclose such information would dissuade registrants from providing a full and frank response to the Investigating Committee. By not having this information, we argued, the task of the HPC Investigating Committee would

be more challenging and this would result in a higher percentage of cases being inappropriately referred to fitness to practise tribunals. This would in turn lead to higher costs.

The CHRE notes these and other arguments in the performance review report, expressing concern that a focus on expenditure must not 'be at the cost of public protection', particularly if it led to cases which should go forward to a hearing not doing so (paragraph 19.19). We argued that there was no evidence that this was the case. In 2008/2009 the case to answer rate for cases considered by the Investigating Committee was 57%.

5.1.3 Protection of title

In the report the CHRE indicates that it wishes to consider the issue of private versus public prosecutions as a response to misuse of protected titles. The report notes that some regulators have had 'difficulty' in pursuing public prosecutions but that private prosecutions, which lead to monetary fines, may not act as a sufficient deterrent (paragraph 12.13).

In the report of the General Osteopathic Council (GOsC) it is noted that the regulator has been working with solicitors in Scotland in order to resolve the 'practical impossibility' of pursuing prosecutions in Scotland for misuse of the protected title 'osteopath'. However, the issue of protection of title prosecutions is not raised in any of the other regulators' performance reviews.

The HPC's powers in relation to protection of title are set out in Article 39 the Health Professions Order 2001. The HPC can prosecute individuals who use a protected title whilst not registered (or imply in other ways the use of a protected title), if they do so with 'intent to deceive'. Any prosecution would be heard by a County Court or Sheriff Court in Scotland.

Case Managers are responsible for gathering relevant information to ascertain whether an offence might have been committed. In summary, a three stage process is normally followed:

- The person concerned is asked to explain their alleged conduct (unless there is evidence that the complaint has no basis – e.g. the person is registered under another name).
- If there is clear evidence of an offence (or if no response has been received to correspondence), a cease and desist letter is sent, warning the individual that their misuse of a protected title must stop, or steps will be taken to prosecute.
- Dependent on the evidence and the response received, steps are taken to make a decision about prosecution, which may include obtaining witness statements and interviewing the alleged offender.

Information may also be passed to the police and trading standards as appropriate.

To date, we have found that this approach has been an effective way to prevent the misuse of protected titles. We have also worked with the police and other agencies to actively assist in their investigations. For example, in November 2007

an individual was cautioned by Essex Police for misuse of the protected title 'physiotherapist'.

The Executive will participate in any CHRE project on this issue and, in particular, will seek clarity on the distinction the CHRE draws between public and private prosecutions. The 'penalty' for someone found guilty of an offence under Article 39 is set out in the legislation and is monetary. A person found guilty can be liable to a fine on level 5 of the standard scale (up to £5000).

5.1.4 Customer service and accessibility

The CHRE notes a general focus of the regulators on improving the accessibility of fitness to practise processes and in providing increased customer service. This has included providing better support for witnesses and increased engagement with stakeholders to provide information about how and when to complain (paragraph 12.22).

Amongst the other regulators, the CHRE notes the General Medical Council's (GMC) work on providing advice and signposting to complainants and developing guidance for witnesses and the GCC's revised guidance for witnesses. The CHRE notes HPC's freephone fitness to practise telephone number, regular updates to complainants, fitness to practise service standards and engagement with employers as good or excellent practice in this area (see sections 4.1.2 and 4.1.3).

Accessibility will be a continuing focus for the Fitness to Practise Department over the coming months. The department is working on building on the existing literature by producing a brochure for all those involved in fitness to practise hearings, including witnesses. The Department is also working with the Communications Department to produce a supporting DVD to explain the hearings process. The Fitness to Practise Department has also undertaken work on signposting complainants and enquirers to other appropriate sources of help and guidance.

5.1.5 Outcomes of research on complainant expectations

In October 2007, Jackie Gulland of the University of Hertfordshire was commissioned to undertake a scoping study to look at research into existing complaints mechanisms.

As a result of this study, the Executive is currently in the process of commissioning further research into the expectations of complainants

It is envisaged that the research will be both qualitative and quantitative in nature and would include focus group discussions to seek feedback on individuals' expectations of the fitness to practise process and specific feedback from those who have made complaints to discover more about their expectations and experiences.

The overall aim of the research is to determine the expectation of complainants in terms of:

- The role of the regulator
- Initial expectations
- Case handling

- Outcome

It is anticipated that this research will help to inform the future development of HPC's complaints information and the management of 'consumer' expectations,

5.2 Fitness to practise committees

The report indicates that the CHRE will seek to consider whether regulators should receive every outcome of education providers' student fitness to practise committees in order to help regulators' assess an applicant's health and character on application to the Register (paragraph 12.30).

The GCC, in line with some other regulators, requires all education providers to have student fitness to practise committees. The CHRE says: 'We support such mechanisms which enhance professionalism in students at an early stage in their studies.' (Paragraph 14.18) The CHRE also notes that the GCC has taken the step of requiring education providers to notify it of the outcomes of student fitness to practise hearings.

The issues of student conduct and professionalism were considered by the Professional Liaison Group (PLG) established to review the standards of education and training and guidance and in the subsequent public consultation.

Although an absolute requirement is not made about requiring an education and training provider to have a student fitness to practise committee, a new standard will become effective in September 2009 which will require education and training providers to ensure that there is a 'process in place throughout the programme for dealing with students' profession-related conduct' (standard 3.15). In addition, another new standard will ensure that the HPC standards of conduct, performance and ethics are embedded within the curricula of education and training programmes (standard 4.5).

These standards are aimed at ensuring that concerns about student conduct are dealt with properly and that students are equipped to practice safely, effectively and ethically when they complete the programme.

The CHRE report notes, with reference to the suggestion that all student fitness to practise decisions should be notified to the regulator, '...other regulators have questioned the value of such a mechanism because the course providers will only approve those that they consider have passed the clinical competence elements of the course and have demonstrated the relevant conduct requirements' (paragraph 12.30). The Executive agrees with this view, particularly in light of the changes to the standards of education and training and the existing requirements for a character reference and declaration of character information on admission to the Register. The Executive will keep the Council updated with any CHRE work in this area.

Performance review of health professional regulatory bodies 2008/09

Promoting improvement in regulation

Annual report volume II: Performance Review of health professional regulators 2008/2009

(Associated with this report is *Annual Report volume I 2008/2009: Annual Report and Accounts 2008/09*)

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Contents

Chief Executive's foreword	2
Executive summary	3
Introduction	6
What have we learnt from the performance review?	11
How are the health professional regulatory bodies performing?	26
Recommendations, future work and conclusions	79
Appendix A: Index of regulated health professions	81
Appendix B: Standards of good regulation	82
Appendix C: List of organisations contacted	96

Chief Executive's foreword

The strengths and weaknesses of regulatory regimes have been much in the public eye this year. The acknowledged failure of financial regulation to anticipate and respond to risk in the banking sector, the confused muddle of responsibilities in the tragic death of baby P, delays in acting on problems at Mid-Staffordshire general hospital and controversy over individual decisions by health professional regulatory bodies have all raised public concern. In Parliament itself disquiet over abuses of the expenses system has brought the promise of new regulation.

All these areas of concern show that, despite the effort put in, there is much to do to ensure public confidence in regulation.

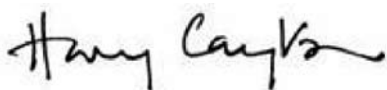
Regulation, particularly in healthcare, will never be an exact science. After all it deals with human behaviour in a complex and high risk environment. Ultimately, just as healthcare professionals make clinical and personal judgements every day of their working lives, health professional regulatory bodies have to do the same; judgements about proportionality, about risk, about cost, about innovation or caution and about what it means to uphold the reputation of a profession.

This performance review of the health professional regulatory bodies forms part of, for the first time, our statutory report to Parliament. We aim to support the regulators in improving their work but also to report as honestly and openly as we can on their performance in protecting the public and maintaining the reputations of the professions they regulate. We too are making judgements, we too aim to be proportionate in our approach, we too try to focus on outcomes not, on the easily checkable details of process. We aim to be right touch, rather than merely light touch in our oversight.

There have been significant changes in governance arrangements at many of the regulators in the last year and also at the Council for Healthcare Regulatory Excellence itself (see volume I of our report). Those changes have brought about smaller boards, appointed rather than elected and with a balance between public and professional members. We have moved from self-regulation by professions to shared regulation between professionals and the public on behalf of society as a whole.

We acknowledge the amount of work involved for the regulators in carrying out these changes and thank the regulators for their co-operation and contribution to the performance review process.

Transparency and public reporting are an important element in holding public bodies to account and building public confidence. I am pleased to be able to submit this report to Parliament as a contribution to our work in promoting the health, well-being and safety of patients and the public.



Harry Cayton
Chief Executive

Executive summary

1 Introduction

- 1.1 The Council for Healthcare Regulatory Excellence (CHRE) promotes the health, safety and well-being of patients and other members of the public in the regulation of health professionals. We oversee the work of the nine regulatory bodies that maintain registers of health professionals.
- 1.2 Patients and the public are entitled to know if the health professional regulators are fulfilling their statutory responsibilities and promoting the health, safety and well-being of patients and other members of the public. In this annual performance review report we outline our views on whether the regulators are doing this.

2 Summary of our findings

- 2.1 Despite the occasional high profile incidences of weaknesses in regulatory regimes, the public should be assured that the health professional regulators are focused on promoting the health, safety and well-being of patients and other members of the public.
- 2.2 We are satisfied that all of the regulators are carrying out the full range of their statutory functions. Most of the regulators' work is carried out effectively, with a clear focus on protecting the public. The regulators continue to carry out their functions in substantially different ways. There are many reasons for this including diverse legislation and differences in the professions that they regulate.
- 2.3 It is still the case that the quality of regulation and the level of protection provided to the public varies between the regulators. In our report, we have identified areas where regulators are exhibiting weakness and recommend that the regulators address these areas. We have also highlighted examples of practice that we think the regulators can learn from. We hope, as we have seen this year, that the regulators will share learning with each other as well as adopt some of the practice examples outlined in the report.

3 Continuous improvement

- 3.1 We are committed to working with the regulators to improve our performance review each year. We will meet with the regulators and discuss with them whether they found the process fair, proportionate, transparent and whether it adds value to their work. We will look again at the use of self-assessment by the regulators to ensure that there is a shared understanding of what we expect from them. We will also review the *Standards of Good Regulation* to ensure that they are appropriately focused on the key areas of the regulators' work. Our aim is to refine the process so that we can understand more by asking less.

4 Recommendations

- 4.1 We will take forward four issues for further consideration:
- What information should be publicly available on the regulators' registers regarding a registrant's fitness to practise
 - Whether the registrant's response to a complaint should be shared with the complainant in the initial stages of a fitness to practise case
 - The pursuit of private or public prosecutions against those using a protected title
 - Whether the regulators should receive the outcome of every student fitness to practise committee.
- 4.2 We **recommend** that Department of Health and Department of Health, Social Services, and Public Safety in Northern Ireland give consideration to the proposals which we submitted relating to the harmonisation of the regulators' fitness to practise sanctions.
- 4.3 We note that little progress has been made on the recommendation that the Department of Health, Social Services, and Public Safety in Northern Ireland acts to modernise the Pharmaceutical Society of Northern Ireland's legislation. We hope that progress is made on this recommendation this year.
- 4.4 We have highlighted a number of areas of weakness which we **recommend** that the regulators address this year. We have also identified examples of practice which we hope the regulators will review and consider adapting for their own organisations.

- 4.5 This year there have been a number of high profile regulatory breaches. This has highlighted the need for regulators across health and social care to work together more effectively to bridge regulatory gaps. This includes system regulators such as the Care Quality Commission and employers.
- 4.6 We **recommend** that the regulators give consideration to how they can co-operate more effectively to ensure that any relevant intelligence on individuals or organisations is shared and that cross-regulatory learning is encouraged.

Introduction

5 Who are we?

- 5.1** CHRE promotes the health, safety and well-being of patients and other members of the public in the regulation of health professionals. We oversee the work of the nine regulatory bodies that maintain registers of health professionals. These bodies also set standards for training and conduct of health professionals and take action where someone is not fit to practise.
- 5.2** We share good practice and knowledge with the regulatory bodies, conduct research, and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals. We are an independent body accountable to the UK Parliament.
- 5.3** We promote good practice in the regulation of health professionals in five main ways:
- We review the performance of the regulatory bodies annually to identify good practice and areas for improvement
 - We audit the initial stages of the regulatory bodies' fitness to practise procedures and examine final decisions made by them about whether health professionals are fit to practise. In some cases we refer decisions to court where we believe that such decisions are unduly lenient
 - We conduct research, share learning with regulatory bodies and hold events to explore better ways to manage new challenges
 - We advise the Secretary of State for Health and health ministers in Scotland, Wales and Northern Ireland on matters relating to the regulation of health professionals
 - We keep abreast of European and international policies to improve policy decisions on UK regulation of health professionals. Through these networks, we advise and share with colleagues in other countries the methods we have adopted for better regulation of UK health professionals.

6 Which regulators do we oversee?

6.1 We oversee the following nine health professional regulatory bodies:

- General Chiropractic Council (GCC)
- General Dental Council (GDC)
- General Medical Council (GMC)
- General Optical Council (GOC)
- General Osteopathic Council (GOsC)
- Health Professions Council (HPC)
- Nursing and Midwifery Council (NMC)
- Pharmaceutical Society of Northern Ireland (PSNI)
- Royal Pharmaceutical Society of Great Britain (RPSGB)

Details of the professionals regulated by each regulatory body can be found at Appendix A.

6.2 All health professional regulatory bodies must perform certain functions to fulfil their statutory responsibilities. These functions are:

- Setting and promoting standards for admission to the register and for remaining on the register
- Maintaining a register of those who meet the standards
- Taking appropriate action where a registrant's fitness to practise has been called into question
- Ensuring high standards of education for the health professionals that they regulate.¹

¹ Department of Health (2007). *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*. London: The Stationery Office, chapter 1, para 1.2.

7 Why do we carry out the performance review?

- 7.1 Patients and the public are entitled to know if the health professional regulatory bodies are fulfilling their statutory responsibilities and promoting the health, safety and well-being of patients and other members of the public. We provide this information to Parliament and to patients and the public through our powers to investigate, compare and report on the performance of each regulator.²
- 7.2 In this annual performance review report we outline our views on whether the regulators are fulfilling their statutory responsibilities and protecting the public.
- 7.3 We consider that the performance review has two important outcomes:
- It brings about real improvements in regulation as we identify concerns, recommend changes and disseminate good practice
 - It helps to maintain public confidence in the health professionals who care for them, in healthcare systems more generally and in the regulation of health professionals.

8 How do we carry out the performance review?

● The Standards of Good Regulation

- 8.1 We worked with the regulators to create the *Standards of Good Regulation*. These describe what the public should expect from regulators. The *Standards of Good Regulation* can be found at Appendix B.
- 8.2 The standards are the foundation of the performance review and we use them in two ways.
- We ask the regulators to demonstrate how they meet the standards
 - We use the standards to identify the strengths and areas of improvement in each regulator's performance as well as to compare the performance of each of the regulators.

2 Section 26 (2) of the NHS Reform and Health Care Professions Act 2002 and Section 114 (6) of the Health and Social Care Act 2008

8.3 The *Standards of Good Regulation* are categorised under five functions: standards and guidance; registration; fitness to practise; education; and governance and external relations. Spanning the five functions are 21 standards. Generally, the regulator would have to meet all of these standards in order to carry out their functions effectively. However, we note that how they do this may vary as all these functions must be done efficiently, proportionately, objectively, fairly and with the protection of the public and patients as the overriding priority.

- **The performance review process**

8.4 The performance review took place between November 2008 and May 2009. There were seven stages to the performance review:³

Stage 1

The regulators provided a written self-assessment of their performance against the *Standards of Good Regulation*

Stage 2

We examined and tested the regulators' self-assessments using information we had collated from other sources including feedback we had received from patient, public and professional organisations (see Appendix C for a list of organisations contacted)

Stage 3

We wrote to the regulators with our initial assessment of their performance and our requests for additional information or clarification

Stage 4

We had a face-to-face meeting with each of the regulators to discuss our initial assessment and to test the whether our judgements were sound

Stage 5

We considered any additional information provided by the regulators and reached a final view on their performance

Stage 6

We drafted a report summarising our view on each of the regulators' performance. We shared the report with the regulators and asked for their comments on the accuracy of the report

3 Council for Healthcare Regulatory Excellence, 2008. *The Annual Performance Review process 2008/11*. London: CHRE. Available at: <http://www.chre.org.uk/performance/129/>

Stage 7

We considered the comments made by the regulators and produced a final report which summarised our assessment of the regulators' performance.

9 Improving our performance review

- 9.1 We are committed to working with the regulators to improve our performance review each year. We will meet with the regulators and discuss with them whether they found the process fair, proportionate, transparent and whether it adds value to their work. Our aim is to refine the process so that we can understand more by asking less.
- 9.2 The performance review should not only help the regulators, but also provide assurance to patients and the public. In the last year we specifically asked patients and the public to comment on the performance review and on our approach to self-assessment by the regulators. The public were sceptical that self-assessment was sufficiently rigorous; they wanted greater assurance. We believe our approach is proportionate and that our statutory powers of investigation do give us the ability to test out what the regulators tell us if we have doubts about its veracity or completeness.
- 9.3 However self-assessment does depend on there being openness between CHRE and the regulators and on each having confidence in the other. We will push for further clarification or additional information if we cannot make sense of what we are told and we will do so even when the regulator finds that irritating or time-consuming. This happened in the case of the HPC, where we thought we had been given contradictory information. We, therefore, needed further information from the HPC to assure ourselves that we had correctly interpreted their self-assessment.
- 9.4 As part of our programme of continuous improvement, we will look again at the use of self-assessment by the regulators to ensure that there is a shared understanding of what we expect from them. We will also review the *Standards of Good Regulation* to ensure that they are appropriately focused on the key areas of the regulators' work.
- 9.5 For the performance review 2009/10 we also expect to have further objective evidence on the performance of the regulators from the outcome of our first year of audit of the initial stages of the regulators' fitness to practise processes.

What have we learnt from the performance review?

10 Overview

- 10.1** We are satisfied that all of the regulators are carrying out the full range of their statutory functions. Most of the regulators' work is carried out effectively, with a clear focus on protecting the public. The regulators continue to carry out their functions in substantially different ways. There are many reasons for this including diverse legislation and differences in the professions that they regulate. It is still the case that the quality of regulation and the level of protection provided to the public varies between the regulators.
- 10.2** In our report, as we did last year, we have identified areas where regulators are exhibiting particularly excellent or good practice. We remain committed to working with all of the regulators to promote good practice and to help them to improve in those areas where there are currently weaknesses. For all of the regulators we have identified particular issues on which we wish to focus next year and we will report on these in next year's performance review. In addition, we will encourage cross-regulatory sharing of good practice at seminars for the regulators later this year.

11 How the regulators have responded to last year's performance review

- 11.1** One of the main purposes of the performance review is to bring about improvement in regulation. When carrying out this year's review, we were pleased to see evidence that the regulators are sharing learning with each other as well as adopting some of the good practice examples outlined in last year's report. These were considered in more detail at a good practice seminar to which all the regulators were invited. Some examples of where regulators have adopted good practice are noted below.
- The NMC and RPSGB have introduced photographic identity checks for those applying for registration to help to identify fraudulent applications
 - The RPSGB has introduced *Ethical Dilemmas*, enabling it to engage further with registrants and enhance their understanding of the *Code of Ethics*. This was based on the GMC's interactive version of *Good Medical Practice*

- Some regulators who have developed or are developing processes for the appraisal and assessment of fitness to practise panel members have shared learning
 - Most of the regulators have improved the information on their registers to include more detail about registrants' fitness to practise histories. In some cases, the regulators have also made it easier for enquirers to access this information.
- 11.2** Many of the regulators have also scrutinised their own practices in light of our Special Report on the NMC⁴ in 2007/08 to consider whether they could be vulnerable to similar concerns. We were pleased to note this development as it is important that regulators use both the poor and good practice identified by the performance review as learning opportunities.

12 Key issues and concerns under each of the five functions

- 12.1** We set out below the main issues that have arisen from the reviews in the five areas which we assess and, most importantly, examples of practice that we consider other regulators can learn from.

● **Standards and guidance**

- 12.2** All of the regulators set standards and, where appropriate, issue supplementary guidance which prioritise patient safety and public protection. However, the manner in which new areas for standards and guidance are identified and developed, reviewed and communicated to stakeholders varies across the regulators. We have highlighted below examples of where we consider the regulators do this particularly effectively.
- 12.3** The regulators have developed, or are in the process of developing, their proposals for revalidation. The purpose of revalidation is to reassure patients that registered health professions are fit to practise and continue to reach the standards required to maintain registration with the regulator. Revalidation will do this by testing the registrant's knowledge, skills and attitudes on a regular basis. The regulators must have proportionate and risk-based revalidation schemes in place by 2012. There are currently two main proposed models of revalidation: appraisal and portfolio based evidence.

⁴ In 2008, we were asked by the Minister of State for Health Services to expedite our performance review of the NMC to address the central question of whether the NMC was fulfilling its statutory responsibilities.

12.4 The arrangements and the progress made on the proposals varies across the regulators although they are all on target to meet the deadline of 2012. Most of the regulators are gathering information to inform their revalidation proposals. They are trying to identify the risks that their professions pose to the public and patients, what systems they already have to address those risks and consequently, what model of revalidation is most appropriate to tackle those areas of outstanding risk.

12.5 Three regulators have made considerable progress.

- The GOsC's proposed revalidation scheme is out for consultation. The GOsC's scheme requires an osteopath to complete a self-assessment against the GOsC's standards once every five years. If the GOsC is concerned by the osteopath's response, it can ask for further evidence. If it still remains concerned it proposes to investigate the areas of concern directly in the osteopath's practice and, as a further measure where this is necessary, conduct a formal assessment of an osteopath's clinical performance
- The GDC has recently completed pilots of its revalidation proposal and is analysing the results. Every five years, the GDC will ask its registrants to provide a portfolio of evidence to demonstrate that they meet the GDC's standards. Evidence they will be required to provide includes information about continuing professional development (CPD), inspection or appraisal and multi-source feedback, such as patient surveys. The GDC's current thinking is that where it has concerns about a registrant they will be required to undergo peer assessment and, if concerns remain, an in-depth assessment. This could take the form of a registrations examination or continuous summative assessments
- The GMC is working with the Department of Health to secure legislation that would introduce licences to practise for doctors in the autumn of 2009. All doctors with a licence to practise will need to relate to a Responsible Officer and to revalidate periodically. Revalidation will be based on local systems of appraisal and clinical governance. This will form the basis of a recommendation to revalidate from the doctor's Responsible Officer to the GMC. The appraisal system will be enhanced and will incorporate generic professional standards set by the GMC and, where appropriate, specialist standards set by the medical royal colleges and approved by the GMC. Those processes are currently being piloted.

- 12.6 We look forward with interest to see the results of these pilot schemes and the development of the other regulators' revalidation proposals.

Examples of practice

Development of standards

The **GMC** has continued to work with a variety of relevant groups when developing its standards. For example, when developing its guidance on confidentiality, it approached groups who would have a particular interest in ensuring confidentiality was maintained, such as people living with HIV and those that may need doctors to breach confidentiality like the Association of Chief Police Officers.

Revision of standards

The **GCC** revised its *Code of Practice* and *Standard of Proficiency*. As part of this, it held stakeholder workshops for registrants, chiropractic students and members of the public/patients. It also received written submissions from other stakeholders, including the chiropractic professional and patient associations. The GCC managed to achieve involvement from 12 per cent of the profession.

Accessibility of standards

The **NMC** has tried a variety of mechanisms to make its standards accessible. When it launched its revised *Code: Standards of Conduct, Performance and Ethics for Nurses and Midwives* in 2008, it was enclosed with the quarterly *NMC News*. It also sent out a business card to registrants which contained the four key requirements of the code and the NMC's contact details. Alongside this, the NMC had a media launch in each of the four UK countries and the London launch was put on *YouTube*. It had 'Code Champions' across the UK who were responsible for promoting and raising awareness of the code in their units and areas of practice

Communication of standards

The **HPC** launched the 'Be Healthwise' campaign. The campaign included a seminar on regulation and older people, a mail out of key documentation to care and nursing homes and attendance at events aimed at older people and their care providers. It also worked with the professional body, the British Dietetic Association, on a joint media campaign to raise awareness of the importance of using a dietitian and to warn against seeking advice from unregulated and unqualified sources.

The **GDC** has revised the focus of its external relations. It intends to promote its standards and guidance actively to encourage patients to 'expect' better standards by educating and empowering patients as consumers of dental services. An example of this is its dental tourism leaflet. It has responded to the growth in people seeking treatment abroad by producing a leaflet which highlights the issues they should consider before receiving treatment.

The **GMC** has carried out research which indicated that patients did not in general look to the GMC as a source of guidance. It has therefore identified that it should work more closely with patient advice and support groups such as Independent Complaints Advocacy Service to ensure that they are up to date with its standards and guidance.

- **Registration**

- 12.7 All of the regulators have effective and efficient registration processes; yet there is still considerable variation in how these processes are carried out.
- 12.8 However, one area of variation where we have seen some harmonisation of approach is the regulators' approach to good character. Before being registered by a regulator, an applicant must satisfy it that they would practise the profession safely and effectively. Some of the regulators' requirements relate to the past behaviour and conduct of a professional. These are usually called 'good character' requirements.
- 12.9 In the White Paper *Trust, Assurance and Safety*⁵ it was suggested that there was a need to identify a common approach to good character requirements.⁶ We were asked to work with the regulators to recommend a single standard definition of good character based on clear criteria. In our advice⁷ we proposed a basis for a common approach to good character that emphasised:
 - Public protection
 - Public confidence
 - Acting in accordance with professional standards
 - Honesty and trustworthiness.

5 Department of Health (2007). *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*. London: The Stationery Office

6 Department of Health, 2007. *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*. London: The Stationery Office. Page 10, para 26.

7 Council for Healthcare Regulatory Excellence, 2008. *A Common Approach to Good Character Across the Health Professions Regulators*. London: CHRE.

- 12.10** These criteria ensure that the regulators can assess key factors relating to character that are important to an applicant's fitness to practise and suitability for professional registration, but provide sufficient flexibility to enable the particularities of each case to be considered on its merits. Those regulators who have recently reviewed their approaches to health and good character have taken our proposal into account.
- 12.11** We have seen considerable improvement in the accessibility and content of the regulators' registers. However, we note that there is still considerable variation in the content of the registers. We acknowledge that there are some legitimate reasons for this, such as legislative constraints, technical limitations and concerns that including warnings and undertakings on the register may be disproportionate and unfair to the registrant. However, we continue to believe that all fitness to practise outcomes should be included on the registers. We intend to consider the content and accessibility of the regulators' registers later this year.
- 12.12** Some regulators have consulted with patients and the public on the content of their registers and the way they should be presented. The outcome of the GDC's consultation was that the public wanted a directory of services. Many people wanted the register to contain, amongst other things, photographs, opening times of surgeries and a list of the services provided. This raises the wider question of what is the register for; is it a regulatory tool or a mechanism for sharing public information?
- 12.13** A further issue that we intend to consider this year is the pursuit of private or public prosecutions against those using a protected title. It appears that for some regulators it is proving difficult to pursue a public prosecution successfully. However, the outcomes of private prosecutions are monetary fines, and do not tend to act as a sufficient deterrent. Therefore, it is arguable that the public is not receiving sufficient protection from a small number of people who practise without being registered and/or are not qualified.

Examples of practice

Compliance with the regulators' code/standards

The **GCC** and **PSNI** have introduced a requirement for all potential registrants and registrants renewing their registration to sign a personal declaration that they will comply with the regulators' code or standards. The **NMC** require their registrants to sign the declaration when applying for initial registration and when applying for readmission to the register. This should prevent registrants in fitness to practise proceedings claiming they did not fully understand these documents and their implications. It should also embed the importance of these documents at the point of registration and renewal of registration.

Identity checks

The **GMC**, **GOC** and **RPSGB** have processes of using photographs to check the identity of applicants to the registers, and/or those starting their pre-registration or qualifying process in the UK to prevent fraudulent or erroneous application to the register. The **NMC** also uses photographic checks for non-EU applicants who apply to the register.

Continuous improvement

The **GMC** has a programme of continuous improvement. It has improved its guidance to applicants resulting in a reduction in the amount of 'not right first time' applications. It also looks to improve the effectiveness of its registration decisions by having a three tier process of review: peer review, internal quality assurance and internal audit.

The **GCC** has kept under review how it publicises itself and the regulation of chiropractors. It identified that after an initial period the amount of visitors its website was receiving through the *Yell.com* banner was decreasing and that most of its referrals were through *Google*. It now has a 'GoogleAd'. The use of this mechanism will be kept under review.

- **Fitness to practise**

12.14 All of the regulators have a process through which members of the public, colleagues, employers and others can raise concerns about a professional's fitness to practise. However, there is great variation in how the regulators carry out this work. This is in part due to the significant differences in their legislation.

- 12.15** Part of our role is to consider areas of possible alignment of the regulators' processes. We were asked by the Department of Health to give advice on whether the regulators' sanctions could be harmonised. In our advice,⁸ we identified that the harmonisation of sanctions offered clear benefits. These included greater clarity for patients and the public on what sanctions are available and what these mean for a registrant. It would also provide a flexible and effective range of sanctions for regulators so that they are able to respond proportionately and appropriately when they determine a registrant's fitness to practise is impaired. We identified a common sanction set which we considered could be adopted by all the regulators. We also recommended that one term should be used for a single sanction across all the regulators to enable clarity and consistency for all involved in fitness to practise proceedings.
- 12.16** Another area in which we consider it might benefit public protection to harmonise the regulators' processes is the disclosure of a registrant's response to a complainant prior to the decision on whether there is a case to answer. Currently there is some variation in how the regulators approach this matter. Five of the regulators routinely share the registrant's response with the complainant. Three of the regulators will only disclose the response if there are significant points of dispute and of these, two have a high threshold which must be met before this occurs. One regulator does not share the response with the complainant but has agreed to reconsider its position on this matter.
- 12.17** We consider that sharing the registrant's response with the complainant, where appropriate, provides a greater depth of evidence to be considered by the investigating committee. It enhances the committee's decision-making and should ensure that their decisions are focused on protecting the public. It is also fair to the complainant. Our view is supported by the Court of Appeal decision (*Henshall v General Medical Council* (2005) EWCA Civ 1520) that panels should not consider evidence where fairness dictates that the complainants should have had the opportunity to respond but have not been provided with that opportunity. We would not consider it appropriate for the response to be shared where it could cause harm to the complainant or the registrant or where it is clear that a case will progress to a final hearing as this would only delay the case.

⁸ Council for Healthcare Regulatory Excellence, 2008. *Harmonising Sanctions, CHRE's position*. London: CHRE.

- 12.18** We note that there have been a number of recent Information Commissioner decisions which have taken the view that this information should not be disclosed to the complainant under the Freedom of Information Act 2000. We consider that this is appropriate as to disclose the information under this Act would enable the general public to see a copy of the registrant's response. This response contains personal data and could damage an individual's reputation if no case to answer was found but it was common knowledge that a complaint had been made. However, this is different from sharing the response solely with the complainant on a personal basis as part of the initial stages of the fitness to practise proceedings.
- 12.19** We expect to have further views on this issue once we have completed our first audit of the decisions made by the regulators at the initial stages of their fitness to practise processes.
- 12.20** In last year's report we noted that we had some concerns about the time taken to resolve fitness to practise cases. This is important, both in terms of protection of the public from registrants who are not fit to practise and in maintaining the confidence in health professionals and regulation generally. It is also important in terms of fairness to registrants that cases should be resolved as quickly as possible. However, regulators must balance the need for speed with the important issue of ensuring quality of process and decisions.
- 12.21** We consider that it is an important principle that regulators are open and transparent about their performance. We know that there is a variation in the time taken to resolve the cases. We understand that this is partly due to variations in the number of cases being considered, the complexity of the cases being considered and the differences in legislation and procedure. However, we think that the regulators should consider how they can publish more regularly meaningful information about timescales for the investigation of fitness to practise cases and their performance against their service standards.
- 12.22** This year we have been pleased to note an increased focus on customer service by many of the regulators. We have seen an increase in contacts with complainants, better support for witnesses to fitness to practise cases and increased engagement with stakeholders so that they are aware of how to raise concerns about a registrants' fitness to practise. We would encourage the sharing of practices around customer service as this helps to maintain confidence in a regulator and in regulation more generally.

Examples of practice

Access to the complaints process

The **GMC's Patients' Help** website helps potential complainants to navigate the health complaints system. It provides case studies, includes a timeline for the life of a GMC complaint, and an interactive map with contact details for local help and advice centres across the UK. It also has an online complaints form which asks users some questions to establish whether their complaint should be sent to the GMC. The **GMC** has also revisited information and signposting for people with learning disabilities wishing to make a complaint about a doctor. It has worked with Mencap on producing a leaflet for people with learning disabilities

Support for parties to fitness to practise proceedings

The **GCC** has revised its witness leaflet to include the layout of the hearing room. This was in response to feedback that witnesses felt anxious about the environment within which they would give evidence.

The **GMC** has worked with Victim Support and is developing a process to provide support for vulnerable witnesses. It has also developed guidance for witnesses giving evidence so that they understand what this process will involve.

Disclosure of decisions

The **GMC's** decisions circular is used to share fitness to practise decisions with third parties, including UK healthcare organisations and overseas regulators. It has a new electronic format which makes it easier for the reader to search for an individual registrant and to identify if they have conditions on their practice. It has taken steps to widen the distribution list, such as including on a worldwide basis those countries where 100 doctors or more are registered with the GMC. It has also encouraged reciprocal arrangements for sharing such information.

Customer service

The **HPC** has introduced a freephone dedicated telephone line for people who want to raise concerns about a registrant. It has started to write to complainants on a four-weekly basis to update them on the progress of their complaint. It has also introduced service standards which do not focus purely on how quickly cases are dealt with. Instead they focus on ensuring that everyone who comes into contact with its Fitness to Practise Department is given the same level of service.

The **PSNI** updates complainants every four weeks on the progress of the fitness to practise case.

Engagement with employers

The **HPC** is particularly active in its engagement with employers. It is regularly represented at meetings with, and holds events aimed at, employers to help them understand which cases should be referred to its Fitness to Practise Department and when this should occur.

Staff training

The **RPSGB** has developed bespoke accredited competency-based training for members of its inspectorate and fitness to practise case managers. There is pre course work, a residential five day course, post course supervision and assessment of activities. This training covers a number of areas, including: criminal and professional breaches, role of an investigator, planning and principles of investigation, handling evidence, taking witness statements and interviewing registrants.

● Education

- 12.23** The regulators have a responsibility to ensure that those joining their register or renewing their registration are fit to practise. As part of this work, the regulators have a role in setting standards for students to meet on completion of the course, setting standards for education and training delivery and in the quality assurance of the education and training provided.
- 12.24** Public protection and patient safety is at the heart of the work undertaken by the regulators in relation to education. However, there is considerable variation in how the regulators carry out these practices. This is partly due to the different professions that the regulators regulate and the differences in the educational demands for each profession but mainly it is due to the chosen approach by a regulator.
- 12.25** For example, some regulators have developed specific standards for students to achieve on completion of their education. The GMC's *Tomorrow's Doctors* sets the standards for knowledge, skills, attitudes and behaviours that medical students should learn at medical schools. Other regulators merely require the providers to ensure that the students meet the regulators' general standards.

- 12.26 This year we were commissioned to provide advice to the Secretary of State for Health on the quality assurance arrangements used by the regulators in relation to undergraduate education.⁹ In carrying out this work we again identified that while the broad structure of the approach taken to quality assurance is the same, following a pattern of programme approval, monitoring and reapproval, there are clear differences in the regulators' methods and frequency of approach.
- 12.27 As there are differences in approach, it is important that all of the regulators' quality assurance processes are proportionate and transparent, and focused on an outcome of enhancing patient safety and public protection. Based on the anecdotal evidence received during the course of the project, it is evident that some feel more could be done by the regulators to demonstrate that aspects of their processes are proportionate and transparent.
- 12.28 We consider that a broader discussion on the characteristics of a proportionate and transparent system of quality assurance would be valuable. Ahead of the next performance review, we will consider our own *Standard of Good Regulation* around quality assurance of education. Through this we will also give further consideration to the potential good practice characteristics of quality assurance of education and training provision identified in our advice.
- 12.29 Following *Trust, Assurance and Safety* and our advice to the Secretary of State for Health on student registration,¹⁰ the regulators have considered how they can have closer relationships with students and trainees prior to their qualification. Many regulators have introduced codes of conduct for their students and guidance for education providers on arrangements for student fitness to practise committees.

9 This was a result of the report by the Department of Health, 2008. *A High Quality Workforce: NHS next stage review*. London: DH. Page 41, paragraph 138.

10 Council for Healthcare Regulatory Excellence, 2008. *Advice on Student Registration*. London, CHRE.

12.30 An issue that we would like to consider further is whether the regulators should receive every outcome of a student fitness to practise committee. The GCC has this feedback mechanism and uses this information when considering whether an applicant to its register demonstrates that they are of good character. The GCC considers that this is particularly important in respect of applicants who have subsequently achieved a relevant qualification elsewhere in Europe or overseas. However, other regulators have questioned the value of such a mechanism because the course providers will only approve those that they consider have passed the clinical competence elements of the course and have demonstrated the relevant conduct requirements.

Examples of practice

We consider the **GMC's** work on revising *Tomorrow's Doctors* is an area of excellence. It has attempted to link the standards for undergraduate and postgraduate education, as well as linking *Tomorrow's Doctors*, with the standards of competence and conduct for registrants. The standards have clearly benefited from the extensive engagement carried out with stakeholders, including the Equality and Human Rights Commission.

● Governance and external relations

12.31 During the last year there has been considerable reform in many of the regulators' governance arrangements. Most of the regulators have moved to smaller appointed councils with balanced public and professional membership. Members are recruited against defined competencies. The remaining regulators will go through a similar transition shortly. The regulators have taken the opportunity to revise their governance policies and procedures, including their codes of conduct and how they deal with concerns or complaints about council members.

12.32 Most of the regulators have managed the process of change in their governance arrangements effectively. We would particularly highlight the performance of the RPSGB in light of the significant changes that it is experiencing as a result of the separation of its regulatory and representational roles. We note that the GOC has encountered difficulties during this period which have impacted on its performance. We would, however, expect to see progress in its performance next year.

- 12.33** As well as reforming their governance arrangements, many of the regulators have demonstrated a commitment to continuous improvement across all of their functions. As part of this drive towards continuous improvement, the regulators are increasingly making their 'complaints about us' process more accessible and are emphasising the importance of dealing with such complaints effectively. We consider that they also need to ensure that they learn from such complaints.
- 12.34** Together with the HPC and GMC, we gave evidence to the Equality and Human Rights Commission's (EHRC's) Inquiry on how human rights works in Britain. There is some variation in how proactive the regulators are in promoting human rights in their work. Some regulators take account of the Human Rights Act and the associated principles by mainstreaming them within all the practices and processes of the organisation. Other regulators take a more legalistic view by focusing particularly on ensuring that their processes and procedures are compliant. We will take account of the EHRC's Inquiry report which has recently been published before considering whether we can help the regulators develop their approaches to the Human Rights Act.
- 12.35** There has been some improvement in the level of public and patient engagement demonstrated by the regulators. For example, the PSNI has established a Public Forum, which will advise on various aspects of its work, including how it can better communicate its standards to its stakeholders. The GCC, GOC and NMC have held consultation events on the revisions to their codes and standards and the RPSGB's public liaison group have contributed to many areas of the regulator's policy work. We are pleased that public and patient engagement is becoming embedded in the work of the regulators.

Examples of practice

Continuous improvement

The **GDC** has recruited a Head of Customer Service. This staff member will be responsible for driving forward organisational learning in this area, helping it to maximise use of its website and e-business capabilities particularly in its dealings with registrants, and help the organisation to respond positively to feedback. The GDC has also recruited a dedicated team who will work to improve operations and processes across the organisation.

UK-wide regulation

The regulators have demonstrated that there are different ways that they can ensure that they are sensitive to the needs of the devolved healthcare systems. The **HPC** holds regular meetings with the devolved administrations and with stakeholders in the four countries to focus on matters of mutual interest. The **GMC** has offices based in each of the four countries. The **GDC** has appointed a Director for Scotland and directors for the other devolved administrations will soon be recruited.

Patient and public involvement

In 2008 the **GDC** commissioned qualitative research with the public, patients and dental professionals in order to inform its current and future work and its communications. It held its first one day public conference, 'Dental check-up – your views on protecting dental patients'.

It also increased its efforts to promote Council meetings to the public and more specifically the public question and answer session. Adverts were placed in local newspapers for the London and Belfast meeting.

The **GMC** has carried out considerable work on ensuring the views of its stakeholders inform its *Equality Scheme*. It commissioned qualitative research as a way of actively involving a range of stakeholders such as people with disabilities. The introduction of a formal and centralised reasonable adjustments process is an example of one of the positive outcomes from this research. In partnership with the Progressive Muslim Forum UK, it held a seminar to discuss issues affecting black and minority ethnic doctors. The outcome of this will feed into its wider diversity strategy.

Expert public and patient involvement

The **NMC** has a disability expert panel which is comprised of five registrants with disabilities and five people with disabilities who have an interest and expertise in health issues. It has used this group to inform its work on its disability equality scheme and will use this group in the future in a wider policy context.

How are the health professional regulatory bodies performing?

13 Individual performance review reports

- 13.1 The performance review reports for the individual regulators provide our overall assessment of their performance against the five functions: standards and guidance; registration; fitness to practise; education; and governance and external relations. The reports focus on where practices of the regulators have changed since 2007/08. They highlight new areas of good practice, new or continuing areas of weakness and those areas on which we wish to focus next year. They do not include every practice of the regulator which we consider demonstrates excellence, meets the standard or does not meet the standard.

14 The General Chiropractic Council

● Overall assessment

- 14.1 The General Chiropractic Council (GCC) is an efficient and effective regulator. It has well planned and thought-out strategies. It takes its role seriously and aspires to, and often attains, excellence. It helps to improve regulation generally by taking an active role and making a constructive contribution to cross-regulatory projects and through its engagement with European and international regulation.
- 14.2 The GCC provided an open and transparent self-assessment response, particularly in relation to its handling of a number of complaints/concerns about its Investigating Committee and Council. We appreciated this as it enabled us to gain a thorough understanding of the issues. The GCC provided evidence that all the issues raised in the complaints to CHRE had been dealt with appropriately by the GCC at the time the matters occurred.
- 14.3 The GCC demonstrates excellence in the following areas:
- The level of stakeholder involvement achieved in its work to revise the *Code of Practice and Standards of Proficiency*
 - The achievement of parity of public and professional membership on its Communication Strategy Working Group
 - Requirement for all potential registrants and registrants renewing their registration to sign a personal declaration that they will comply with the GCC's *Code of Practice and Standards of Proficiency*

- Collection of attributable ethnicity and disability data
- Reviewing the effectiveness of its work to raise public awareness of the need to check that a chiropractor is registered with the GCC
- The inclusion in the complaints information pack the layout of the room in which hearings take place to try to allay the anxieties of witnesses to fitness to practise cases
- Active involvement in cross-regulatory projects and development of European and international regulation
- Swift and effective resolution of a serious breach of governance.

14.4 We will consider progress on:

- The new development and appraisal system for fitness to practise committee members
- Further success on the collection of attributable ethnicity and disability data
- The outcome of the external analysis of the Investigating Committee and Professional Conduct Committee's reasoning for their decisions.

● **Standards and guidance**

14.5 The GCC revised its *Code of Practice* and *Standard of Proficiency* in 2008. As part of this, it held stakeholder workshops for registrants, chiropractic students and members of the public/patients. It also received written submissions from stakeholders, including the chiropractic professional and patient associations. We commend the GCC for the level of stakeholder involvement it achieved. We are also pleased that the feedback received indicated that the documents were patient focused, used clear language and were comprehensive and well-structured.

14.6 The GCC has a well developed communication strategy for informing the public about the standards chiropractors should meet. There is a constantly increasing demand for its leaflet *What Can I Expect When I See a Chiropractor*, and the GCC continues to encourage libraries and Citizens Advice Bureaux to stock this publication. The GCC has also made efforts to improve its communications by recruiting four members of the public to its Communication Strategy Working Group. They have already contributed to the GCC's work. The members are drawn from a range of backgrounds and interests. We are encouraged by this development, particularly as health regulators tend to find it difficult to secure active participation from members of the public.

- **Registration**

14.7 The GCC has an efficient registration process and has 100 per cent compliance with its service standards for registration. From 2009, all potential registrants and those registrants renewing their registration must sign a declaration that they have read the GCC's *Code of Practice* and *Standard of Proficiency* and understand that their actions will be judged against these standards and principles. We are pleased to note this development by the GCC. We consider that it confirms the importance of these documents to a chiropractor right at the start of their career.

14.8 The GCC's online register has been improved so that it is clearer to enquirers. When checking an individual professional's entry, where there is a sanction, enquirers can click on a direct link to the summary of a case and the full decision. When checking the GCC's register we found three cases where the sanction imposed on the registrant was not correctly reflected on the register or was not reflected at all. The GCC informed us that this was due to an administrative error which was corrected immediately. The GCC has since built in an additional check to the process to prevent a recurrence. In order to protect the public, the register should be complete and accurate. We commend the speed at which this issue was rectified and the remedial action taken.

14.9 Last year, in order to raise public awareness of the need to check that a chiropractor is registered, the GCC used a banner advert on the relevant pages of *Yell.com*. The GCC identified that usage of this facility decreased over time and that 60 per cent of visits to its website were through referrals from *Google*. The GCC has now moved to a sponsored *Google* link and will monitor usage of this to ensure that it remains an effective method of communication. We consider this commitment to continuous improvement around a key patient safety issue to be excellent.

14.10 The GCC has demonstrated excellence in collecting attributable ethnicity and disability data in relation to 71 per cent of its registrants. Even so, the GCC wants to improve on this and is looking at different ways of doing this. We will follow this up with the GCC in next year's review.

● **Fitness to practise**

14.11 The GCC provides the public with thorough information about its role and its fitness to practise processes. We note that the GCC also suggests alternative sources of advice and support for complainants. The GCC has improved this information by including in the complaints information pack the layout of the room in which hearings take place. This was in response to feedback from witnesses who had been anxious about not knowing the layout of the room in advance. We support the GCC's responsiveness to this matter.

14.12 Most chiropractors are self-employed, though some newly qualified chiropractors are employed by other chiropractors for at least the first year of their career. The GCC is undertaking a survey on this issue to establish whether further engagement with employers on regulatory issues such as fitness to practise is necessary. Again, we support the GCC's responsiveness to this matter.

14.13 The GCC identifies serious cases quickly and, where necessary, refers them for consideration of an interim suspension order. We support the GCC's continuing attempt, which requires changes to its legislation, to increase from two to six months the maximum time period for which interim suspension orders at the investigating stage can be applied. We have identified this as a priority in our advice to the Department of Health.

- 14.14 The GCC has cleared the backlog of complaints which it had received over several previous years. We were pleased to note that in light of the suggestion made in last year's performance review, the GCC revised its service standards and we now consider that they are appropriately challenging and ambitious.
- 14.15 Due to the GCC's prompt response to regulatory reform, the GCC has achieved separation of its Council and Fitness to Practise Committee functions. All members of its Fitness to Practise Committees are now appointed against clear and appropriate competencies. We are impressed at the efficiency of the GCC on this matter. The GCC is currently gathering good practice from the other regulators to enable it to develop a new appraisal system for its committee members. We encourage cross-regulatory learning on this issue and will be considering whether we can add value to the debate.
- 14.16 The GCC has a mechanism to audit internally the workings of its Investigating Committee to ensure that it has followed the correct process. It has commissioned an analysis of the Investigating Committee's decisions and those of its Professional Conduct Committee. We will be interested to see the outcome of this audit.

- **Education**

- 14.17 The learning outcomes of education programmes are derived from the *Code of Practice* and *Standards of Proficiency*. As these have recently been revised, the GCC plans to review the criteria for recognition of education providers to ensure that they are up to date and remain focused on patient safety. We welcome the GCC's plans to ensure stakeholder involvement in this review.
- 14.18 Although the GCC does not register chiropractic students, it has, like some other regulators, required its education providers to have student fitness to practise committees. These committees can impose sanctions including the removal of students from the education programme. We support such mechanisms which enhance patient safety and instil a sense of professionalism in students at an early stage in their studies. Unlike other regulators, the GCC requires education providers to notify it of the outcomes of student fitness to practise hearings, so that the GCC is aware of an applicant's fitness to practise history.

14.19 In response to last year's performance review, the GCC has improved the input patients can have in its quality assurance of education providers. From September 2008, visitor panels will hold a separate meeting with patients to enable them to feed back their views.

● **Governance and external relations**

14.20 We commend the speed and efficiency of the GCC in implementing regulatory reform. The GCC has a new Council which has equal representation of public and professional members and whose members were independently appointed against set criteria. Additionally, the GCC's Council meeting papers are now available online as well as agendas and minutes.

14.21 We also commend the strong leadership that was displayed in promptly removing from Council a member who had committed a serious breach of governance.

14.22 We are pleased that the GCC took the earliest opportunity to review its risk register against our Special Report on the NMC last year to identify any lessons that should be learned. We consider it imperative that there is cross-regulatory learning both in terms of good practice and areas for improvement.

14.23 The GCC has a clear and accessible 'complaints about us' process and seeks to learn from the complaints it receives. We have received some complaints about the GCC this year. We welcome the open and transparent responses from the GCC that we received in relation to these complaints and in the performance review. We are assured that the GCC has appropriate governance and fitness to practise processes in place.

14.24 The GCC demonstrates excellence in its engagement with national, European and international regulatory activities, particularly given the size of the organisation. It is clear that it actively participates in such work because of the important common interest of public protection which all parties share.

15 The General Dental Council

- Overall assessment

15.1 The General Dental Council (GDC) has strong and effective corporate leadership which is inclusive of senior managers and staff. It is an outward looking regulator with a real focus on customer service. The GDC has a clear commitment to continuous improvement both internally and across regulation. The GDC demonstrates a particular willingness to innovate.

15.2 The GDC has demonstrated excellence and good practice in:

- Revising its standards and guidance
- Informing its stakeholders of its standards and guidance
- Its new approach to encouraging patients to expect better standards by educating and empowering patients as consumers
- Its active engagement with employers to increase their understanding of when to refer fitness to practise cases to the GDC
- Devising ways to ensure good and consistent customer service
- Making efforts to increase public involvement in its work.

15.3 We will be interested to consider the GDC's progress in the following areas in next year's performance review:

- The pilot of its revalidation proposals
- Its revised process for the appraisal and assessment of fitness to practise panel members
- The implementation of the new education and training standards and its change of approach to quality assurance of education and training providers
- Mechanisms for measuring and managing its performance.

- **Standards and guidance**

- 15.4 The GDC has an effective programme of issuing supplementary guidance to address pertinent issues in regulation. It has published a leaflet about dental tourism highlighting the issues that patients should consider when seeking treatment overseas. This is in response to growing numbers of people doing so. Following the introduction of the mandatory registration of all dental care practitioners (DCPs), the GDC also recognised that there was a practical need to publish guidance on the scope of practice of the dental team.
- 15.5 The GDC has continued its good work on communicating with stakeholders on its standards. It revisited its communication strategy this year and intends to change its approach to encourage patients to expect better standards by educating and empowering patients as consumers. We are impressed with the GDC's approach and would encourage others to consider such a customer focused strategy.
- 15.6 Continuing professional development (CPD) is seen by the GDC as key to patient safety. It has continued to audit registrants' CPD profiles to ensure that the activities undertaken are meaningful and focused on public protection. CPD will be a significant component of the GDC's revalidation process. The GDC believes that this approach is in line with patient and public expectations. The GDC has recently completed pilots of its revalidation proposal and is analysing the results. We are pleased that the GDC intends to share the learning from its pilot with other regulators.

- **Registration**

- 15.7 The GDC completed the registration of DCPs in 2008. The GDC has streamlined this process with the result that applications from UK dental graduates and DCPs are now processed within 3 to 5 working days and recognised qualification applications between 10 to 14 working days. We are pleased to note the improvement in processing times.
- 15.8 The GDC has also made improvements to the content of its register as it now contains details of any conditions on a registrant's practice. We understand that the GDC intends to add admonishments to its register, but that it is unable to do so at this time due to technical issues. We hope that these can be resolved shortly.

15.9 The GDC has worked with its stakeholders on what information should be included on the register and how this could be accessed. Feedback indicated that the public and patients wanted a directory of services rather than what is considered traditionally to be a register. We will be interested to see how the GDC uses this information over the next year.

15.10 The GDC has developed policies to deal with erroneous and fraudulent applications to the register. The learning from the use of these policies will feed into its prosecution policy.

- **Fitness to practise**

15.11 In last year's report we noted that the average time taken from receipt of a complaint to it reaching a final hearing was approximately 20 months. The GDC has now reduced this to 74 weeks. This has been achieved in part by the development of service level agreements with each of its legal teams. These have been standardised and extended in scope, with an increased emphasis on reaching certain stages within defined times and the provision of management information. We are pleased that the timeframe is decreasing but encourage the GDC to continue its targeted activity to improve this further.

15.12 The GDC has worked with employers and other health organisations to improve understanding and awareness of its fitness to practise processes. It is also planning to facilitate an event for leaders of dental teams to discuss when and how they should make referrals.

15.13 The GDC has continued to focus on customer service. This has included the use of mystery shopping, customer service training, customer satisfaction surveys and telephone hunt groups which means all telephone calls can be answered by all members of staff within a group. We would strongly encourage other regulators to learn from the GDC's experiences of working with employers and the good practice it displays in its focus on customer service.

15.14 Currently members of the GDC's fitness to practise committees are appraised annually. The Appointments Committee aims to put in place a comprehensive appraisal system for all members that will be consistent with how they carry out their work and the particular functions they are recruited to undertake. We will be interested to see how this process develops in next year's review.

- **Education**

15.15 The GDC has completed a radical review of its education function in conjunction with its stakeholders. It has developed new standards for education and training which are focused on the outcomes of education – does this person have the required skills and knowledge to join the register? – rather than defining the educational providers' curriculum. The key question is whether the person has the required skills and knowledge to join the register. In line with the revision of the education standards, the GDC is also changing its approach to the quality assurance of education providers. It will be moving to a risk based approach. We will be interested to see how both these changes progress over the next year.

15.16 The GDC has developed guidance on students' fitness to practise. The guidance is focused on instilling values of professionalism and outlines what action can be taken if a student falls below the required standards. The GDC will be looking for assurances that providers use student fitness to practise mechanisms once this guidance has been approved. Additionally, the GDC intends to merge the standards for dentists and dental care practitioners to reflect the importance of the dental team.

- **Governance and external relations**

15.17 The GDC is going through a transition to a smaller Council. As part of its transition the GDC has established a working group to look at all matters of governance and corporate strategy including its code of conduct and complaints procedures for Council members.

15.18 To improve the GDC's understanding of its own performance, it will undertake work to establish baselines from which it can measure all areas of its performance including the more intangible aspects. The information will then feed through to the GDC's policy development. The GDC has also created a Continuous Improvement Team that will work to improve operations and processes across the organisation. The GDC is also looking to be a leading force in customer service. It has created the new role of Head of Customer Service to drive change by using customer feedback to influence its operations. We are impressed by these measures undertaken by the GDC.

- 15.19** The GDC has tried to increase public attendance and involvement at its Council meetings. It has advertised through local media and introduced a protected-time session within its agenda for questions and answers. This shows a determined effort by the GDC to move from consultation with the public to real engagement. In addition, it has carried out extensive consultation work with its stakeholders including a one day event attended by 111 independently invited members of the public. At the event, the GDC sought their views on dentistry and dental profession regulation in order to shape its new corporate strategy.
- 15.20** The GDC has established a presence in the devolved administrations and has a rolling programme of Council meetings so that they take place in each of the countries. This should enable the GDC to more easily gather and use local views in its policy development.

16 The General Optical Council

● Overall assessment

- 16.1** Changes in leadership, Council membership, senior staff and a period of transition have made it a difficult year for the General Optical Council (GOC). We recognise that there is a significant amount of work underway to address the areas of improvement identified by the GOC and in last year's performance review. However we are disappointed at the rate of progress made on some matters.
- 16.2** We consider that the GOC has performed well in:
- Requiring a signed photograph of all students who join the GOC's register
 - Taking action against an internet retailer who was selling contact lenses without a valid specification or supervision of a registered doctor or optician.
- 16.3** In next year's review we would like to see what progress has been made in the following areas:
- Communication around the purpose of the register and the need to check that a professional is registered
 - The time taken for cases to progress through the fitness to practise process

- The approval of guidance for identification of serious cases and guidance on the referral of cases from its Investigating Committee to its Fitness to Practise Committee
- Consideration of its requirements for an IT case management system
- The publication of summary assessment reports on education providers
- The introduction of organisation wide service standards
- Changes to its governance arrangements
- Use of its ethnicity and diversity data in other areas of its work.
- **Standards and guidance**
 - 16.4 The GOC sets codes of conduct and standards of competence for its registrants. It can also ask education providers and professional bodies to incorporate guidance into its own standards. The GOC did this recently with our sexual boundaries guidance, *Clear Sexual Boundaries Between Healthcare Professionals and Patients: responsibilities of healthcare professionals*.
 - 16.5 The GOC has carried out an extensive review of its codes of conduct. It consulted on the codes with a larger group of its stakeholders through targeted invitations to respond to the consultation document and a consultation event held in April 2009. This work was undertaken to encourage a stronger response rate and to ensure that the codes are comprehensive and protect the public.
 - 16.6 The GOC has a stakeholder engagement strategy which it will implement in 2009/10. It has planned activities to improve communications with the public, patients and employers around standards.
 - 16.7 The GOC approves providers of continuing professional development. In undertaking this work, we note that the training and learning outcomes must relate to a GOC specified core competency.

- **Registration**

- 16.8** The GOC has been looking at ways of improving the efficiency of its registration processes. It introduced a system of 'late fees' of £20 for those registrants who did not send in their retention forms before the first registration deadline. In total, 91 per cent of registrants successfully applied for retention by the 15 March deadline. This is a slight improvement on last year's figure of 88.5 per cent. The GOC believes that the late fees did contribute to reduction in late renewals and anticipates a greater improvement in future years as awareness of the late fees increases. The GOC intends to move to an online retention system which should improve the efficiency, quality and timeliness of its registration processes. It also intends to introduce service standards which should help it to measure its performance and provide helpful information to registrants about the time taken for an application to be processed.
- 16.9** We are pleased with the action the GOC takes to prevent fraudulent or erroneous entries to the register. It asks all students to provide a signed photograph. It has to be signed by someone of professional standing who has known the person for at least five years.
- 16.10** The growth of internet optical service providers poses significant risks to public protection as they may not adhere to the GOC's standards. We are pleased with the action the GOC took this year to prevent such activity. It won a criminal prosecution against an internet retailer who was selling contact lenses without a valid specification, or the supervision of a registered doctor or optician.
- 16.11** The GOC has made improvements to its register by including the details of any conditions on a registrant's practice, or any warnings issued to them in their individual entry. However, we are disappointed with the lack of continuous improvement demonstrated by the GOC on its communication with stakeholders about the importance of checking whether a professional is registered. We understand that this was due to budget restraints.

- **Fitness to practise**

- 16.12** We are disappointed with the slow progress being made by the GOC on a number of initiatives which we identified last year. These are the approval of guidance for the identification of serious cases, guidance on the referral of cases from its Investigating Committee to its Fitness to Practise Committee, implementation and use of organisation-wide service standards including those for fitness to practise processes, and consideration of its requirements for an IT case management system. While we have no evidence that this is impacting on patient safety, we would hope that real progress will be made on all these initiatives before the next performance review.
- 16.13** We note that the length of time for cases to progress through the GOC's fitness to practise procedures is long (median of 19 months). The GOC believes that some cases are delayed for a number of reasons which are outside of its control, including the technical nature of its complaints and the involvement of other investigatory organisations. However, it recognises that its current processes for dealing with fitness to practise cases may need to be amended to ensure that the increase in the volume of cases can be dealt with more efficiently. It will be looking at this over the next year with its Audit Committee to see where and how it can improve. We will be looking to see what progress is made by the GOC in the next performance review.
- 16.14** The GOC has some engagement with employers. It has amended its code of conduct for business registrants to include some examples of fitness to practise issues that should be referred to the GOC. It is currently consulting on this document. It also has a Companies Committee, which includes members from the largest employers of individual registrants. The committee is involved in the GOC's policy and standards work.

- **Education**

- 16.15** The GOC has undertaken a lot of work on its approach to education over the last year. It has reviewed and, where necessary, updated each of its education handbooks to ensure that they remain fit for purpose. Additionally, it has issued a new handbook in response to new independent prescribing legislation.

16.16 The GOC has also redefined its approach to the optical curriculums in the UK. It has changed to a competency-based statements approach. This should allow for easier comparisons to be made with curriculums outside of the UK and will make it compatible with the pre-registration process. To qualify for the pre-registration process, students must achieve at least a 2:2 degree. The GOC considers that this demonstrates that students have the 'understanding of' competencies. They also receive confirmation from the university that they have achieved all the 'ability to do' competencies.

16.17 The GOC is piloting its new annual monitoring scheme. Having received detailed information annually from the education provider, the GOC should be able to make its five-yearly visits shorter and more focused on areas of risk, areas for improvement and the clinical patient experience. As part of this work, we are pleased that the GOC intends to issue questionnaires to patients at university clinics, meet with small groups of patients and ask one visitor to focus on the patient experience. We note that the GOC will ask its accreditation working group to consider the publication of an annual summary report which will contain the outcomes and general themes from the accreditations carried out. We would encourage the GOC to publish such information as all other regulators now do.

- **Governance and external relations**

16.18 The GOC has undergone a period of governance change. It now has a Council of 12 members with equal public and professional representation. Its members were independently appointed against set criteria. It has also reviewed its *Committee Constitution Rules* to remove the existing requirement that members of its committees are drawn from Council membership. This should enable greater flexibility in the size and composition of its committees. The GOC is currently reviewing its governance arrangements for the appraisal of members, the scheme of delegation and is developing a code of conduct and complaints system for members. We will follow up on the GOC's progress in these areas in the next year's review. We commend the progress the GOC has made.

16.19 The GOC had difficulty in delivering all its planned objectives because of budget restraints in the first half of the financial year. It took action to address this. It has also introduced an enhanced business planning process to enable the delivery of future strategic plans.

16.20 The GOC's equality and diversity monitoring process for registrants is now being implemented. Monitoring forms were distributed to registrants with 2009/10 retention forms. Data will be collated, analysed and reported after the end of the retention cycle in April. Following a review of best practice the GOC is now planning to enhance its monitoring programme to include fitness to practise complainants. We will be interested in seeing how the GOC uses this data in other areas of its work.

16.21 The GOC has continued to engage with the development of European regulation of the optical profession. It is also seeking to appoint staff with specific responsibilities for the devolved administrations over the next few years. We support the GOC's intention to do this.

17 The General Osteopathic Council

● Overall assessment

17.1 The General Osteopathic Council (GOsC) is a forward and outward looking regulator. It is committed to communicating and working with its stakeholders. It has a focused plan for improvement over the coming years and also provides constructive input in the development of regulation as a whole. The GOsC has demonstrated a positive and willing attitude towards improvement. This is shown by the progress made over the last year and its assurance that the areas of improvement we have identified will be addressed.

17.2 We consider that the GOsC has demonstrated excellence in:

- Communication and engagement with its stakeholders
- Engagement in the development of European and international regulation.

17.3 We will consider the progress of the GOsC in the following areas in next year's review:

- To reconsider the issue of disclosure of the registrant's response to a complainant before consideration by the initial stage fitness to practise committee
- The development of a new appraisal system for Fitness to Practise Committee members
- The outcome of the research on patients' expectations of osteopaths and osteopathic care and how the GOsC proposes to use this information to improve practice.

- **Standards and guidance**

- 17.4 The GOsC is in the process of revising its *Code of Practice* and *Standards of Proficiency* (now known as the *Osteopathic Practice Standards*) in consultation with its stakeholders. In doing this work, the GOsC has taken the opportunity to consolidate its standards relating to patient trust. This approach prioritises and emphasises the importance of these standards. It also clearly sets out individual registrant's responsibility to adhere to them.
- 17.5 The GOsC is also developing a framework of osteopathic practice. This is intended to act as a reference document for the profession and the public on the general parameters of osteopathic practice. It will also set out the various approaches to clinical practice that may be encountered. We welcome the GOsC's approach to providing clearer information to the public on what they can expect from an osteopath.
- 17.6 The GOsC maintains good stakeholder engagement and is looking to integrate patients' views better into its policy work. It is doing this by carrying out research on patients' expectations of osteopaths and osteopathic treatment. We would encourage the GOsC to share the outcomes of this research with the other regulators as there may be areas of common interest.
- 17.7 The GOsC continues to demonstrate excellence, particularly given its limited resources, in its communications with its registrants and its engagement and consultation with a wide range of stakeholders. We also note that this year it is paying particular attention to improving the clarity of the language used in its standards and other public information, including on the website.

- **Registration**

- 17.8 The GOsC processes applications efficiently and promptly. From research carried out, it appears that osteopathy graduates were highly satisfied with the service and information received at all stages of the registration process. We support this type of survey being carried out and were pleased to note the results achieved by the GOsC.

- 17.9** The GOsC has been given the power¹¹ to register UK qualified osteopaths who did not register when the GOsC's register was established in 1998. To manage the public protection risk associated with these new powers, the GOsC has reviewed its assessment processes to ensure that it is confident those registering are fit to practise.
- 17.10** The GOsC has improved its register in the last year. The register now indicates where an osteopath is subject to conditions of practice, or has been suspended from practice and directs the enquirer to the full details of the decision. The format of the register has been enhanced following consultation with its stakeholders, resulting in improvements to accessibility. We are supportive of these changes and will give further consideration to the content of the registers outside of the performance review.
- 17.11** The GOsC has been working with solicitors in Scotland to find a way of protecting the title of 'Osteopath' given the practical impossibility of pursuing criminal prosecutions for this offence. We consider this work is important to ensure public protection.

- **Fitness to practise**

- 17.12** The GOsC manages fitness to practise proceedings efficiently. However, it has looked to improve them by introducing new service standards and by having a service level agreement with its legal advisers. An independent audit of the fitness to practise processes found them to be largely sound. However, we are concerned about a recommendation that the GOsC should not share the registrant's response with the complainant before the case goes to the initial stage committee. We disagree with this recommendation which we consider contrary to good practice. We consider that sharing this response provides greater depth of evidence to be considered by the Investigating Committee. It enhances their decision making and should ensure that their decisions are focused on protecting the public. It is also fairer to the complainant. We are pleased that the GOsC has agreed to revisit this matter.

¹¹ Section 3 (6A) of the Osteopath Act 1993

17.13 Regulatory reform empowered the GOsC to draft its own rules for the composition of its Fitness to Practise Committees. The GOsC resolved that from 1 April 2009 there would be no Council members on these committees, that all members would be independently appointed against set criteria and that they would receive comprehensive training. Members will also be appraised regularly and a new system is currently being developed. We are satisfied with the progress the GOsC has made in implementing these changes which are important to maintain public confidence in the regulators' fitness to practise processes. We will follow up with the GOsC next year on the implementation of its appraisal system.

17.14 All complaints about osteopaths are first considered by a screener who is an experienced osteopathic member of the Investigating Committee. The screener's role is to determine whether the GOsC has the power to consider the complaint. However, we agree with the GOsC's view that this work could be carried out by members of its fitness to practise staff and would support the removal of this role through a Section 60 order.

17.15 Following last year's report, we are pleased that the GOsC has drafted formal guidelines for the consideration of serious cases. This year the GOsC had intended to produce a leaflet to advise the public on what they can expect when they consult an osteopath. While we are disappointed that this has not yet been produced, we consider that the GOsC's decision to delay this document so that they can take account of the outcome of the research on patient expectations to be sensible.

- **Education**

17.16 The composition of the Education Committee will change from April 2009 and there will be a greater proportion of public members sitting alongside Council members. We consider this a positive change as it enables a wider range of expertise to input into the GOsC's education strategy.

17.17 The GOsC does not have a separate code of practice for students. They are expected to comply with the *Code of Practice* which has been developed for registrants. In addition, the GOsC actively promotes the code of practice and standards by means of presentations to students in their final year. While the GOsC does not require education institutions to have fitness to practise procedures, they will be writing to all schools this year to update information already held on the procedures in place. We think this is appropriate, given the importance of students understanding their responsibilities as a professional from the earliest stage of their studies.

17.18 As part of the quality assurance process for educational providers, the osteopathic educational institutions are required to submit an annual report to the GOsC. The GOsC has expanded its annual report template to include a section on whether the institutions have adequate equality and diversity policies. The GOsC plans to monitor this area and to provide guidance to institutions if necessary. We support the GOsC's intention to ensure that education providers are promoting equality and diversity through their programmes.

- **Governance and external relations**

17.19 The GOsC has responded positively to regulatory reform. It has devised a governance structure compliant with its new legislation, developed job descriptions, competences, criteria and appraisal systems for Council and committee membership. It has also defined the principles that would underpin the role of its new Council. The GOsC appears to be in a good position to cope with the challenges ahead.

17.20 The GOsC has engaged in a number of events with a wide range of stakeholders in the last year. With a view to promoting awareness of osteopathy in public healthcare, the GOsC also participated in two national healthcare conference exhibitions in 2008. We encourage this type of work as a way of raising levels of awareness and understanding of the work of osteopaths among the general public.

17.21 As previously noted, the GOsC plays an active part in the development of European and international regulation, which is particularly noteworthy because of its small size. This year, it has worked on the development of European osteopathic education and training standards. It has also become an active member of the Osteopathic International Alliance with a view to creating greater consistency in international standards and practice. This work is crucial to the protection of the public, particularly in the context of increased mobility of patients and professionals.

18 The General Medical Council

● Overall assessment

- 18.1** The General Medical Council (GMC) continues to be a well-run, effective regulator with strong leadership. It is responsive to changing circumstances in society and in health regulation. We commend its agility and its effectiveness in anticipating and shaping change within the profession.
- 18.2** The GMC has a transparent commitment to continuous improvement. It continually tests its processes for regulating doctors to ensure that they are effective, efficient and add value.
- 18.3** The GMC demonstrates excellence or good practice in many areas of its work:
- The development and accessibility of its standards including the extent of its stakeholder involvement
 - The accessibility and comprehensive nature of the information on the medical register
 - Its efforts to continuously improve its work in the registration of doctors
 - The accessibility of its fitness to practise complaints process including the development of *Patients' Help*, the support provided for vulnerable witnesses, the frequency of updates provided to complainants during the fitness to practise process, and its audit systems
 - The wide circulation of its panel outcomes
 - The *Indicative Sanctions Guidance*, training and feedback given to its fitness to practise panel members
 - The appraisal and assessment process for its fitness to practise panel members
 - The revision of its guidance on the standards for education, *Tomorrow's Doctors*
 - Engagement with the public, patients and other stakeholders, particularly with hard-to-reach groups
 - The collation, analysis and use of ethnicity data.
- 18.4** All regulators can learn from each other and there is much to learn from the GMC in the areas of excellence and good practice identified.

18.5 We would like to follow up on the three areas below in next year's performance review:

- The outcomes of the use of the ethnicity and diversity data collected in its wider research programme
- The further work undertaken to enhance management information and assess organisational performance
- The further work undertaken to enhance engagement with key interests, including the establishment of the Reference Community.

● **Standards and guidance**

18.6 Standards continue to be an area of excellence for the GMC. It is committed to ensuring that its standards and guidance documents are kept up to date. It has undertaken this work in response to changing circumstances in society and health regulation. It has updated its advice on prescribing to deal specifically with the use of Botulinum toxin. It has also developed guidance on the reporting of injuries from knife crime in response to a request from the Department of Health.

18.7 The GMC's standards benefit from extensive stakeholder input. We consider that the GMC excels at targeting and involving stakeholders with an interest in the subject matter being developed. When developing its guidance on confidentiality, it made particular efforts to contact people living with HIV, members of the Association of Chief Police Officers, the medical research community and Asian women.

18.8 The GMC is dedicated to making its standards accessible to everyone and uses various mechanisms to do this. This year, it has developed, with Mencap, a leaflet for people with learning disabilities who wish to make a complaint about a doctor. It has also produced a poster aimed at children and young people, which highlights the core issues from the associated guidance *0-18 Years: Guidance for All Doctors*. It has also produced eight new ethical dilemma case studies for its *Good Medical Practice in Action*. These enable users to decide how doctors should react to situations while also providing a commentary on the issues and links to the relevant guidance.

18.9 It has undertaken research about making its guidance more accessible to patients. This indicated that patients did not in general look to the GMC as a source of guidance. It has, therefore, started to work with other bodies such as Patient Advice and Liaison Services to ensure that these organisations are up to date with information about the work of the GMC. We are pleased with the breadth of activity undertaken by the GMC to make its standards more accessible.

18.10 Continuing professional development (CPD) is not a requirement for entry or retention on the GMC's medical register. However, the GMC continues to work towards the implementation of revalidation, of which, remaining up to date is an important component. Formal CPD, or other means of keeping up to date, will be an element of the information considered during a doctor's appraisal to demonstrate that they remain fit to practise.

- **Registration**

18.11 The majority of applications to the GMC's register are made online. This has reduced the number of errors and time spent by the GMC on re-entering data. The GMC also looked at other ways of reducing processing times. It has improved its guidance to applicants to reduce the amount of 'not right first time' applications, and has carried out targeted activity to clear the older applications. The GMC does publish service standards but it does not publish an average time for how long it takes to grant registration. This is because the time taken depends on the individual case.

18.12 The GMC looks to improve the effectiveness of its registration decisions by having a three tier process of review: peer review, internal quality assurance and internal audit. It has also continued to take effective steps to tackle erroneous and fraudulent applications to the register.

18.13 The content of the GMC's register continues to be an area of good practice. Over the last year it has built on this by introducing a download service. The service comprises of a full download of the list of registered medical practitioners and daily updates. The daily update highlights any change in a doctor's registration history and alerts users where a doctor has not paid his retention fee. It provides up to date registration information which is crucial to patient safety. While this information can be obtained through the GMC's online registration check, having this information on an employer's internal system will increase the awareness of any registration matters. This service is linked with the electronic staff record in England and Wales and the GMC aims to set up similar arrangements in Scotland and Northern Ireland.

18.14 The GMC has continued with its ethnicity census and has had a good response rate of 66 per cent. It achieved this through paper-based monitoring forms followed by an online response system. The GMC is using this data to inform its wider research programme. We will be interested to see the outcomes of this work next year.

- **Fitness to practise**

18.15 The GMC's *Patients' Help* website, which helps potential complainants to navigate the complaints system, is an area of good practice. It provides case studies, includes a timeline for the life of a GMC complaint, and an interactive map with contact details for local help and advice centres across the UK. It also has an online complaints form which asks users some questions to find out whether their complaint should be sent to the GMC. We are impressed by the GMC's efforts to help potential complainants, as an effective fitness to practise system is key to public protection.

18.16 We support the introduction of new mechanisms to help those involved with fitness to practise proceedings. The GMC has worked with Victim Support and is developing a process to provide volunteer support for vulnerable witnesses. It has also developed guidance for witnesses giving evidence so that they understand what this process will involve. We are also supportive of the regular communication it has with those involved with fitness to practise proceedings. It updates those involved on a six-weekly basis and at each decision making point of the process.

- 18.17 The GMC has guidance for employers about the thresholds for referral and has a continuing dialogue with medical directors about how they can work together even more effectively. However, we note that the GMC is planning to enhance its engagement with employers over the next year to increase their understanding of its fitness to practise processes. We see this work as an important part of protecting the public.
- 18.18 The GMC has well-developed systems of auditing fitness to practise decisions, feeding back learning to panellists and staff and providing training are all examples of the GMC's focus on quality and their desire for continuous improvement. We were also impressed with the GMC's appraisal and assessment process for its fitness to practise panel members.
- 18.19 The GMC demonstrates excellence in disclosing information on panel outcomes to relevant parties nationally and internationally.

- **Education**

- 18.20 We consider the GMC's work on revising *Tomorrow's Doctors* is an area of excellence. It has attempted to link the standards for undergraduate and postgraduate education, as well as linking *Tomorrow's Doctors*, with the standards of competence and conduct for registrants. The standards have clearly benefited from the extensive engagement carried out with stakeholders, including the Equality and Human Rights Commission.
- 18.21 We also welcome the additional guidance for medical students on professional behaviour and student fitness to practise, *Medical Students: Professional Behaviour and Fitness to Practise*. We hope that this will achieve the aim of promoting high standards of student conduct, raising student awareness of the professional behaviours expected of them and bringing greater consistency to fitness to practise procedures across UK medical schools. We agree that it is essential to support such guidance with student roadshows and attendance at student events to bring these standards alive.
- 18.22 We see the GMC's guidance for medical schools on supporting medical students with disabilities as a positive step towards promoting equality and diversity.
- 18.23 We note that the merger of the Postgraduate Medical Education and Training Board with the GMC is continuing and that work is underway to prepare for this in 2010.

- **Governance and external relations**

18.24 The GMC has moved to a smaller, board-like Council with 12 public and 12 professional members who have been independently appointed against set criteria. The GMC has managed this period of change well.

18.25 We are supportive of work undertaken to enhance the quality of the management information available, so that it is enabled to deliver the standards expected of it. The GMC has introduced a new corporate complaints system through which the senior management team will receive quarterly reports. This will provide more detailed and systematic feedback on customer dissatisfaction. The GMC has developed an *Evaluation Framework*, consisting of a range of indicators, aimed at providing an informed and comprehensive picture of organisational performance. The framework seeks to identify where the organisation is successful and where improvement may be required. This should enable it to have a more comprehensive picture of its performance and effectiveness beyond statistical information by measuring its contribution to the quality of healthcare and fulfilment of its statutory purpose. It has also developed an information tool which enables real-time registration and fitness to practise operational information to be available to management.

18.26 We noted that the GMC's engagement with its stakeholders was an area of good practice in last year's report. The GMC has reviewed its work to see if further improvements could be made including changing its Patient and Public Reference Group into a Reference Community. The six public members of the former group will continue to be consulted on policy development, and they will be strengthened by a further 19 patient/public members, plus 25 doctors from across the profession. Membership of this group should be in place by June 2009. We are supportive of this development and will follow up on the changes in next year's review.

18.27 The GMC's commitment to cross-regulatory projects and the development of European and international regulation remains resolute. It has also continued to ensure through its offices in each of the devolved administrations that medical regulation is sensitive to the local context and healthcare delivery systems.

19 The Health Professions Council

- **Overall assessment**

19.1 The Health Professions Council (HPC) is a transparent, well-organised, efficient and cost-effective regulator. This should give confidence in the light of the large number and wide range of health professions it regulates and the planned growth in professions that it will regulate in the future.

19.2 The HPC demonstrates excellence or good practice in a number of areas including:

- Communication with the public, employers and others about the role of HPC and its work. In particular, its 'Be Healthwise' campaign and its work to highlight the need to check whether a professional is registered
- The regular updates it provides to complainants during fitness to practise proceedings, its freephone telephone number to enable concerns to be raised about registrants and its service standards which do not purely focus on how quickly cases are dealt with
- Its active engagement with employers to help them understand when a case should be referred to its fitness to practise procedures
- The investigative practice training provided to all staff in the fitness to practise department
- The actions it takes to ensure that it is a UK-wide regulator that is sensitive to the devolved systems of healthcare.

19.3 We will wish to consider the following areas in next year's performance review:

- Patient involvement in the assessments of education providers
- The HPC's practice in relation to disclosing the registrant's response to a complainant before consideration by the initial stage fitness to practise committee
- Outcomes of research into complainants' expectations.

- **Standards and guidance**

- 19.4 In revising its standards and guidance this year, the HPC has continued to ensure that its standards prioritise patient safety. The standards are written in plain English and clearly set out the registrant's responsibilities for their own practice. However, we were concerned that the HPC had not developed guidance on sexual boundaries or actively promoted our guidance, *Clear Sexual Boundaries between Healthcare Professionals and Patients: responsibilities of healthcare professionals* to its registrants. This guidance was published in January 2008. Although it was referred to in a newsletter to registrants, it was not made available on the HPC's website until we raised the matter with the HPC in February 2009.
- 19.5 In last year's report, we highlighted that the HPC was particularly effective at communicating with its stakeholders about its role. The HPC has continued to display excellence and has even sought to enhance its work in this area, including carrying out research on the effectiveness of its communications. The research highlighted that there was an ongoing need to raise awareness of its activities with the general public. In light of this, the HPC launched the 'Be Healthwise' campaign to raise its profile amongst older people and those who provide care for them. The campaign included a seminar on regulation and older people, a mail out of key documentation to care and nursing homes and attendance at events aimed at older people and their care providers. We commend this work.
- 19.6 The HPC has also demonstrated a commitment to effective communication with its registrants. From 2006 the HPC's registrants were required to engage with continuing professional development (CPD) activities as part of their continuing registration. The HPC has actively communicated its CPD standards and auditing process through a programme of talks and presentations across the UK. It has also produced a DVD which is available to registrants and will shortly be available to view on its website.

- **Registration**

- 19.7** The HPC has continued to process applications efficiently and has continuously sought to improve its systems. It has introduced internal quality controls and checks. We support these quality assurance measures as they should ensure greater accuracy of information on the register. The HPC has also undertaken work to inform registrants of the importance of renewing their registration. We entirely agree with the HPC that this is important because of the implications for public safety if a registrant allows their registration to lapse, but continues to treat patients.
- 19.8** Under the HPC's rules, it must check everyone's health and character when they apply to join its register. This is part of the process to make sure that applicants will be able to practise safely and effectively within their profession. The HPC has produced consolidated guidance to make it clearer to those applying or renewing their registration the process that will be followed. It also sets out the standards that the HPC will use when deciding to admit, readmit or maintain someone on the register. We commend the transparency of the HPC's processes and believe it fits with the key principle of organisations fulfilling their roles in an open and accountable way.
- 19.9** In last year's report we highlighted that the HPC's register did not provide a direct link from a registrant's entry to any relevant fitness to practise outcome. This meant that it was not easy to access information on whether a registrant had any restrictions imposed on their practice. We are pleased that the HPC has now amended its register so that a direct link to the relevant decision is provided. This is a welcome development.
- 19.10** The HPC has continued to publicise its register and the need to check whether a professional is registered. It does this in a variety of ways including advertising on *Google* and *Yellow Pages*, distribution of public information material on request and at events, and as part of a mail out to GP surgeries, Citizen's Advice Bureaux and Community Health Councils. It has also held events aimed at employers.

- **Fitness to practise**

- 19.11** The HPC's fitness to practise processes remain well-organised and defined. It has internal operating guidance to support staff through each step.

- 19.12** The HPC has demonstrated an increasing focus on customer service. It has changed its dedicated telephone line for people who want to raise concerns about a registrant to a freephone telephone number. It has started to write to complainants on a four-weekly basis to update them on the progress of their complaint. It has also introduced service standards which do not focus purely on how quickly cases are dealt with. Instead they focus on ensuring that everyone who comes into contact with the Fitness to Practise Department is given the same level of service. We welcome these changes as they increase accessibility to the complaints system and the transparency of the complaints process for complainants. We would also encourage the HPC to share the results of the research it is about to undertake on complainants' expectations with the other regulators.
- 19.13** The HPC is particularly active in its engagement with employers. It is regularly represented at meetings with, and holds events aimed at, employers to help them understand which cases should be referred to the Fitness to Practise Department and when this should occur. We consider this work to be vital to public protection and believe that other regulators should learn from the work undertaken by the HPC in this area.
- 19.14** We were pleased to note that the HPC has implemented its appraisal and assessment process for fitness to practise panel members. It has also undertaken refresher training for panel members covering a range of subjects including lessons learned and how panels should reach decisions. We also consider the investigative practice training provided to staff to be an area of good practice.
- 19.15** However, we are concerned about an aspect of the HPC's fitness to practise processes. We have had difficulty in receiving clarification from the HPC on whether it shared the registrant's response with the complainant before a case went to an initial stage fitness to practise committee. The HPC has now confirmed to us that it only shares the response with the complainant in exceptional circumstances.
- 19.16** We consider that, where appropriate, sharing the registrant's response with the complainant provides greater depth of evidence to be considered by the Investigating Committee. It enhances the committee's decision making and should ensure that their decisions are focused on protecting the public. It is also fair to the complainant.

- 19.17** We were also aware that this issue had been considered at an Information Tribunal hearing in March 2008. This hearing was the result of a HPC appeal against the Information Commissioner's information notice. This notice requested that the HPC disclose to the Information Commissioner information which they had received from a registrant in relation to a complaint. The Information Tribunal ruled in March 2008 that the HPC should in the first instant disclose the registrant's response to the Information Commissioner.
- 19.18** We were concerned about one of the points made by the HPC in its submission to the Information Tribunal. The HPC argued that by disclosing the registrant's response to the complainant 'there would be a significant rise in the number of cases where the Investigating Committee found there to be a case to answer. This would in turn place an additional cost on the HPC and as a consequence push up its registration fee. [The HPC] pointed also to the hardship that a registrant may face where it became public that there had been an allegation made against him or her in circumstances in which there was in fact no case to answer. [The HPC] accepted however that it was in the registrant's self-interest to be open with the HPC at this early stage as this might be said to be the best way of ensuring that the matter went no further and did not become public.'¹²
- 19.19** While we understand that the HPC needs to ensure that it does not incur unnecessary expenditure this must not be at the cost of public protection. We would be very concerned if as a result of such an approach, cases which should go forward to a final fitness to practise hearing, did not do so. However, the HPC tells us that there is no evidence to suggest that appropriate cases are not going forward.

- **Education**

- 19.20** Due to the special circumstances around the number of professions that the HPC regulates, it has developed standards that are flexible and comprehensive while also prioritising public safety. The HPC has reviewed a number of its standards for education over the last year and has taken into account the views of its stakeholders.
- 19.21** The HPC has developed guidance on conduct and ethics for students. It has based this guidance on the general standards of conduct, performance and ethics as these standards are relevant to both registrants and those applying to be registered. We feel that this is an appropriate approach to the development of standards as it enables consistency in behaviour from student to registrant.

12 Information Tribunal Appeal Number: EA/2007/0116 14 March 2008 Paragraph 27.

19.22 Following on from last year's performance review, the HPC consulted with education and other providers on how patients' and service users' views could be taken into account in programme delivery and design. The results of this work are currently being considered by the HPC. The HPC is also a member of a regulators' working group on involving members of the public in the quality assurance of education and training provision. We would be interested to see the results of this work during next year's performance review.

- **Governance and external relations**

19.23 The legislation to change the constitution of the Council to a new fully appointed Council has been approved by Parliament and the Scottish Parliament. The Council will be made up of 20 people (including the Chair) and will have an equal number of public and professional members. The new Council will be in place by July 2009.

19.24 The HPC takes account of up-to-date stakeholder information when making decisions or assessing risks to the organisation. For example, the HPC considered its own position on all of the issues raised in our Special Report on the NMC last year. It also reviewed its data security policies in light of a number of high profile data losses by public bodies.

19.25 The HPC has a 'complaints about us' procedure to ensure that complaints are dealt with appropriately and that lessons are learned from them. We are pleased that the HPC has moved this procedure on its website so that members of the public can find it more easily.

19.26 The HPC is a UK-wide regulator which is sensitive to the devolved systems of healthcare. It holds regular meetings with the devolved administrations and with stakeholders in the four countries to focus on matters of mutual interest.

20 The Nursing and Midwifery Council

- **Overall assessment**

20.1 This has been a challenging and transformative year for the Nursing and Midwifery Council (NMC). We are pleased to report on the significant progress it has made in reforming its governance and practice.

- 20.2 Last year we produced a *Special Report for the Minister of State for Health Services on the NMC*. We found that the NMC was carrying out its statutory functions but that it failed to meet the standard of performance that the public had a right to expect of a regulator. We found that there were serious weaknesses in the NMC's governance and culture, in the conduct of the Council, in its ability to protect the interests of the public through the operations of its fitness to practise processes and in its ability to retain the confidence of key stakeholders.
- 20.3 In response to the Special Report and in agreement with us, the NMC developed an action plan to address the areas of weaknesses identified. It has worked hard to put this plan into effect.
- 20.4 We have valued the opportunity to work with the NMC on its action plan over the last year. We have monitored its progress and provided advice and support when asked. We consider that it has improved significantly in the areas of identified weakness and are satisfied with the NMC's progress. Furthermore, it has achieved this without seeing performance suffer in its areas of relative strength: standards and registration.
- 20.5 In fact, we consider that the NMC has demonstrated excellence or good practice in aspects of its performance in these functions:
- The accessibility of its standards
 - The development of specific guidance on the care of older people
 - Requiring registrants to sign a personal declaration that they will conform to the NMC's *Code: Standards of Conduct, Performance and Ethics for Nurses and Midwives* at all times
 - Undertaking photographic checks using the British Council's online checking system for non-EU applicants to the register
 - The use of an expert panel of people with disabilities to inform its work on its disability equality scheme.
- 20.6 We acknowledge that the progress made is due to the considerable commitment and contributions of the interim President and Chief Executive who took over in summer 2008. They laid the foundations for improvement, as well as senior managers who reacted positively to the need for change. We look to the new leadership to continue this momentum.

- 20.7 We and the NMC both recognise that there is still room for improvement. We hope that the NMC will continue to work closely with us during the next year on these matters. In particular we will want to see progress in the following areas:
- The collection of ethnicity and diversity data
 - A further reduction in the time taken to process fitness to practise cases, particularly those which have been awaiting a hearing for over nine months
 - The complete implementation of the NMC's IT case management system
 - The development of an internal Quality Assurance Team in the Fitness to Practise Department
 - Improvement in the consistency and quality of decisions made and recorded by final fitness to practise committees
 - The publication of a fitness to practise disclosure policy
 - Further improvements in the culture of customer focus throughout the fitness to practise process and, in particular, the use and content of standard letters
 - Further improvements to its stakeholder engagement.
- 20.8 We will also give further consideration to the NMC's approach to the quality assurance of education and training providers in next year's review.
- **Standards and guidance**
- 20.9 The publication of standards and guidance has continued to be an area of strength for the NMC. It has a wide-ranging programme of standards development and revision. It undertakes this work in a three-year rolling programme. It also produces standards and guidance in response to developing issues in society and its own learning. It is working towards each standards and guidance document receiving a quality mark for clarity.

- 20.10 The NMC has issued specific guidance on the care of older people. The guidance gives advice and support to those providing care and provides employers with a set of core principles. The key driver behind this work was the rising number of allegations about the abuse of older people. The NMC has received positive press coverage on this guidance which in turn has raised awareness of it. It has also received positive feedback from a number of its stakeholders including Age Concern England. We commend the NMC for its work in this area.
- 20.11 The NMC has also published an advice leaflet for expectant parents, *Support for Parents: How Supervision and Supervisors of Midwives Can Help You*, on the role of supervisors of midwives and what parents can expect from them. It worked with parent groups such as the National Childbirth Trust on developing this leaflet. The leaflet was commended by the Royal College of Midwives. We are encouraged by the positive feedback the NMC has received from its key stakeholders on these initiatives.
- 20.12 Last year the NMC also published advice sheets on free birthing and child protection in response to a high number of queries that it received through its advice centre. It also published 16 *NMC Circulars*, which provided its registrants with updated information on a range of standards such as medicines management and standards to support learning and assessment in practice.
- 20.13 The NMC has shown a strong commitment to improving its communication of standards to its stakeholders. It has tried a variety of mechanisms to ensure that its message is heard. It launched its revised *Code: Standards of Conduct, Performance and Ethics for Nurses and Midwives* in 2008 and enclosed the document with the quarterly *NMC News*. It also sent out a business card to registrants which contained the four key requirements of the code and the NMC's contact details. Alongside this, the NMC had a media launch in each of the four UK countries and the London launch was put on *YouTube*. It also had 'Code Champions' across the UK who were responsible for promoting and raising awareness of the code in their units and areas of practice. We support all of this work.

- **Registration**

- 20.14** The NMC receives over 30,000 applications for initial registration a year and over 220,000 renewal applications. Given the number of applications that it receives, the NMC processes these in a reasonable timeframe. The NMC has augmented its systems of applicant identity checks as it now carries out photographic checks of non-EU applicants against the British Council's online checking system. We consider this to be an area of good practice.
- 20.15** The NMC's register continues to be clear and accessible. Unlike last year, when we carried out our check of the register we did not find any errors. Furthermore, we are pleased that the NMC has improved the content of its register by including details of any conditions imposed on a registrant's practice.
- 20.16** Effective engagement by regulators with employers is key to protecting the public. This is why we are encouraged that when the NMC surveyed over 100 employers 82 per cent said that they used the employer confirmation service every month. This is the service employers can use to check the registration status of its nursing and midwifery staff. Of these, 96 per cent were satisfied or very satisfied with the service.
- 20.17** We also welcome the NMC's intention to undertake market research to gain a better understanding of what the public and patients know and understand about the regulation of nurses and midwives. The NMC hopes that this will provide an initial benchmark against which to measure public understanding of regulation, as well as providing an evidence base for the design and targeting of its communications.
- 20.18** Last year we noted that the NMC was the only regulator which did not collect ethnicity or diversity data. Since then, it has undertaken a considerable amount of work in this area. It held seven workshops across the UK to consult with a range of its stakeholders on the issues around collecting and monitoring ethnicity and diversity data. It is now in a position to collect data on all six diversity strands. This work will be supported by a communications programme explaining why it needs the data, how it will be used and how it will be stored securely and confidentially. We are pleased with the progress made but will follow up with the NMC next year to see how effective its collection and communication programme has been.

- **Fitness to practise**

- 20.19** Last year we had serious concerns about the NMC's handling of fitness to practise cases. In particular, we were concerned about the absence of an IT-based formal case management system, the lack of appropriate monitoring and tracking of cases, delays in responding to correspondence and the quality of some of its letters to the parties of fitness to practise cases.
- 20.20** The NMC appointed a permanent Director of Fitness to Practise and the Fitness to Practise Department has moved to purpose-built facilities. The Director of Fitness to Practise has demonstrated strong leadership and driven both process and cultural change within the department. We recognise that the NMC has made good progress in addressing the areas of concern identified in our report. However, we are pleased that the NMC acknowledges that there is still room for improvement. There is a need to ensure that the culture continues to move towards a greater customer focus.
- 20.21** We were particularly impressed with the new purpose-built facilities which provide much more appropriate accommodation for fitness to practise hearings, including provision for separate rooms for witnesses.
- 20.22** The NMC has fast-tracked the implementation of its IT case management system. We greatly commend them for taking this action. The system is currently undergoing user testing and we understand that it will be fully integrated into the Fitness to Practise Department by the end of May 2009. The system will enable the NMC to allocate cases based on an individual's caseload, enable staff members to track and monitor cases and managers to monitor workflow, highlighting any delays at the earliest point. It will also enable the production of accurate management information. Improved accuracy of this information means that the NMC will be better able to manage cases which have become delayed and to tackle its oldest cases. This will be the first time the NMC has been able to undertake such tasks. We will follow up progress on the implementation of this case management system which we still consider to be a priority.

20.23 More accurate management information has been produced for this performance review. As anticipated, this has shown that the figures produced last year were unreliable. For this reason we are not making a direct comparison with the figures provided last year for the average period between receipt of an allegation and closure of the case at a final hearing. We note that this year the median time taken between receipt of allegation and closure of the case at a final hearing is 15 months. We also note a gradual reduction in the number of cases which have been waiting for a hearing for over nine months. In mid-February 2009 there were 137 compared to 145 at the end of 2008. The important issue which we wish to put on record this year, is that for the first time, the NMC is able to provide accurate and meaningful information about its fitness to practise cases. This in itself is major progress.

20.24 We are also aware that improvements are being made to the efficiency of case progression. This is the result of a number of factors including better monitoring of cases, improved service level agreements with the NMC's external solicitors, additional staff and a redesign of fitness to practise processes. The NMC is also working on formalising arrangements with employers so that, where appropriate, it can refer cases back to employers to deal with.

20.25 The NMC has also begun to tackle its poor level of customer service, which included delays in responding to correspondence and responses not always being helpful, sensitive or accurate. The NMC has given all fitness to practise staff customer care training. The NMC has increased the number of contacts it has with all parties and, when the case management system has been implemented, will send out update letters every eight weeks to all parties, regardless of whether there are substantive issues to report. We are encouraged by the improvements we have seen. We do, however, have concerns about some of the communication with complainants, including standard letters, and wish to work with the NMC on improving these over the coming months.

20.26 The NMC has appointed new fitness to practise panel members through an independent, competency-based process and it considers that they have recruited highly qualified and experienced members. The NMC has provided training to these members and has developed an appraisal system. It is also considering drafting a protocol of support for new members.

20.27 We are concerned about the quality of some of the fitness to practise hearing decisions. The NMC is tackling this through its quality improvement programme which involves sharing best practice and feedback with its members, providing training and establishing an internal quality assurance team. This team will be responsible for reviewing the quality of decision making as well as adherence to its legal requirements. We are pleased with the NMC's initiatives in this area and will keep this work under review.

20.28 We also note that the NMC is in the process of revising and consolidating its disclosure policy.

- **Education**

20.29 The NMC publishes standards of proficiency for nurses, midwives and specialist community public health nurses which include standards for education and training. It is still undertaking its review of pre-registration nursing as part of the government's Modernising Nursing Careers programme. Following extensive consultation, in September 2008 it agreed principles that will support a new framework for pre-registration nursing education. The next stage is to develop new competencies for pre-registration students and to review the pre-registration standards for nursing. It intends to issue draft standards and guidance for consultation in December 2009 and expects the standards to be in place for the academic year beginning in September 2011.

20.30 The NMC has completed its review of the standards of proficiency for pre-registration midwifery education. The revised standards incorporate information currently contained in the *NMC Circulars*. The NMC has also updated the language and style of the publication to make it more accessible and to be more explicit about the proficiencies required of midwives at the point of registration.

20.31 The NMC has developed guidance on the professional behaviour required of student nurses and midwives, which was issued for consultation in January 2009. It has also made it a requirement for all education providers to have student fitness to practise procedures. We are pleased with this development as it instils at the earliest stage that professional behaviour is key to being an effective nurse or midwife. It also ensures that education providers have appropriate procedures in place to deal with a student who demonstrates behaviour which is incompatible with the standards expected.

20.32 The NMC takes a different approach to other regulators to the quality assurance of pre-registration education providers. It appears to be more intense and detailed than other regulator approaches. We will consider this issue further next year, in light of the outcome of our work on identifying best practice in the regulators' quality assurance processes of education and training providers. We are now satisfied that the NMC seeks the views of students and patients as part of the quality assurance process. It also initiated a cross-regulatory working group considering whether to or how to involve public representation as part of the quality assurance visit process.

- **Governance and external relations**

20.33 Last year we identified inadequacies in the operation of the NMC's governance framework including its policies, committees and decision making and organisational behaviour.

20.34 We recognise that the NMC has undertaken a significant amount of work to improve its governance and we welcome the changes made. It has a new Council in place which has parity of professional and public membership. The new Council has undergone induction training and has been provided with a revised governance handbook. There is a new scheme of delegation and the Council's decision making processes are defined by standing orders, which have also been updated. The NMC has published a new code of conduct for Council members and a simple, non-legalistic process for dealing with complaints or concerns about a member's behaviour. The NMC is currently developing an appraisal process for its Council members.

20.35 As well as improving its Council, we commend the NMC's work on reducing the number of its committees from 13 to six. It has streamlined workloads and reduced the need for issues to be considered by many committees.

20.36 We can also see that the NMC is working hard to improve the quality of the information considered by its Council and committees. It is devising new key performance indicators across the organisation so that Council has a clearer picture on overall performance. It has also shown a willingness to discuss controversial issues in public such as its response to the Britten investigation. Here, the NMC apologised unreservedly for its shortcomings which led to the delay in imposing an interim suspension order on Mr Britten and for its failure to respond positively to the investigation into the case.

- 20.37** The NMC has committed significant resources to improving its stakeholder relationships. It has held many events across the UK to better understand the needs of patients, the public, professional bodies and other interested parties. It has learnt from the feedback. For example, the meetings indicated that there was a need for an NMC presence in Scotland focused on fitness to practise issues. In response to this the NMC has appointed a Deputy Public Affairs Manager who will focus on all the devolved administrations, and will investigate the feasibility of a permanent presence in Scotland. It has also developed a customer relationship management strategy to improve its accessibility and standards of customer service. The NMC aims to work in partnership with its customers to understand their needs and secure their confidence in the NMC by delivering high quality services. The NMC has received positive feedback from some of its stakeholders, such as the Royal College of Midwives and Unison, and confidence in the NMC appears to be improving. We are pleased with these developments and would like such work to continue.
- 20.38** Finally, we note that the NMC has a disability expert panel which is comprised of five registrants with disabilities and five people with disabilities who have an interest and expertise in health issues. It has used this group to inform its work on its disability equality scheme and will use this group in the future in a wider policy context. We consider this to be good practice.

21 The Pharmaceutical Society of Northern Ireland

● Overall assessment

- 21.1** The Pharmaceutical Society of Northern Ireland (PSNI) has made significant progress in the last year. It has actively attempted to address the areas of improvement we identified in last year's report, even though its legislation still limits its ability to perform its functions better and to meet some of our minimum requirements.
- 21.2** The PSNI does not have a legislative framework to allow it to be a fully effective regulator. In May 2008 unanimous all-party support was given in the Northern Ireland Assembly for the legislative framework of the PSNI to be updated. PSNI has now submitted its proposals for improvements to its legislation to the Department for Health, Social Services and Public Safety. Improvements to the regulatory framework for pharmacists in Northern Ireland need to be made.

21.3 The PSNI, like the RPSGB, continues to have a role in promoting as well as regulating the profession. The PSNI only covers Northern Ireland and the RPSGB covers the rest of the UK. They are also the only health professions regulators that do not cover the whole of the UK. A decision has been made to separate the RPSGB's professional leadership and regulatory functions in order to provide greater assurance to the public of its independence from the profession. We note that this issue remains unresolved for PSNI but that it has started work to address this. We will look to see the progress made by the PSNI in next year's performance review.

21.4 We consider that the PSNI displays excellence in:

- The regular updates it provides to complainants during fitness to practise proceedings
- The requirement that all potential registrants sign a personal declaration that they will comply with the PSNI's *Code of Ethics*.

21.5 We will wish to review the PSNI's progress in the following areas in next year's performance review:

- The separation of the regulatory and professional leadership functions
- The work undertaken to promote the awareness of the register to the public and employers
- Making the accreditation process for education providers and the assessment reports on the providers accessible on its website
- The role and work of the Public Forum
- The collection of equality and diversity data
- The development of a 'Frequently Asked Questions' webpage on disclosure of information issues.

- **Standards and guidance**

- 21.6 The PSNI has revised its *Code of Ethics* and developed a range of new standards of competence including patient consent and pharmacist prescribing. We appreciate the significant amount of work undertaken by the PSNI, including engagement with the profession and the public, to ensure its standards and guidance address key areas of patient safety. However, we are disappointed that the PSNI has been slow to incorporate or endorse CHRE's guidance, *Clear Sexual Boundaries Between Healthcare Professionals and Patients: responsibilities of healthcare professionals*, which was published in January 2008. The PSNI have confirmed that it will address this during this year.
- 21.7 In last year's report, we highlighted that the PSNI's communication with the public about standards was less well-developed than other regulators. However, we note that the PSNI intends to communicate with all its stakeholders when it publishes its new standards and guidance. We understand that the Public Forum has already made some contributions to the PSNI's new Code and responsible pharmacist and premises standards. The PSNI intends to address the issue of stakeholder involvement through the Public Forum further over the coming year. We will look to see the progress made in this area in next year's review.
- 21.8 There are still limitations to PSNI's powers in relation to the implementation and monitoring of pharmacists' continuing professional development (CPD). However, we are pleased that the PSNI has now assured itself that there is a greater public protection focus to the CPD undertaken. The PSNI has published articles in relevant publications highlighting the importance of linking CPD to public protection. It has also carried out an audit of all submitted portfolios to establish the extent to which CPD is focused on public protection.

- **Registration**

- 21.9 While the PSNI has continued to process applications to its register efficiently, we are pleased that it has sought to improve its performance. It has done this through the introduction of personalised retention forms, by making registration forms available online and by assessing its performance against key performance indicators.

- 21.10** The PSNI has also sought to improve the effectiveness of its processes. As part of the application approval process all potential registrants must sign a personal declaration that they will comply with its *Code of Ethics*. We welcome this change as it reinforces the importance of these standards at the registration stage of a professional's career.
- 21.11** We note that as part of the PSNI's registration process for those who have not qualified in Northern Ireland it asks applicants to attend a meeting with the Registrar. This is to introduce the applicant to its standards of competence and conduct. Although the PSNI believes that this adds value by ensuring that the applicant understands regulation in Northern Ireland, we are unsure about the need for such a meeting given the other registration processes the PSNI has in place. We note that RPSGB has no similar process for pharmacists who qualify in Northern Ireland and intend to work in Scotland, Wales or England.
- 21.12** Whilst we are encouraged that the PSNI's 'Search the Register' function is prominently displayed on its website, we also welcome the prioritisation of promoting awareness of the register to the public and employers in 2009/10. We will look to see progress in this area next year.
- 21.13** We acknowledged last year that under its fitness to practise rules, the only action the PSNI can take is to remove a pharmacist from its register. It cannot formally impose lesser sanctions where registrants are found to have some impairment of practice not warranting removal, nor can it impose interim suspensions where registrants may be a risk to the public whilst a fitness to practise case is being progressed. However, the PSNI's register now includes details of a registrant's voluntary undertaking not to practise until further notice. These undertakings are similar to the sanction of suspension. While we remain concerned about the inflexible and inadequate nature of the PSNI's legislation, we welcome the change made by PSNI which is clearly focused on enhancing patient safety.
- 21.14** We recognise that the PSNI complies with relevant legislation in Northern Ireland in relation to collection of equality and diversity data and that there are extra sensitivities involved with collecting such data in Northern Ireland. However, we still urge the PSNI to speak with the other regulators about how they have overcome difficulties in the collection of ethnicity and diversity data.

- **Fitness to practise**

21.15 The PSNI continues to consider very few fitness to practise cases but has worked with other relevant organisations in Northern Ireland to improve information sharing and processing of complaints. We consider the development of a Complaints Allocation Panel to be a sensible solution which ensures liaison and co-ordination between the regulator, the inspectorate and employers.

21.16 The PSNI now has an independent appointment process for Fitness to Practise Committee members. Committee members are appointed against competencies, are appraised annually and receive formal training for their roles. We are pleased with the changes implemented by the PSNI and consider they are important in strengthening public confidence in the regulator.

21.17 We support the PSNI's view that the Chair of the Statutory Committee should also be independently appointed and that the PSNI should be given a sufficient number of panellists and chairs to sit on interim order hearings and final fitness to practise hearings. We believe that the current arrangements could place PSNI at risk of acting contrary to the Human Rights Act 1998. We also support the PSNI's view that the Chair of the Statutory Committee should not be able to veto any decision made by the rest of the committee to remove a professional from the register. Finally we share the PSNI's concerns that they do not currently have the power to set up health procedures within their fitness to practise process. We feel that it is important that the PSNI's legislation is amended in these respects to enable it to operate its fitness to practise processes effectively.

21.18 The PSNI has established a Scrutiny Committee which identifies whether a case should be referred to a Statutory Committee hearing and reviews the Statutory Committee's decisions and processes. We commend the PSNI's actions to minimise the risk associated with its legal requirement that the Chair of the Statutory Committee is consulted before deciding if a Statutory Committee should be held, and provides their consent before a pharmacist is removed from the register. However, we still consider that the outdated legislation causes a potential conflict of interest and impacts on public confidence in the regulator to act fairly and independently.

21.19 The PSNI has demonstrated its commitment to customer focus. It updates complainants every four weeks on the progress of the fitness to practise case. It has also agreed to develop further its disclosure policy. Its Freedom of Information Publication Scheme does include a statement on fitness to practise. However, the PSNI recognised that it would be more helpful to members of the public to have a 'Frequently Asked Questions' section on its website which clearly sets out what is and is not disclosable.

- **Education**

21.20 The PSNI contributes to the RPSGB's development of standards of education for undergraduates. This year it has also delivered a three-part lecture series to undergraduates which was designed to engage students with their professional and legislative obligations for the protection of patient safety at the earliest point in their studies. In contrast, the PSNI sets independent standards and manages the process for both pre and post registration. The facilitators for pre and post registration continue to play an important role in ensuring trainees and registrants meet the PSNI's standards.

21.21 The quality assurance process for education and training providers in Northern Ireland is carried out jointly by the PSNI and RPSGB. While we understand the argument for having a Northern Ireland perspective on the visitor panel, we question the added value of having two regulators quality assure the one provider in Northern Ireland.

21.22 The PSNI does not publish details of the accreditation process or the assessment reports on its website. We consider this information should be made available as it would help stakeholders have a better understanding of the quality of education provision in Northern Ireland. We welcome the PSNI's commitment to place this information on its website in the forthcoming year.

- **Governance and external relations**

21.23 In the absence of modern legislation, the PSNI revised and republished a set of job descriptions and competencies for Council membership to which current members and candidates for Council membership must self-certify. We are supportive of the interim measure the PSNI has introduced. However, we do not see this as an alternative to updated legislation that requires the Council to comprise of a wide range of stakeholders who are independently appointed against defined competencies.

21.24 We consider that the PSNI is more open and accountable now that it has a disclosure policy which includes publication of its Council's agendas and minutes and its performance against organisation-wide key performance indicators. The PSNI has also opened its meetings to the public. We raised concerns about the tone of the protocol for public attendance at Council meetings and are pleased that the PSNI will revise it to ensure that it is welcoming and enables greater public participation.

21.25 We recognise that PSNI has undertaken significant work in relation to external relations. It has improved its profile with the local media and the Northern Ireland legislative assembly, overhauled its website to include more information and a distinct public-focused section and established a Public Forum which is already contributing advice to Council decision-making. It has also developed an initiative with its counterpart in the Republic of Ireland to encourage information sharing and harmonisation of regulatory approaches. This is important work as Northern Ireland is the only part of the UK with a land border with another European country.

22 The Royal Pharmaceutical Society of Great Britain

● Overall assessment

22.1 The Royal Pharmaceutical Society Great Britain (RPSGB) has continued to fulfil its statutory functions and it has performed to the standards expected of it during a period of significant organisational change. It is important to acknowledge the extent of organisational upheaval the RPSGB has been experiencing and the efforts of its leadership and staff to ensure that it continues to meet its statutory requirements.

22.2 We recognise that the RPSGB is unable to meet some of the requirements of good regulation because of its current legislation. However it has taken steps to minimise the effects of this on its performance. We are impressed by the clear evidence we have seen of the RPSGB learning from the work of other regulators to enable it to improve its own performance.

22.3 The RPSGB is going through a transitional period as it separates its two functions of promoting and regulating the profession. Progress is being made on the formation of the General Pharmaceutical Council (GPhC) which will be responsible for the statutory regulation of pharmacists and pharmacy technicians and for the registration of pharmacy premises in Great Britain. Once the GPhC has been established our relationship will be with that organisation and not the RPSGB.

22.4 The RPSGB has displayed excellent or good practice in:

- The development of '*Ethical Dilemmas*'
- Requiring photographic identity at the point of registration
- The introduction of mystery telephone shopping
- Providing comprehensive investigative training to members of its Inspectorate and its Fitness to Practise Case Managers.

22.5 We would like to follow up on performance next year in the following areas:

- Development of the GPhC
 - Implementation of an enhanced IT case management system
 - Outcomes of the customer satisfaction survey
 - Format and content of the annual notification for pharmacists.
- **Standards and guidance**

22.6 The RPSGB has reviewed its *Code of Ethics* and seven professional standards and guidance documents to ensure that they are fit for purpose and up to date. It demonstrated responsiveness by amending pre existing, and preparing new supplementary professional standards documents. These are a result of proposals on the use of expired or returned medicines in the event of a pandemic flu and changes to the Medicines Act. In carrying out this work we note that the RPSGB consulted with its registrants, the public and other interested parties. The RPSGB also produced guidance for the profession based on our guidance on *Clear Sexual Boundaries Between Healthcare Professionals and Patients: responsibilities of healthcare professionals*.

22.7 The RPSGB built on its communications strategy to enhance its promotion of the *Code and Standards* to its registrants. It learnt from an example of good practice highlighted in last year's review. The development of '*Ethical Dilemmas*' was inspired by the interactive scenarios used by the GMC as part of its standards guidance. These are now included in the monthly members' newsletter *Your Society* and on the registrants' section of the RPSGB's website. The RPSGB considers that this has assisted it to engage further with registrants and enhance understanding of the *Code of Ethics*. We strongly support such cross-regulatory learning. It has also produced a monthly article for *Pharmacy Magazine* which is aimed at community pharmacists on standards relevant to their areas of practice.

22.8 The RPSGB does not have the legislative power to determine a continuing professional development (CPD) framework, to set standards for CPD or to sanction registrants who fail to undertake CPD, although we understand that these powers will be available to the GPhC. However, in the interim, the RPSGB has worked to ensure that the transition to mandatory CPD is smooth for registrants. It has recently consulted the profession on the professional standards and guidance for CPD and is also currently recording prospective CPD compliance declarations as part of a registrant's renewal forms.

● **Registration**

22.9 As part of the transition to the GPhC, the RPSGB is reviewing its registration processes to ensure that they are fit for purpose. It will be looking at how to improve the content and accessibility of its register. However, we are pleased that this has not prevented the RPSGB from seeking continuous improvement and that in doing so it has learnt from the work of other regulators.

22.10 The RPSGB has improved the fairness of its processes through the introduction of detailed standard operating procedures for staff to use when assessing an applicant's health and character. These should help to ensure that the assessments are conducted in a fair, proportionate and consistent manner. It has taken steps to ensure its registration processes remain efficient. In anticipation of the mandatory registration of pharmacy technicians, it has assessed future workloads to ensure that the increased volume of applications does not impact on business continuity. It now also requires all pre-registration trainee pharmacists, holders of non-UK qualifications (who do not have rights under EU Directives) who are to start their qualifying process and all applicants to the register to provide photographic evidence of identity in a bid to prevent fraudulent entry to the register.

22.11 As part of its communication strategy, the RPSGB is in the process of ensuring that all its guidance and application documentation and the content of its registration webpages are in plain English. It has also published on its website details of the registration requirements for pharmacists. However, we still consider that clearer information could be displayed in pharmacies to highlight to customers that the pharmacist is registered as a member of a regulated profession. In the Pharmacy Order 2009 there is a provision for an annual notification for registrants. The RPSGB said that it hopes that Department of Health, on behalf of GPhC will take this opportunity to consult with the public on what they would like this to look like and what content it should include, as this could be a solution to our concern. We welcome the steps taken by the RPSGB to ensure that its communications are clear and its processes open.

22.12 There is a large proportion of part-time pharmacists who earn proportionally less than their full-time counterparts. In recognition of this inequality, the RPSGB has introduced a low income retention fee for 2009. Part-time pharmacists provide flexibility to the workforce and the RPSGB does not want to discourage such people from practising because its fees are disproportionate to their income. We consider this to be a sensible solution.

- **Fitness to practise**

22.13 The RPSGB was not meeting its key performance indicator for investigations during 2008. Whilst a review and amendments have now been undertaken it is disappointing that this did not take place sooner. However, we note that the RPSGB's enhanced IT case management system (which we understand will be fully operational from June 2009) should enable better management of cases. It will also provide improved performance information, particularly against the new organisation-wide key performance indicators.

22.14 The RPSGB has revised and extended its threshold criteria for non-referral cases. These are cases which can be dealt with by the Inspectorate rather than having to be considered by the Investigating Committee. This should ensure that only appropriate cases are progressing through the fitness to practise process, thereby improving the efficiency of the RPSGB's processes.

22.15 Many pharmacists are not employed by the NHS. We commend the RPSGB's work with business employers to ensure that they are aware of which cases they should refer to the RPSGB. The RPSGB has provided written and oral advice as well as attending meetings and giving presentations on this subject. As well as providing support to employers, the RPSGB intends to inform complainants about sources of additional independent support and advice in relation to their complaints. It has also begun mystery telephone shopping in a bid to improve the consistency of its customer service. We are impressed with the RPSGB's increased focus on customer service.

22.16 Work has also progressed on enhancing the ability of staff members and the Investigating Committee to perform their functions. The RPSGB has updated its guidance for referral of cases from the Investigating Committee to the Disciplinary Committee. It has also developed bespoke competency-based training for members of its inspectorate and fitness to practise case managers. This training appears to be comprehensive and has received positive feedback from attendees. We would suggest that other regulators consider the benefits of such a training programme which we consider is an example of good practice.

- **Education**

22.17 The RPSGB's new standards for education and training are due to be published in 2009. The 'Fit for the Future' project has involved a mixture of pharmacy academics and experts in pre-registration training drawn from primary and secondary care, as well as public members to ensure that the standards are focused on the needs of the profession and equip all students to practise safely upon registration. It is intended that there will be one set of standards for both MPharm and pre-registration students, to ensure that the two parts of a pharmacist's education are linked.

22.18 The RPSGB is developing both a *Code of Conduct for Pharmacy Students* and guidance on fitness to practise procedures in schools of pharmacy in 2009. We support these developments and consider that it is important to instil at the earliest stage of a person's studies the need to behave appropriately.

22.19 The RPSGB quality assures the provision of pharmacy education in the United Kingdom (in Northern Ireland as well as Great Britain because the Pharmacists and Pharmacy Technicians Order 2007 gives the RPSGB accreditation powers in Northern Ireland) against a set of agreed standards and takes action where standards have not been met. The RPSGB has placed a provider on probation until the required conditions it set were met, and in another case, where there were serious and repetitive failures, the RPSGB temporarily withdrew accreditation from a provider until it was satisfied the provider could meet its standards. Under the new Pharmacy Order 2009, the RPSGB will also accredit pre-registration tutors and work is currently underway on how this will be done.

22.20 We consider that the quality assurance assessment reports should be made publicly available. Therefore we are pleased that the RPSGB intends to place all summary reports for accredited courses on its website from April 2009.

- **Governance and external relations**

22.21 The Department of Health decided that the RPSGB should not move to a smaller, fully appointed Council with at least 50 per cent public membership until the GPhC has been established. Therefore, the RPSGB is unable to meet the relevant requirement for good governance for a regulator.

22.22 The Pharmacy Regulation and Leadership Oversight Group's governance working group has produced proposals on a number of governance issues, including the composition of the Council and the appointment and appraisal system for Council members. The proposals take account of best practice and we are pleased with the work undertaken so far on these matters. We note that the RPSGB has introduced formal arrangements for the suspension or removal of Council members when there are allegations of a breach of the *Code of Conduct*.

22.23 The RPSGB has made considerable efforts to try to ensure that its staff stay motivated and productive during the transitional period. It has set up a number of initiatives including learning lunches, employment consultative bodies and training for managing change. This is crucial as staff contribute significantly to business continuity and public protection. We commend the RPSGB's initiatives in this area.

22.24 The RPSGB has also sought to enhance its engagement with the public and patients. For example, the RPSGB has developed an information leaflet and has utilised five members of its public liaison group (a standing body of around 30 members) to input into several of its areas for policy development. The RPSGB has also launched its internet pharmacy logo with a national awareness campaign to help the public distinguish safe and legitimate websites from which to buy medicine.

Recommendations, future work and conclusions

We have identified a number of issues which require further consideration by CHRE, the Department of Health and in the case of PSNI, the Department of Health, Social Services, and Public Safety in Northern Ireland.

23 Future work for CHRE

23.1 We will take forward the following four issues for further consideration:

- What information should be publicly available on the regulators' registers regarding a registrant's fitness to practise
- Whether the registrant's response to a complaint should be shared with the complainant in the initial stages of a fitness to practise case
- The pursuit of private or public prosecutions against those using a protected title
- Whether the regulators should receive the outcome of every student fitness to practise committee.

24 Recommendations for the Department of Health and Department of Health, Social Services and Public Safety in Northern Ireland

24.1 We recommend that consideration should be given to the proposals which we submitted relating to the harmonisation of the regulators' fitness to practise sanctions.¹³

24.2 We note that little progress has been made on the recommendation that the Department of Health, Social Services, and Public Safety in Northern Ireland acts to modernise the PSNI's legislation. We hope that progress is made on this recommendation this year.

25 Recommendations for the regulators

25.1 We have highlighted a number of areas of weakness which we recommend the regulators address this year. We have also identified examples of practice which we hope the regulators will review and consider adapting for their own organisations.

¹³ See footnote 7

- 25.2 This year there have been a number of high profile regulatory breaches. This has highlighted the need for regulators across health and social care to work together more effectively to bridge regulatory gaps. This includes system regulators such as the Care Quality Commission and employers.
- 25.3 We recommend that consideration is given to how the regulators can co-operate more effectively to ensure that any relevant intelligence is shared on individuals or organisations and that cross-regulatory learning is encouraged.

26 Conclusions

- 26.1 The performance review has identified that the regulators are fulfilling their statutory responsibilities but that there continues to be considerable variation in how the regulators carry them out. We will continue to work with the Department of Health, the regulators and others to advise on areas of practice suitable for harmonisation.
- 26.2 The performance review has also identified that the regulators are committed to improvement. We hope that the regulators use this year's performance review as an opportunity to learn from both the good and poor practice identified. We will hold good practice seminars later this year to encourage cross-regulatory learning.
- 26.3 As part of our programme of continuous improvement, we will evaluate the performance review process and standards this year. In doing this, we will seek the views of the regulators and the public.
- 26.4 Despite the occasional high profile incidences of weaknesses in regulatory regimes, the public should be assured that the health professions regulators are focused on promoting the health, safety and well-being of patients and other members of the public.

Appendix A: Index of regulated health professions

Health professional regulatory bodies	Health profession
General Chiropractic Council	Chiropractors
General Dental Council	Dentists Dental hygienists Dental therapists Clinical dental technicians Orthodontic therapists Dental nurses Dental technicians
General Medical Council	Doctors
General Optical Council	Dispensing opticians Optometrists
General Osteopathic Council	Osteopaths
Health Professions Council	Arts therapists Biomedical scientists Chiropodists Clinical scientists Dieticians Occupational therapists Operating department practitioners Orthoptists Orthotists Paramedics Physiotherapists Podiatrists Prosthetists Radiographers Speech and language therapists
Nursing and Midwifery Council	Nurses Midwives
Pharmaceutical Society of Northern Ireland	Pharmacists
Royal Pharmaceutical Society of Great Britain (England, Scotland and Wales)	Pharmacists

Appendix B: Standards of good regulation

Introduction

There are 21 standards spanning five regulatory functions: standards and guidance; registration; fitness to practise; education; and governance and external relations.

Definitions

Standards are the foundation of the performance review process and will evolve over time. They describe what the public should expect from regulators and enunciate principles of good practice. Regulators are asked to demonstrate how they ensure that they meet the standards. For each standard, a number of minimum requirements and supporting evidence are described.

All **minimum requirements** must be met to meet the standards, but are not standards in themselves. They are not exhaustive, in that regulators can demonstrate that they meet the standards in additional ways. Minimum requirements vary: they sometimes describe current duties, give examples of current practice, or indicate best practice.

Supporting evidence is the evidence that we suggest regulators can draw upon in demonstrating how they meet the standards. Supporting evidence is only an indication of the evidence that can support the declaration of whether the standards are met, and how. It only illustrates the kind of information that can be used, and is not exhaustive.

We would not expect that regulators should change their own information gathering or reporting cycles to fit in with the performance review cycle. For the purposes of the performance review regulators should just use the most up-to-date information they have. The amount of information provided, whether in summary or in supporting documentation should be sufficient to justify what has been stated in the regulator's response, and no more than that. Where regulators are unsure, they should discuss this with us. Where we consider that there is insufficient information, we will raise this with the regulator before the performance review meeting.

1 First function: standards and guidance

- **Standards**

- 1.1 **The regulator publishes standards of competence and conduct¹⁴ which are appropriate, comprehensive, prioritise patient¹⁵ interests and reflect up-to-date professional practice.**

- **Minimum requirements**

- i. Standards prioritise patient safety and patient interests.
 - ii. Core standards are formulated as general principles, which apply widely to all situations and areas of practice.
 - iii. The core standards are easy to understand for registrants and clearly outline registrants' personal responsibility for their practice.
 - iv. The core standards include, as a minimum, the principles expressed in the *Statement of Common Values*.¹⁶
 - v. Where appropriate, supplementary guidance is produced to help registrants apply the core standards about specialist or specific issues.
 - vi. Standards form the basis for all regulatory functions.
 - vii. The regulator regularly reviews its standards to ensure that they are up-to-date, and revises its standards and produces supplementary guidance as required.

- **Supporting evidence**

- *Standards and guidance*
 - *Documentation showing the development process of the standards, for example. consultation documents.*

14 There is a variety of terminology for standards of conduct and standards of competence across regulators. Standards of conduct govern professional behaviour, whereas standards of competence (standards of proficiency or standards of practice) can include clinical and management skills, knowledge, and how to apply these. The focus, amount of details and presentation of standards vary. Extracted from *Regulation of the Health Professions: a scoping exercise carried out on behalf of CRHP*, 2004.

15 We use the word 'patients' to include all those to whom health professionals provide healthcare services, including clients, customers or service users. The concept also includes members of the public.

16 *Common Values Statement by the Chief Executives Group of the Health Care Regulators on Professional Values*, 2004, available on CHRE website.

1.2 The regulator makes its standards available and accessible proactively to registrants and potential registrants in the UK, and informs them of their current or future responsibility to meet these standards.

- **Minimum requirements**

- Standards are published in formats that are easily accessible to potential registrants and registrants. For example, in Plain English, in a variety of languages tailored to prominent communities in the UK, easy read, Braille and audio versions.
- The regulator has a clear communications strategy to promote the standards, which has taken account of the views of registrants and potential registrants, and is targeted to meet their needs.

1.3 The regulator informs the public of the standards that registrants should meet and the action that they can take if these standards are not met.

- **Minimum requirements**

- Information on the standards that registrants should meet is available in accessible formats.
- The regulator has a clear and targeted communications strategy to inform the public, employers and other stakeholders, which takes account of the stakeholders views on how best to communicate with them.

- **Supporting evidence (1.2 and 1.3)**

- *Information on how the standards are published*
- *Communication strategy.*

1.4 The regulator requires registrants to maintain standards through a process of continuing professional development (CPD) or equivalent systems

- **Minimum requirements**

- CPD is targeted to the specific learning needs of individual registrants and public protection is prioritised.
- The regulator requires/ encourages registrants to complete varying amounts of CPD, the amount and type varying between registrants proportionally to risks identified by the regulator (e.g. clinical or regulatory).
- The regulator defines the outcomes of what they expect from the registrant's continuing professional development.

- iv. The content design of CPD, where relevant, takes account of the public's and patients' views.
- v. The regulator regularly audits their registrant's CPD profiles.

- **Supporting evidence**

- *Information on CPD or equivalent systems.*

1.5 The regulator is working towards a system of revalidation.

- **Minimum requirements**

- i. The regulator works with others (including public and patient groups) towards a system of revalidation carried out at appropriate intervals and with appropriate intensity proportionate to risk for each registrant and with targeted remedial action.

- **Supporting evidence**

- *Revalidation proposals.*

2 Second function: registration

- **Standards**

2.1 The regulator has efficient, fair and transparent processes for entry to the register and periodic renewal of registration.

- **Minimum requirements**

- i. The process is well-defined and details are accessible. For example, details are available on the Internet and over the telephone.
- ii. All applicants are treated fairly and assessed against a well-defined set of criteria (e.g. using the concept of good character) that are linked to the standards of competence and conduct.
- iii. Applications are processed efficiently.
- iv. The regulator has service standards or equivalents around the registration of international, European and national professionals that it monitors its performance against.
- v. The regulator takes steps to ensure against fraudulent or erroneous entry to the register.
- vi. There is a well-defined and accessible process to appeal registration decisions. For example, details of each step of the appeal process are provided to all professionals automatically when they have not registered successfully.

- **Supporting evidence**

- *Information on applications dealt with within statutory deadlines or performance target*
- *Information on the process for registration, eg on the website*
- *Information on whether there is someone available with whom a potential registrant can discuss their application*
- *The appeals process*
- *The process for considering applications for registration*
- *Customer satisfaction surveys.*

2.2 Registers are accessible to the public and include appropriate information about registrants.

- **Minimum requirements**

- i. The regulator makes its registers accessible to the public. For example, the register is available on the internet and for review on site.
- ii. The public and where applicable employers are easily able to find a specific registrant and identify if they are eligible to practise.
- iii. Relevant fitness to practise history and sanctions are included within registration information.

- **Supporting evidence**

- *The register*
- *Information on the content of register and how it can be accessed*
- *Customer satisfaction surveys.*

2.3 The regulator takes appropriate action to prevent non-registrants fraudulently using a protected title.

- **Minimum requirements**

- i. The regulator publicises the importance of checking that a professional is registered. The communications plan is targeted to a national audience of employers and the public and uses a variety of methods.
- ii. The regulator has procedures for dealing with a person found to be fraudulently using a protected title, or undertaking a protected act (where this applies).
- iii. It uses the means at its disposal to seek to stop them from using that title.

- **Supporting evidence**

- *Information on the measures in place to publicise the importance of checking registration and to deal with those using a protected title fraudulently*
- *Information on the usage of the register and the number of detected cases using a protected title fraudulently.*

3 Third function: fitness to practise

- **Standards**

- 3.1 The regulator has an accessible process through which patients, the public, employers and others can raise concerns about registrants. The potential complainants understand that their concerns will be dealt with in a fair, proportionate, timely and effective manner and any necessary action taken to protect the public.**

- **Minimum requirements**

- i. The regulator has a process to raise concerns against registrants that is publicly available and easy to understand.
- ii. The regulator has a variety of methods available for potential complainants to access, to help them understand how their concerns will be dealt with. This includes ensuring there is someone available with whom a potential complainant can discuss a concern and literature being available on the matter.
- iii. The regulator works with employers to help them understand what cases should be referred to them and when this should occur.

- **Supporting evidence**

- *Complaints leaflet*
- *Website content*
- *Notes of employer engagement meetings*
- *Advice literature for employers*
- *Feedback and outcomes from surveys involving people who have made complaints.*

3.2 The regulator keeps all relevant parties informed of progress on cases at all appropriate stages.

- **Minimum requirements**

- i. The registrant, complainant and, where appropriate employers, are informed of progress at the following stages at least:
 - initial consideration;
 - referral to a fitness to practise panel;
 - final outcome;
- ii. and preferably on a six – eight week basis.
- iii. The regulator has a disclosure policy that is publicly available and complies with it and/or any legislative requirements on disclosure.
- iv. The regulator publishes the outcomes of final fitness to practise hearings, apart from health cases.

- **Supporting evidence**

- *Disclosure policy*
- *Process on updating all relevant parties*
- *Feedback and outcomes from surveys involving the members of the public, employers and others.*

3.3 Fitness to practise cases are dealt with in a timely manner at all stages.

- **Minimum requirements**

- i. The regulator has a defined process of allocating new fitness to practise complaints to staff that ensures that cases are dealt with effectively.
- ii. Serious cases are identified and prioritised and, where appropriate and possible, referred to a panel to consider whether it is necessary to impose an interim order.
- iii. There are systems and guidance to identify serious cases and cases that have become delayed so that appropriate action can be taken.
- iv. Cases are listed and heard quickly by fitness to practise panels after referral.
- v. The regulator has service standards or equivalent for each key milestone of the fitness to practise process and monitors its performance against them. This information is accessible to its stakeholders.
- vi. The regulator has a case management system.

- **Supporting evidence**

- *Audits and management reports*
- *Process for dealing with delayed or serious cases*
- *Allocations process*
- *Process for publicising performance of FtP department*
- *Feedback and outcomes from surveys involving people who have made complaints.*

3.4 There are appropriate processes for the appointment, assessment and training of fitness to practise panel members.

- **Minimum requirements**

- i. The regulator uses clear and appropriate competences when recruiting panel members.
- ii. There is an assessment and appraisal process for fitness to practise panel members.
- iii. Members receive feedback in relation to the cases they have considered.
- iv. There is a training programme for panel members that covers equality and diversity issues.

- **Supporting evidence**

- *Appraisal scheme*
- *Appointments process*
- *Training schedules*
- *Recruitment criteria.*

3.5 Decisions made at the initial stages of the fitness to practise process (pre-fitness to practise panel stage) are quality assured.

- **Minimum requirements**

- i. Staff and panels involved in taking decisions at the initial stages receive appropriate training and guidance.
- ii. Where appropriate the regulator has guidance on criteria for referral from initial stages to the final committee.
- iii. There are internal audits of decisions that take account of equality and diversity issues.

- **Supporting evidence**

- *Criteria for referral from initial stage to the final committee stage*
- *Number of judicial review or appeal cases upheld against the regulator*
- *Internal audit reports*

3.6 Fitness to practise panels make appropriate, well reasoned decisions on cases.

- **Minimum requirements**

- i. The regulator has comprehensive indicative sanctions guidance that facilitates consistent and appropriate decision making.
- ii. The regulator ensures that its panel members take account of learning from Court outcomes and feedback from CHRE.

- **Supporting evidence**

- *Indicative sanctions guidance*
- *Number of Section 29 and registrant appeals upheld*
- *Feedback to panel members on learning points arising from Court outcomes and CHRE feedback.*

4 Fourth function: Education and Learning

- **Standards**

4.1 The regulator ensures that its standards for education and training to be met by students/trainees are appropriate, comprehensive, prioritise patient safety and interests and reflect up-to-date professional practice.

- **Minimum Requirements**

- i. Standards for education and training prioritise patient safety and patient interests and link in with the standards of competence and conduct for registrants.
- ii. The regulator has taken steps to ensure that standards are widely applicable and appropriate to the different stages of training and education. Standards outline students/trainees' future personal responsibility for their own practice as well as for inter-professional working.
- iii. Standards of education and training are focused on the abilities required for that profession.

- iv. The regulator regularly reviews its standards to ensure that they are up-to-date and reflect modern practice, revising standards or producing supplementary guidance as required.
- v. All standards development is carried out in consultation with stakeholders.

- **Supporting Evidence**

- *Standards for the education and training of students/trainees (this can be in the same document as standards for the delivery of education)*
- *Documentation showing the development process of the standards.*

4.2 The regulator ensures that its standards for the delivery of education and training are appropriate, comprehensive, prioritise patient interests and reflect up-to-date professional practice.

- **Minimum Requirements**

- i. Standards for the delivery of education and training prioritise patient safety and patient interests and link in with the standards of competence and conduct for registrants.
- ii. The regulator has taken steps to ensure that standards are applicable to all situations, including placements.
- iii. Standards balance the requirements for safety of patients and consistency of educational outcomes with the encouragement of innovation.
- iv. The regulator constantly reviews its standards to ensure that they are up-to-date, revising standards or producing supplementary guidance as required.
- v. All standards development is carried out in consultation with stakeholders.

- **Supporting Evidence**

- *Standards for the delivery of education (this can be in the same document as standards for the education and training of students/trainees) and additional guidance*
- *Documentation showing the development process of the standards, for example, how relevant developments in higher education are taken into account.*

4.3 The regulator has a transparent and proportionate system of quality assurance for education and training providers.

- **Minimum Requirements**

- i. The regulator assesses education and training providers, including arrangements for placements, at appropriate intervals, which may vary between establishments proportionally to risk.
- ii. Educational providers that meet the required standards are approved, and appropriate and targeted steps are taken where a provider falls short of the standards.
- iii. Students'/trainees' and patients' perspectives are taken into account as part of the evaluation.
- iv. Information on the assessment process and final results of assessments are accessible to all stakeholders.

- **Supporting Evidence**

- *Training of educational assessors*
- *Quality Assurance process*
- *Assessment reports.*

5 Fifth function: governance and external relations

- **Standards**

5.1 The regulator is a transparent and accountable organisation and significant policy decisions are based on up-to-date stakeholder and management information¹⁷ and are directed to protecting, promoting and maintaining the health, safety and well-being of the public.

- **Minimum requirements**

- i. The regulators' decision-making is underpinned by up-to-date stakeholder and management information and is directed to protecting, promoting and maintaining the health, safety and well-being of the public.
- ii. The regulator has a clearly defined aim and a strategy.
- iii. It has a Code of Conduct for Council members.
- iv. The Council includes expertise from a range of stakeholders and no one group dominates.

¹⁷ This is the information that an organisation requires to run its business properly, this will include risk information, metrics, performance indicators, resource implications and where appropriate stakeholder views.

- v. The Council has a defined process for dealing with complaints/ concerns about council members
- vi. Individuals are appointed against defined competencies.¹⁸
- vii. Council and the executive have clear lines of accountability.
- viii. The decisions and the decision making processes of the Council are open, transparent and accessible.

- **Supporting evidence**

- *Mission statement*
- *Code of Conduct*
- *Council policies and decisions.*
- *Information on how stakeholder and management information is taken into account in policy decisions*
- *Information on number of public Council meetings and publication of papers and decisions; attendance at public Council meetings*
- *List of competences against which members are appointed*
- *Appraisal policy for Council members*
- *Schemes of delegation, standing orders and financial instructions.*

5.2 The regulator establishes and works within efficient and effective organisational processes.

- **Minimum requirements**

- i. The regulator has an effective planning process, which ensures that functions are resourced appropriately.
- ii. The regulator ensures that its planning documents take account of risk.
- iii. The regulator sets appropriate key performance indicators or equivalent and publishes information on its performance against them.
- iv. There are effective appraisal systems and processes.
- v. The regulator meets its statutory responsibilities in sharing information and in seeking, retaining and destroying confidential information.
- vi. The regulator is committed to promoting equality and diversity and ensures that all activities are free from any discrimination.
- vii. The regulator is committed to promoting the principles of the Human Rights Act and ensures that this is reflected when carrying out all of their functions.

¹⁸ Until all Council members are appointed, this is likely to apply to public members only.

- **Supporting evidence**

- *The published business plan*
- *Reports from internal and external auditors*
- *Published accounts*
- *HR policies, including appraisal policy*
- *Strategic plan*
- *Annual plan*
- *Risk register*
- *Rules or procedures for raising fees*
- *Equality and Diversity Policy and reports*
- *Information on how responsibilities under the Freedom of Information and Data Protection Acts are met*
- *Information on how responsibilities under the Human Rights Act are met.*

5.3 The regulator fosters a culture of continuous improvement within the organisation.

- **Minimum requirements**

- i. The regulator has a culture of continuous improvement.
- ii. The regulator gathers evidence from its activities and external information and disseminates it throughout the organisation. This evidence informs policy development.
- iii. Evidence-based decision making and innovation are promoted. Audit¹⁹ is carried out at appropriate intervals and focuses on areas of high risk.
- iv. The regulator has an accessible, effective and efficient complaints procedure for dealing with complaints about itself, and learning from the complaints is disseminated to the complainant, throughout the organisation, informs policy development and improves practices.

- **Supporting evidence**

- *Processes for complaints against the organisation and information on how complaints are taken into account*

¹⁹ The use of the term 'audit' in the performance review standards refers to quality audits of services, functions, work stream, rather than financial audits.

- *Systems for measuring quality and effectiveness and information about how these bring about improvement*
- *Annual plan/assessment process*
- *Audit reports.*

5.4 The regulator co-operates with stakeholders and other organisations.

- **Minimum requirements**

- The regulator engages with stakeholders, in particular patients and the public, in all of its work.
- The regulator cooperates with other organisations with a common interest, developing strategic alliances and coordinating goals and project planning.
- The regulator engages in cross-regulatory work and projects, and takes account of recommendations from CHRE and others about cross-regulatory projects, best practice and its performance.
- The regulator takes into account the differences between England, Scotland, Wales and Northern Ireland when devising its policies and processes and in engaging with stakeholders.
- The regulator, where appropriate, engages in the development of international regulation.

- **Supporting evidence**

- *Strategy for involving stakeholders*
- *Council policies and decisions*
- *Consultation documents.*

Appendix C: List of organisations contacted

In this year's performance review, we wrote to a large number of organisations who we considered had an interest in how the regulators performed against the *Standards of Good Regulation*. We invited them to share their views with us on their experiences of the regulators in relation to the standards. We explained that we would use the information provided as a mechanism for challenging and testing the regulators' self-assessments to ensure that we had a more rounded view of the regulators performance. Below is a list of the organisations that responded to our request.

- Action Against Medical Accidents
- Association of British Dispensing Opticians
- Association of Optometrists
- Federation of Ophthalmic and Dispensing Opticians
- Independent Healthcare Advisory Services
- Northern Ireland's Eastern Health and Social Services Board
- Northern Ireland's Southern Health and Social Services Board
- Royal College of Radiologists
- Royal College of Speech and Language Therapists.



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