Council 18 September 2013

Professional Standards Authority for Health and Social Care performance review 2012 – 2013

Executive summary and recommendations

Introduction

In June 2013, the Professional Standards Authority for Health and Social Care (PSA) published its 2012 – 2013 performance review of the regulatory bodies, including its performance assessment of the HCPC. This paper discusses the outcomes of the 2012 – 2013 performance review, providing a summary and discussion of the PSA's assessment of the HCPC's performance and highlighting other areas of interest.

Fitness to practise continues to be a focus for the PSA performance review. In keeping with previous papers considered by Council, the performance review content around fitness to practise is set out in a separate appendix.

Decision

The Council is invited to discuss the attached paper.

Background information

None

Resource implications

None

Financial implications

None

Appendices

Appendix A: The Professional Standards Authority for Health and Social Care performance review 2012 – 2013: Fitness to practise.

Appendix B: The Professional Standards Authority for Health and Social Care performance review report 2012 – 2013

Date of paper

5 September 2013

The Professional Standards Authority for Health and Social Care performance review 2012 – 2013

1. Introduction

1.1 This paper summarises and discusses the Professional Standards Authority for Health and Social Care's (PSA) performance review of HCPC for 2012 – 2013.[1] A full copy of the performance review is appended to this paper.

1.2 The Council has considered papers on each year's performance review in the past.[2] The PSA have recommended this year that each regulator should present the performance review report for the Council to review and discuss.

1.3 This paper provides an overview of PSA's assessment of our performance, identifies issues of common interest across the regulators and sets out areas of on-going work.

1.4 The PSA's findings in relation to HCPC are set out in section 16 of the performance review. References in brackets to paragraph numbers are references to the performance review.

About the performance review process

1.5 The PSA is required by law to assess the performance of each of the regulators and to publish a report of its findings each year. The PSA base the performance review process on a self-assessment carried out by each regulator against the PSA's standards of good regulation.

1.6 The PSA usually sends the self-assessment template to the regulators to complete in September/October of each year and regulators submit a completed template in early December that year. Key departments across the organisation collate the written response to the review, drawing on Council or Committee papers as well as management information to respond. The PSA also contacts a range of professional, patient and public organisations and invites members of the public to give feedback on the regulators.

1.7 The PSA then assesses the material provided by the regulators the public. The PSA will then request further information or clarification of a particular area of a response, before meeting with each regulator to discuss its findings. The HCPC has the opportunity to comment at each stage of the process in addition to commenting on drafts of the performance review before it is finalised.

[1] PSA was previously known as the Council for Healthcare Regulatory Excellence.

[2] For example, Council considered a paper on last year's performance review at its meeting on 18 September 2012, www.hcpc-uk.org/assets/documents/10003C60enc05-CHREperformancereview.pdf

2. Overview of HCPC performance review 2012 – 2013

2.1 The HCPC received a positive performance review report this year. The PSA notes that the HCPC has 'maintained its performance as an effective regulator across each of its regulatory functions'. The PSA comment that this is notable given the amount of work undertaken to prepare for and implement the transfer of the regulation of social workers in England (paragraph 16.1).

2.2 This section provides a brief overview of the PSA's assessment of our performance for 2012 – 2013. It also identifies key pieces of work that are on-going into 2013 – 2014 or provides a commentary on a particular piece of work where helpful to the Council's discussions.

Guidance and standards

2.3 The PSA considers that we continue to meet the standards of good regulation for guidance and standards (paragraph 16.4).

Area of work	HCPC comments
Criteria for approving Approved Mental Health Professional Programmes	These criteria were agreed by the Council at their meeting in July.[3]
Analysis of methods of involving service users in consultations about guidance and standards	These are on-going pieces of work for 2013 – 2014. See section four of this paper for more information.
Review of 'A disabled person's guide to becoming a health professional'	
On-going review of the standards of conduct, performance and ethics	

Education and training

2.4 The PSA considers that we now meet all of the standards of good regulation for education and training (paragraph 16.10).

Area of work	HCPC comments
Pilot of lay visitors on approval panels	These are on-going pieces of work for 2013 – 2014. See section four of this paper for more information.
Multi-variant analysis of CPD audit data and fitness to practise data	
Review of the standards for continuing professional development	

Registration

2.5 PSA considers that we continue to meet the standards of good regulation for registration (paragraph 16.22).

Fitness to practise

2.6 Comments on the fitness to practise sections of the performance review are set out in Appendix A.

[3] Council meeting, 4 July 2013 http://www.hcpc-uk.org/aboutus/committees/archive/index.asp?id=636

The regulators in numbers

2.7 Section eight of the performance review provides some basic numerical data on each regulator's performance. This includes information on the size of the Register, the fees paid and the length of time taken to process applications.

2.8 As the PSA identify (paragraph 8.3) it is difficult to draw comparisons between the regulators based on the data provided. Regulators collect data in different ways and may follow different processes, with different timescales.

2.9 Members of the Executive and Council have previously discussed the issues around comparing this data with the PSA.

3. Good practice amongst regulators

3.1 This section of the paper identifies any areas of good practice amongst other regulators that may be of relevance to work we are undertaking. The areas of good practice are drawn from section seven of the performance review.

Guidance and standards

3.2 The GDC recently engaged with stakeholders before launching a full consultation on their standards (paragraph 7.33). This early engagement enabled the GDC to address issues raised or provide a more detailed explanation of the reasons for change in their consultation document. This approach may be relevant to our work to revise the standards of conduct, performance and ethics.

3.3 The GMC is currently examining how medical schools can support students with mental health concerns and will publish a risk assessment tool for education providers in 2013 on this topic (paragraph 7.39). This work may be relevant to our review of ‘A disabled person’s guide to becoming a health professional’ (see section four of the paper).

3.4 The GMC have commissioned the Social Research Centre to audit its processes for developing guidance (paragraph 7.42). We have obtained a copy of the report so that we can learn from the findings.

Registrations

3.5 Both the GMC and GOC have recently launched mobile-optimised versions of their website (paragraph 7.34). These versions allow registrants to access guidance and online resources whilst on their mobile devices.

3.6 Our website is not currently optimised for mobile devices. However, this is something that we intend to address as part of our work to refresh the website and web platform. The work of the GMC and GOC may be helpful to our work to refresh the website.

.

4. Performance review 2013 - 2014

4.1 A number of areas highlighted in the PSA's performance review report are on-going pieces of work that we are continuing in 2013 – 2014. In addition, the PSA identified several areas of work they would like us to cover in our submission for 2013 – 2014. This section provides a summary of those areas and updates the Council on our progress, where relevant. Any on-going areas of work for the Fitness to Practise Department are addressed in Appendix A.

Area of work	HCPC comments
Review of 'A disabled person's guide to becoming a health professional'	We have commissioned research with Coventry University. The primary aim of the research is to benefit from the experience of disabled students and their views about the content and accessibility of the guidance. However, the research will also involve educators, admissions staff, and staff who work in disability services, supporting disabled students who are training.[4] We currently expect the research report in November 2013. We will then revise the guidance for public consultation and plan to publish the revised guidance in spring 2015.
Stakeholder mapping exercise	This piece of work was identified in the 2012 – 13 work plan, but was put on hold during the transfer of social workers in England to the HCPC Register and then the departure of the Stakeholder Communications Manager who was leading this piece of work. The communications team is now initiating a piece of work that will identify the range of stakeholders it works with, their level of interest or influence, the type of information they require and the most appropriate communication channel for them. Our focus will initially be stakeholders in Northern Ireland, Scotland and Wales as well as employers in the third and not for profit sectors.
On-going review of the standards of conduct, performance and ethics	This work is divided into four key phases: • Phase one - research phase (2012 – 2013) • Phase two - establishing a professional liaison group (2014)

[4] The Education and Training Committee considered a paper updating it on our progress in relation to this work at its meeting on 6 June 2013, www.hcpc-uk.org/assets/documents/10004036enc16-guidancefordisabledpeoplewantingtobecomehealthandcareprofessionals-progressupdate.pdf

	• Phase three - public consultation (2015) • Phase four - publication (2016) We have commissioned two external research projects on the standards and are carrying out a number of internal research activities exploring the standards. The different research strands have involved work with registrants, service users, employers and with fitness to practise panel members.[5]
Service user involvement in education and training programmes	We consulted on our approach in this area between September and December 2012. Council agreed at its meeting in July that the standards of education and training should be amended to require service user and carer involvement in education and training programmes. Now that the standard has been agreed, we will implement the new standard on a phased basis from the 2014-2015 academic year onwards. We have also added a criteria similar to the standard to our criteria for approving Approved Mental Health Professional programmes, which will apply from the 2013-2014 academic year.
Pilot of lay visitors on approvals panels	The Education and Training Committee considered a paper on this topic at its meeting on 6 June 2013.[6] The Committee agreed that the Executive should develop a 'lay visitor role brief', adapting the one currently in existence and that the revised brief would be considered by the Committee at its meeting in September. The Committee also agreed that we should take forward this work and review it at an appropriate date, rather than launch a pilot.
Review of standards for continuing professional development and the audit process	We plan to begin work in this area later in 2013 – 2014. We currently intend to commission research to engage with registrants (including those who have been audited for CPD) and with key stakeholders to understand their experiences and perspectives of our standards and audit process.

[5] The Education and Training Committee considered a paper updating it on our progress in relation to this work at its meeting on 6 June 2013, www.hcpc-uk.org/assets/documents/1000402Aenc04-presentationfrom'TheFocusGroup'-findingsofSCPEresearch.pdf

[6] www.hcpc-uk.org/aboutus/committees/archive/index.asp?id=649

Appendix A

The Professional Standards Authority Performance Review 2012 – 13: Fitness to practise

1. Introduction

1.1 This paper outlines findings of the PSA as set out in the 2012-13 annual performance review in relation to fitness to practice. The PSA report provides a summary of how the nine UK health care regulators are meeting the standards of good regulation in relation to fitness to practise at paragraphs 7.19 – 7.31.

1.2 The paper is structured by looking at, and providing comment on, the conclusions of the PSA about fitness to practise across all the regulators. It takes a thematic look at the good practice and risk identified by the PSA, setting out HCPC's current practice and looking at ways that HCPC is planning to develop its processes. It then sets out how the areas of work that the PSA would like to review in the next performance review for the HCPC.

1.3 References to 'we' are references to the Fitness to Practise Department.

2. Performance Review Themes

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
Accuracy of the Register	Incorrect and out-dated entries have obvious implications for public protection and can cast doubt on the integrity of the Register. The checking exercise undertaken by the PSA did not reveal any errors in the registers of eight of the regulators (including the HCPC). **Reference 7.14**	• A monthly check of all cases where a status change is made, or where new statuses are applied following FTP activity is undertaken by a Quality Compliance Officer. Any issues are flagged and rectified. Any deviations are monitored and investigated. • An additional daily check is undertaken by Hearings Team Management to ensure that any status changes required that day are applied and to the correct registrant. A daily report is then provided to the head of adjudication. • As this is a manual process errors can occur however, the process in place ensures that any errors are identified in a timely manner and reasons for the error investigated.	• We are in the process of appointing a Quality Compliance Manager who will oversee the work of the Quality Compliance Officers, including the audit and feedback from the status audits. • A number of developments are planned in the audit work of the Compliance team which will be taken forward by the new post holder.
Audit	Many regulators use audits to identify areas of weakness that the regulator is then able to target with the aim of improving the quality of decisions. We noted that the GDC's system of audits of the quality of its fitness to practise decisions targets high-risk cases, which we think is an area of good	• We undertake a range of audit work including a random sample of cases that are open pre-ICP, cases that are closed without a panel and cases that are heard at ICP. A number of areas of development in the audit process have been identified and will be taken forward by the Compliance team (see HCPC developments).	• The newly appointed Quality Compliance Manager will be responsible for implementing a number of developments in our audit process, including the use of a more risk based approach and improvements in the

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
	practice. We note that the NMC also audits high risk cases. Other initiatives include the HCPC that has a new team – part of its role is to review cases where interim orders have been applied for, in order to improve consistency within this group of cases. **Reference 7.20**	• The review of interim order cases highlighted by the PSA is a piece of work which forms part of the work plan for 2013-14 and has input from across the department. This is not a specific function of the Assurance and Development team as such, but an element of the work plan which the Department is undertaking.	mechanisms for feedback and learning from audit findings.
Timeliness	Three regulators were not able to demonstrate that they are meeting the 6th Standard of Good Regulation for fitness to practise (*fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides*). **Reference 7.22**	• In 2012 – 13 cases that concluded at final hearing took a median of 14 months to conclude from the date the standard of acceptance was met. This was one month less than in 2011-12. Cases took a median of 5 months to be considered at ICP in 2012 – 13, which is the same as in 2011 – 12. • Each case team manager holds monthly case review meetings with each team member to ensure the cases are progressing. During probation or performance review periods these take place more frequently. Guidance for case team managers was produced in late 2012 to ensure consistency in the conduct of the case review meetings with the expansion of the team. • 14 day and 28 day chaser actions through the	• From August 2013 the case progression conferences will be extended to include cases that are awaiting hearing (as well a pre-ICP cases as is currently the case). This will include contributions from the Hearings team to ensure cases are progressed as quickly as possible. • The progress of cases will continue to be monitored. • A review of the use of discontinuance is currently being undertaken to ensure that only allegations

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
		case management system are used to ensure that cases are reviewed on a regular basis and progressed as necessary. • A range of case management techniques are in place to help to ensure the timeliness of hearings and cases. • Disposal by consent is used in appropriate cases and a review of this process was undertaken in early 2013. This resulted in amendments to the operation guidance for the team and refresher training in the use of consent to ensure it is considered in all suitable cases. • Since January 2012, case progression conferences have been held on a monthly basis to identify ways to progress older or more complex cases. • The monthly management commentary produced by the department summarises current performance and anticipated future activity against the forecast. The format and content of the commentary has recently been reviewed and a revised version of the document has been in use since June 2013. This assists budget and resource planning.	capable of proof are considered at final hearing. The review will also look at what learning can be taken from cases that are discontinued to avoid unnecessary referrals to a final hearing.

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
Increased volumes of cases	Some regulators have experienced an increase in the number of fitness to practise allegations they have received this year compared to 2011 – 12. The failure to predict a significant increase in case numbers can present resourcing challenges for a regulator and, therefore, make it more difficult to maintain a system of regulation that ensures public confidence. Resources may need to be re-allocated and, in any event, cases will need to be progressed appropriately to ensure they are actively managed and to ensure that action is taken promptly where necessary to protect the public. **Reference 7.23 – 7.24**	• The transfer of the regulatory functions from the GSCC to the HCPC has resulted in an increase of FTP cases. In 2011 – 12 we received 925 new cases; in 2012 – 13 we received 1653 new cases (not including the cases transferred from the GSCC). • The forecasting model used by the department allows us to anticipate the activity throughout the process (including cases received, cases considered at ICP and cases referred to a hearing) and throughout the year. This in turn allows resourcing requirements to be forecast. • The structure of the department has been designed to allow some flexibility in the deployment of resources where needed. For example the Case Support team is able to assist with some case management tasks such as chasing cases during busier periods, and the hearings officers are training in scheduling process to assist in this area of work when they are not required in hearings. • The monthly management statistics and commentary allows for areas of deviation from the forecast to be highlighted.	• We are in the process of creating a further Case team to ensure that team sizes remain at a level where adequate support can be provided to Case Managers. This will also assist in the sharing of knowledge and improved management of some of our smaller areas of work such as registration appeals and protection of title. This will be in place by October 2013. • The forecast, statistics and commentary will be kept under review to ensure they remain fit for purpose and provide the information required by the department to manage resources.

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
Raising concerns	The Mid Staffordshire NHS Foundation Trust public inquiry report recommended a statutory duty of candour to apply to healthcare professionals. It encouraged all regulators to consider whether they operate robust and transparent systems enabling anyone to raise a concern about the fitness to practise of registrants. We note that the 1st Standard of Good Regulation for fitness to practise (*anybody can raise a concern, including the regulator, about the fitness to practise of a registrant*) is met by all the regulators. We also note that the GMC has recently introduced a confidential helpline, aimed at enabling doctors to raise serious concerns and to seek advice about patient safety. **Reference 7.28 – 7.29**	• As referenced by the PSA, the HCPC (and the other regulators) already undertakes activities to publicise how individuals can raise concerns; have publicly available information which sets out how to raise a concern about the fitness to practise of a registrant and take steps to actively promote awareness including working with employers to help them understand when to make a referral to the regulator. A number of areas of work to improve this area of our work are planned (see HCPC developments). • There is existing operating guidance for the team which aims to maintain a consistent approach in the handling of cases. This includes guidance on taking complaints over the phone and in person as well as signposting information. • Employer events continue to be held across the UK throughout the year. A presentation about the FTP process is provided and from June 2013 new FTP case studies have been provided as part of the workshop element of the event.	• Two work streams following the recommendations from the Mid Staffordshire inquiry will be undertaken by the Head of FTP Service Improvement (a post covering maternity leave of the Head of Case Management). These work streams will focus on engagement with employers and the support provided to complainants. • The FTP work plan also includes work to improve the experience of those involved in the FTP process. This arose out of the public protection research that was undertaken in 2012 – 13. • The Policy Department will be working with the FTP Department to produce specific employer referral guidance to better aid in the understanding of what and when to refer.

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
			• A review of the fitness to practise brochures, including 'How to raise a concern', will be undertaken later in 2013 – 14 to ensure the information is up to date and gives members of the public the information they need.
Maintaining information security	One regulator has failed to meet this standard. Failures to protect information can cause harm to individuals and can damage public confidence in the regulator. We highlight the need for regulators to have comprehensive information security policies and procedures in place, to ensure that their staff are trained on these policies, and to ensure compliance with the policies is monitored. Failing to have such systems in place may increase the likelihood of an information security incident occurring. The GDC is introducing electronic case bundles for use by its fitness to practise panels which should	• We have had a small number of information security issues due to human error. Whenever an incident occurs, we thoroughly review what lead to the error and review the processes in place to prevent a similar occurrence in future. We have recently introduced a new system of logging, recording and reviewing any data breaches or potential data breaches, to ensure this is done in a systematic way. This is led by the Compliance team. Where necessary, incidents are reported to the PSA and Information Commissioners Office in conjunction with the Secretariat team. • We have operating guidance covering confidentiality and information security which we use to train new staff and refresh existing team members. This is being revised as part of the data security work stream (see HCPC developments section) and refresher training	• A work stream is in progress to review all elements of data security within the FTP department to ensure that the risk of any data breach is minimised as far as possible. This ranges from a review of the way information is sent to those involved in cases to the use of electronic bundles and the recording of data breaches. Some elements of the work have been completed and others form part of a longer term project (some of which are organisational wide).

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
	reduce the risk of data security breaches. We highlight the GDC's initiative to move away from paper-based hearing bundles as potentially representing good practice. **Reference 7.30 – 7.31**	will be provided to the whole team in autumn 2013. • The use of electronic bundles for panels is being considered as part of the data security work stream (see HCPC developments section).	
Supporting witnesses and registrants during the fitness to practise process	The GMC has extended the eligibility for its 'Witness Support Services' programme to all witnesses and complainants irrespective of circumstances and implemented a pilot study to provide access to independent and confidential emotional support to registrants from the initiation of fitness to practise proceedings, in order to limit the negative impact on some registrants. It is also developing a protocol for the sensitive handling of cases involving doctors who are perceived to be at risk of self-harm. The HCPC has: increased the use of preliminary hearings; ensured that it contacts witnesses two weeks in advance of a hearing to identify any issues; ensured that	• All FTP employees have been trained by MIND in handling vulnerable or demanding parties. • The Case Advancement team has been in place since early 2012 and is responsible for handling cases that require greater attention and this can include cases where the individuals involved may need more support. • We have a range of brochures and literature, as well as website video and written information that explain our processes and what to expect at a hearing. These have been in place since 2009. • The mediation pilot, which is going live in September 2013, will look to identify cases that can be diverted from the FTP hearing process to be resolved through this alternative mechanism which may provide greater satisfaction to those involved.	• The FTP work plan includes work in the area of improving the experience of those involved in the FTP process which arose out of the public protection research that was undertaken in 2012-13. This will include what support is or should be offered to all those involved in the process and how we can improve the overall experience of the process. • A review of the brochures and website information will be undertaken in 2013 – 14.

Theme	PSA assessment of the current situation across the regulators	HCPC current practice	HCPC developments
	staff who will be present on the hearing day contact witnesses in advance of the hearing; instructed case presenters to de-brief witnesses who have provided lengthy or disturbing evidence before they leave the HCPC premises and emailed fitness to practise panel decisions to witnesses in order to inform them of the outcome. **Reference 7.40 – 7.41**		

3 PSA review of the HPC

3.1 The PSA comment on the HCPC's performance in relation to fitness to practise from page 80 – 83 of the report. They comment that they would like to review the following areas of work during the next performance review in 2013 – 14:

- The progress with completing the social worker fitness to practise cases transferred from the GSCC.
    - We report regularly on the progress of the cases transferred from the GSCC in the course of the management statistics and commentary.
    - We anticipate having no GSCC transfer cases in the pre-ICP stage by the end of 2013 and only approximately 6 cases awaiting hearing by the end of the financial year 2013 – 14.
    - A report is being produced by the solicitor to the Council looking at the way in which the transfer cases were managed and the rules and legislation that were in place to assess what learning may be taken forward to any future projects.
- The outcomes from the pilot of mediation together with the development of the HCPC's operational approach.
    - The mediation pilot is due to go live in September 2013. We have contacted the PSA to provide them with an overview of the process and will keep them informed of its progress and the evaluation once the pilot has concluded.
- The work the HCPC is carrying out to reduce the numbers of adjudication cases which do not conclude in the allocated time and its consideration of cases that are not well founded.
    - A regular paper is provided to the Fitness to Practise Committee analysing the not well founded decisions and what learning can be taken from those cases.
    - A review of the decision making process at ICP stage is being undertaken which involves the analysis of a number of areas of work such as not well founded decisions, complaints relating to ICP decisions and the audit of cases considered at ICP stage. This analysis will inform any changes that may need to be made to the ICP process to ensure that only appropriate cases are referred to hearing.
    - On-going work is being undertaken by the Adjudication team to ensure cases are scheduled for the correct number of days and conclude in the time allocated including a review of the number days recommended by our solicitors, looking at factors such as the nature of the case, the number of particulars and the registrant's involvement. A further review is undertaken upon receipt of the registrant's pre-hearing pro forma, particularly if the registrant has raised concerns or suggested that they will be seeking representation or their own witnesses.

- Pre-hearing case management has been improved by identifying and resolving preliminary issues prior to the hearing.
- A programme of training has been delivered to Panel Chairs in 2013 focussing on pro-active case management. Panellists have been encouraged to make increased use of preliminary hearings to ensure efficient and robust pre-hearing case management. Preliminary adjudication has been conducted by email, teleconference and at oral hearings over the last 12 months.
- A number of measures have been introduced at hearings to improve efficiency including handing down decisions where appropriate, establishing if allegations are admitted at the outset of hearings and restricting the recital of allegations to those cases where the facts are in dispute.

- The outcome of the Assurance and Development team's review of the HCPC's practice on the application of interim orders and its guidance for staff.
    - This area of work is being undertaken in 2013 – 14 with input across the department.

Professional Standards Authority for Health and Social Care

Annual Report and Accounts and Performance Review Report 2012-13

Volume II

Performance Review Report 2012-13

professional standards authority

Professional Standards Authority for Health and Social Care

Professional Standards Authority for Health and Social Care Annual Report and Accounts and Performance Review Report 2012-13

Volume II: Performance Review Report 2012-13

Until 30 November the Professional Standards Authority for Health and Social Care was known as the Council for Healthcare Regulatory Excellence.

Presented to Parliament pursuant to schedule 7, paragraph 16 (2) of the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012.

Laid before the Scottish Parliament by the Scottish Ministers under the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012.

Laid before the Northern Ireland Assembly in accordance with the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012.

Laid before the National Assembly for Wales in accordance with the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012.

Ordered by the House of Commons to be printed 27 June 2013.

professional standards authority

HC 305-II
SG 2013/93
London: The Stationery Office

£38.50
Volumes not to be sold separately

Any enquiries regarding this publication should be sent to us at **Professional Standards Authority, 157-197 Buckingham Palace Road, London SW1W 9SP.**

This publication is available for download at **www.official-documents.gov.uk**

This publication is also available from our website at **www.professionalstandards.org.uk**

ISBN: 9780102982619

Printed in the UK by the Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2553598 06/13

Printed on paper containing 75% recycled fibre content minimum

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care[1] promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation[2]. We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

1 The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence

2 Professional Standards Authority. 2010. Right-Touch regulation. Available at http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation

Contents

1. Chief Executive's foreword

1.1 No one can be unaware this year of the challenges that professional regulation faces. The Mid Staffordshire NHS Foundation Trust public inquiry report left no doubt as to the extent of regulatory failures among many others. In addition there have been two robust reports by the Health Committee into each of the General Medical Council and the Nursing and Midwifery Council. Our own reports, *A Strategic Review of the Nursing and Midwifery Council* and *An Investigation Into Allegations Made by the Former Chair of the General Dental Council,* also drew attention to different but significant internal governance problems in those bodies in the recent past. Public attention to, and expectation of, regulation in healthcare has rarely been greater.

1.2 It is in this context that we publish the 2012/13 performance review of the nine regulators we oversee.

1.3 Despite those wider concerns I am pleased to report that overall the regulators are performing well against the Standards of Good Regulation and are fulfilling their statutory responsibilities. However, not all regulators meet all the standards and in some cases this has implications for patient protection. We set out our findings in detail in this report.

1.4 Our paper on governance, *Fit and Proper? Governance in the Public Interest*, called for seriousness of purpose to be the hallmark of boards operating in the public interest. The reforms of Councils which the government implemented in 2012 are helping them to achieve this and we certainly see seriousness of purpose in the way that all the regulators are taking the lessons of the Mid Staffordshire inquiry to heart. The inquiry report was the subject of our annual Symposium in February 2013 and the regulators individually, and together, have considered the implications and are implementing those recommendations that are relevant to them.

1.5 We have operated the current performance review process using the Standards of Good Regulation since 2007. Some amendments were made in 2010 to reduce the number of standards and focus more strongly on outcomes. We have agreed with the regulators we oversee that it is time to review them again. We want our approach to continue to accord with our own principles of right-touch regulation; to be risk-based, proportionate and insightful. We will consult on a refreshed process during summer 2013.

Harry Cayton
Chief Executive

2. Executive summary

Introduction

2.1 The purpose of professional regulators is to protect patients, service users and the public, to uphold the standards of their profession and to ensure public confidence in regulation. The Professional Standards Authority oversees the professional regulators and reports annually on their performance. We share with the regulators a commitment to the public interest and effective regulation.

2.2 This report contains both an overview of general findings from our performance review of the regulators we oversee and our individual detailed reports about the performance of each of the regulators against the Standards of Good Regulation. The performance review took place between September 2012 and May 2013 and draws primarily on evidence of performance during the 2012/13 financial year. We have summarised our findings in Chapter 7.

Changes to health and social care regulation during 2012/13

The National Health Service Reform and Health Care Professions Act 2002

2.3 On 1 December 2012 the Council for Healthcare Regulatory Excellence (CHRE) became the Professional Standards Authority for Health and Social Care (the Authority) following the amendment to the NHS Reform and Health Care Professions Act 2002.

2.4 As part of these reforms to our legislation, we acquired new powers which enhanced our ability to promote the public interest and included:

- An amendment of the Authority's role to include oversight of the regulation of social workers in England, as a result of the transfer of the regulation of social workers in England to the Health and Care Professions Council (HCPC) from August 2012 following the abolition of the General Social Care Council (GSCC)
- Responsibility for advising the Privy Council on the quality of the processes the health and care professional regulators (excluding the Pharmaceutical Society of Northern Ireland (PSNI)) use to recommend candidates for appointment as chairs and members of their councils from July 2012 and following the abolition of the Appointments Commission.

The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012

2.5 There have also been changes to the regulatory framework in Northern Ireland. The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 came into force on 1 October 2012. The changes within the legislation addressed some concerns we previously highlighted about the limitations on the PSNI's ability to run an effective fitness to practise process. In particular it changed the legislative framework to enable the PSNI to impose interim orders and impose a full range of sanctions at final fitness to practise panel hearings.

The Mid Staffordshire NHS Foundation Trust public inquiry report

2.6 In February 2013, the final report of the Mid Staffordshire NHS Foundation Trust public inquiry[3] was published. This report examined why the serious problems at the Mid Staffordshire NHS Foundation Trust were not identified and acted on sooner by the commissioning, supervisory and regulatory bodies in place at the time (January 2005 – March 2009). A number of recommendations were made (indirectly and directly) for implementation by the regulators we oversee.

2.7 The inquiry report also recommended that we work with the regulators we oversee to devise procedures for dealing consistently, and in the public interest, with cases arising out of the same event or series of events but involving professionals regulated by more than one body. We are commencing work with the regulators we oversee to consider how to implement this recommendation and we will report on this in next year's performance review.

2.8 We welcome the Government's recognition, in response to the Mid Staffordshire NHS Foundation Trust public inquiry report, that the regulators that we oversee are hampered from performing as effectively as they could in some areas by an outdated legislative framework. We welcome the government's commitment to implementing the Law Commissions' review (of the law relating to the regulation of health professionals in the UK, and social workers in England) and radically overhauling 150 years of complex legislation into a single act.

2.9 In 2013 our annual schedule of audits of the cases closed by the regulators at the initial stages of the fitness to practise process (without referral for a final fitness to practise hearing) will include the General Medical Council (GMC) and the Nursing and Midwifery Council (NMC). In these audits we will consider a sample of the cases that involved registrants employed at Mid Staffordshire NHS Foundation Trust. We will pay particular attention to the outcomes of final fitness to practise panel hearings concerning employees of the Mid Staffordshire NHS Foundation Trust.

How are the regulators performing against the Standards of Good Regulation?

2.10 We have found that the regulators are generally performing well against most of the Standards of Good Regulation and are meeting their statutory responsibilities, however, we have identified that three of the regulators (the General Chiropractic Council (GCC), General Dental Council (GDC) and NMC) do not meet one or more of the Standards of Good Regulation. We have also reported on good practice in some areas by all the regulators.

---

[3] The Mid Staffordshire NHS Foundation Trust Public Inquiry, 2013. Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. London: The Stationery Office. Available at: http://www.midstaffspublicinquiry.com/report

2.11 A failure to meet certain standards (for example a failure to meet the standards relating to timeliness of case progression or the quality of decision making in the fitness to practise function) may have serious implications for public protection. Failure to meet one standard in a particular function, however, may not be significant but instead reflect a regulator's developing practice – this is the case in relation to those regulators who do not currently have a system to ensure registrants' continuing fitness to practise. We judge whether a regulator has met or failed to meet a standard against our evidence framework. The individual reports for each regulator expand further on any concerns we have about the regulator's performance against the Standards of Good Regulation.

2.12 In relation to our general findings about the regulators' performance in the four regulatory functions which the Standards of Good Regulation cover, we have summarised our findings as follows:

Guidance and standards

2.13 The four Standards of Good Regulation for guidance and standards require regulators to ensure that the guidance they have in place prioritises safety and helps registrants to apply the regulators' standards to address current issues and the diverse needs of the public.

2.14 All of the regulators we oversee are meeting the Standards of Good Regulation for guidance and standards. We noted particular examples of good practice in relation to the approaches taken to stakeholder engagement, with regulators identifying a variety of means for gathering information such as identifying the greatest possible range of stakeholders to communicate with and how to best support stakeholders with providing feedback.

Education and training

2.15 There are five Standards of Good Regulation for education and training which require regulators to ensure that their standards for education are linked to their standards for registrants and that there is a proportionate process for the quality assurance of education programmes so the public can be assured that education providers provide students, trainees and professionals with the skills and knowledge to practise safely and effectively. The standards also require regulators to have a system in place to assure themselves of the continuing fitness to practise of registrants.

2.16 The Standards of Good Regulation are being met by all the regulators, with the exception of the NMC and the PSNI which are not meeting the Standard of Good Regulation that requires regulators to have a system of continuing fitness to practise in place. They are not likely to meet this standard before 2016. We note that the NMC's Council is considering plans to implement a scheme to be launched in December 2015 and that the PSNI's Council will consider the implementation of a scheme after it has implemented its new legal requirement for registrants to complete compulsory continuing professional development (CPD). We understand the reasons for delay in both cases.

2.17 The other seven regulators are currently developing schemes of continuing fitness to practise and the GMC has implemented a scheme during 2012/13.

Registration

2.18 There are five Standards of Good Regulation for registration which require regulators to: ensure that only those that meet the regulator's standards are registered; hold accurate information on the register about the current and historical fitness to practise of registrants; make this information publicly available so that employers are aware of the need to check the registration status of registrants; have processes in place to manage the registration process; and prevent individuals practising illegally.

2.19 The Standards of Good Regulation for registration are being met by all the regulators, with the exception of the NMC, which is not meeting two of the five standards.

2.20 We were also pleased to note that all the regulators were able to demonstrate improvements in their registration function during 2012/13 including the NMC.

2.21 While significant improvements remain to be made by the NMC, including enhancing its ability to identify for itself when amendments are needed to its register, we acknowledge the action that the NMC has already taken to address the errors in its register when we identified them, and to address the causes of those errors.

2.22 During 2012/13 the NMC itself identified that improvements were needed to its procedure for validating identity requirements as it had been operating different systems for evaluating the training requirements for applicants from New Zealand, America, Canada and Australia compared with the system for evaluating the training requirements for applicants from other non-European Union countries. It also discovered that improvements were needed to its procedure for validating identity requirements. This is a serious matter but we commend the NMC for the way it is now dealing with it. The NMC is keeping us informed on its progress in dealing with this matter.

Fitness to practise

2.23 There are 10 Standards of Good Regulation for fitness to practise which cover performance throughout the fitness to practise function. We check that regulators manage the function in a way that is transparent, fair, proportionate and focused on public protection. We are pleased to report that four regulators (HCPC, GMC, General Osteopathic Council (GOsC) and General Optical Council (GOC)) are meeting all 10 of the Standards of Good Regulation for fitness to practise and are managing their caseloads effectively and efficiently. The GDC is meeting all but one of the standards for fitness to practise and therefore it needs to continue to seek improvement in the area we highlight. We are not able to confirm whether the GPhC is meeting the 10th Standard of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained)* because we are waiting for a ruling from the Information Commissioner's Office about a data security breach. We are also not able to confirm whether the PSNI is

meeting the 4th Standard of Good Regulation for fitness to practise (*all fitness to practise complaints are reviewed on receipt and serious cases are prioritised)* as only one interim order has been imposed since the legislation came into effect. Please see the individual performance review reports for further details.

2.24 We have identified a continuing concern in relation to the performance of the GCC (which is not meeting two standards for fitness to practise) and the NMC (which is not meeting five standards for fitness to practise) although we recognise that both the GCC and NMC have improved their performance in some aspects of fitness to practise since 2011/12. The GCC and NMC are already taking action to address the relevant areas for improvement and we acknowledge that improvement in their performance resulting from those actions will take some time to become evident. We will report on the progress and impact of the NMC and GCC's remedial activities in next year's performance review.

2.25 We are also pleased to note that during 2012/13 all the regulators have implemented initiatives aimed at improvements to their performance in the fitness to practise function which has supported them to either improve or maintain their performance against the Standards of Good Regulation for fitness to practise.

Conclusions and recommendations

2.26 We continue to be satisfied that most of the regulators are performing well across their regulatory functions.

2.27 We have drawn attention, at the end of each of the sections within each regulator's performance review report, to the areas of that regulator's work which we intend to follow up on in next year's performance review. We have also included within each regulator's performance review report any recommendations about areas of concern. In addition to this we make the following general recommendations:

For the regulators

2.28 We recommend that the regulators should:

- Review this year's performance review report as a whole, taking account of our views, and consider whether they can learn and improve from the practices of the other regulators
- Address any areas of concern that are highlighted in this year's performance review report
- Ensure that their Councils review and discuss the performance review report in a public Council meeting.

For the Authority

2.29 We will continue to review and refine the approach we take to undertaking the performance review process. We will consult on any proposed changes during 2013.

2.30 The Mid Staffordshire NHS Foundation Trust public inquiry report makes recommendations (indirectly and directly) that are relevant to us and to the regulators we oversee and we will monitor the regulators' responses and report on this in next year's performance review.

For the Departments of Health in the UK

2.31 During 2012 we have, at the request of the Department of Health in England, reviewed a number of proposals and suggestions from seven of the regulators we oversee for changes to their primary legislation through Section 60 orders.[4] We were aware that many of the proposals we considered have been discussed by the regulators and the Department of Health for some time. We were asked to consider and prioritise those that are required to protect patients and the public, improve the efficiency and effectiveness of the regulatory body, are consistent with government policy and do not pre-empt or contradict any proposals from the Law Commissions. We identified a number of changes that in our view fulfilled these criteria, including a number that would close potentially serious loopholes in current public protection arrangements. We recommended that the Department of Health in England considers these as candidates for a Section 60 order ahead of any changes that may be anticipated arising from the Law Commissions' review.

2.32 In May 2013 the Department wrote to all the regulators stating that it was 'seeking an early legislative opportunity to bring forward the draft legislation being constructed by the Law Commission' and that consequently it would not proceed at this time with the recommendations we put forward for inclusion in Section 60 orders. We agree that the Law Commissions' legislative proposals are, if they can be implemented quickly, the best opportunity for reform. However, we recommend that this matter is kept under review by the Department and devolved administrations as the gaps in the regulators' powers to protect the public and do so efficiently and effectively remain.

[4] A Section 60 order allows Parliament to make changes to the regulators' legislation without the need for an Act of Parliament. They can take up to two years to be approved.

3. The Professional Standards Authority

3.1 The Authority promotes the health, safety and well-being of patients, service users and other members of the public through our scrutiny and oversight of the nine professional regulators that we oversee. We do this in six main ways:

- We annually review the performance of the regulatory bodies to identify areas where regulators are doing well and where they can improve
- We audit the initial stages of the regulators' fitness to practise procedures. The audit has two aims: to assess whether the regulators' decision-making processes are effective; and to assess whether the decisions they make protect the public
- We examine final decisions made by the regulators' fitness to practise panels about whether health professionals in the UK, and social workers in England, are fit to practise. We may refer decisions to court where we believe they are unduly lenient and do not protect the public
- We conduct research, share learning with the regulators and hold events to explore ways of understanding and managing new regulatory challenges
- We advise the Secretary of State for Health and health ministers in Northern Ireland, Scotland and Wales on matters relating to the regulation of health professionals in the UK and social workers in England
- We keep up to date with European and international policies to improve our policy decisions on the regulation of health professionals in the UK and social workers in England. We inform colleagues in other countries of the outcome of our policy projects that might be relevant to them.

4. The health and care professional regulators

4.1 The nine health and care professional regulators that we oversee are:

- The General Chiropractic Council (GCC)
- The General Dental Council (GDC)
- The General Medical Council (GMC)
- The General Optical Council (GOC)
- The General Osteopathic Council (GOsC)
- The General Pharmaceutical Council (GPhC)
- The Health and Care Professions Council (HCPC)
- The Nursing and Midwifery Council (NMC)
- The Pharmaceutical Society of Northern Ireland (PSNI).

4.2 Details of the professions regulated by each body can be found at Annex 1.

4.3 These regulatory bodies have four main functions. They:

- Set and promote standards that professionals must meet before and after they are admitted to the register
- Maintain a register of those professionals who meet the standards. Only those who are registered are allowed to work as health professionals in the UK or as social workers in England
- Take appropriate action when a registered professional's fitness to practise has been called into question
- Ensure high standards of education for those training to be a health professional in the UK or a social worker in England. In some cases they set standards for those who continue to train and develop as health professionals in the UK or social workers in England.

5. The performance review

5.1 The performance review is our annual check on how effective the regulators have been in protecting the public and promoting confidence in health professionals in the UK, social workers in England and in the regulators themselves. We are required to report our findings to Parliament and to the devolved administrations.

5.2 The performance review has two important outcomes:

- It enables improvements in the work of the regulators, as we identify strengths and areas of concern in their performance and recommend changes
- It informs everyone about how well the regulators are protecting the public and promoting confidence in health professionals in the UK and social workers in England and the system of regulation in their work.

How do we carry out the performance review?

5.3 The regulators are asked to provide evidence of how they meet the Standards of Good Regulation. The standards describe what the public expect the regulators to do, but they do not set out how they should do it. *The Standards of Good Regulation* can be found at Annex 2.

5.4 To help us to judge the regulators' performance, we use the standards to:

- Identify the strengths and areas for improvement in each regulator's performance
- Identify good practice.

5.5 The Standards of Good Regulation are grouped under the four regulatory functions:

- Guidance and standards
- Education and training
- Registration
- Fitness to practise.

The performance review process

5.7 The performance review took place between September 2012 and May 2013. There were seven stages to the performance review:

Stage 1
The regulators provided written evidence of how they met the Standards of Good Regulation.

Stage 2
We examined and tested the regulators' evidence using information we had collated from other sources, including our scrutiny of the regulators' fitness to practise decisions, the complaints that we received from members of the public and others, and the third party feedback we received.

Stage 3
We wrote to the regulators with our requests for additional information or clarification of their evidence.

Stage 4
We held face-to-face meetings with each of the regulators to discuss our outstanding queries, areas of concern and/or areas of good performance.

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 regulator's performance. We shared the report with each regulator and asked for their comments on the factual accuracy of the report.

Stage 7
We considered the comments made by the regulators and finalised each regulator's performance review report. We also produced an overarching report which included our views on emerging themes and issues in health and care professional regulation.

We are grateful for the feedback received from third parties. We found this information very helpful in forming our views about the regulators' performance. A full list of third party organisations that provided feedback can be found at Annex 3.

6. Our approach to regulation

6.1 In 2010 we published *Right-Touch Regulation.*[5] We developed this approach as a result of our experience working with the regulators and in advising government on areas of regulatory policy. Right-touch regulation builds on the principles of good regulation identified by the UK Better Regulation Executive. These are: proportionality, consistency, targeted, transparency and accountability. To these principles we have added a sixth principle of agility. Agility in regulation means looking forward to anticipate change, rather than looking back to prevent the last crisis from happening again.

6.2 Right-touch regulation is the minimum regulatory force required to achieve the desired result. Too little regulation is ineffective, too much is a waste of effort and resources. We have identified the following eight elements to help us, and others who work in regulation, to focus on right-touch regulation in practice:

- Identify the problem before the solution
- Quantify the risks
- Get as close to the problem as possible
- Focus on the outcome
- Use regulation only when necessary
- Keep it simple
- Check for unintended consequences
- Review and respond to change.

6.3 We consider that there are a number of benefits to using right-touch regulation in our work. These include:

- Describing outcomes in terms of the beneficiaries of regulation
- Enabling organisations to react appropriately to issues as they arise
- Enabling collaboration and co-operation across the regulatory and health/social care system
- Enabling regulation to remain relevant to the needs of today's society
- Considering whether the costs of regulation are really worth the benefits.

6.4 We have used right-touch regulation as a framework to guide our consideration of each regulator's performance, and when discussing the current issues and concerns we have identified in health and care professional regulation.

6.5 We expect and want to be challenged if our own approach is not right-touch; that is risk-based, proportionate, outcome focused and agile.

[5] CHRE, 2010. Right-Touch Regulation. London: CHRE. Available at: http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation

7. How are the regulators performing against the Standards of Good Regulation?

7.1 We assess the performance of the regulators we oversee against our Standards of Good Regulation (see Annex 2). These standards are grouped under four headings relating to the regulators' core functions: guidance and standards, education and training, registration and fitness to practise.

7.2 When we identify that a standard is not met it is because we have judged that the regulator has not been able to demonstrate that the standard is met based on the evidence the regulator has presented. A single major failure or several minor failures might indicate that a standard is not met if they reveal an underlying weakness in or absence of policy or process. We set out the evidence that regulators could present to us in the 'evidence framework'.[6] An intention to meet a standard in the future does not mean that a standard is met.

7.3 We set out below an overview of the general performance of all of the regulators in each of these core functions (see para 7.7 – 7.31).

7.4 This year's performance review has identified that the regulators are generally fulfilling their responsibilities with the exception of the NMC which is not yet meeting eight of the 24 Standards of Good Regulation. We have found that all the regulators have focused on public protection, including the NMC, despite the challenges faced by several of them in 2012/13 such as the continuing rise in fitness to practise cases (affecting the GDC and GMC) and the changes in scope (affecting the PSNI and the HCPC). We note that some regulators, including the NMC, have experienced year-on-year increases in referrals for a number of years.

7.5 In each of the individual regulator's performance review reports we have identified where we consider their performance has improved in response to the concerns we identified in the 2011/12 performance review and where we think there are new or continuing areas of concern following this year's performance review.

7.6 We have found that, while most of the regulators are performing well against most of the Standards of Good Regulation, some improvements in performance are needed in relation to certain standards, most of which relate to the regulators' fitness to practise functions. In particular we have identified that:

- Seven regulators (the NMC, GDC, GCC, PSNI, GPhC, GOsC and HCPC) are at different stages of development for establishing robust systems to assure themselves of the continuing fitness to practise of registrants. The PSNI and the NMC do not yet meet the related standard (2nd Standard of Good Regulation for education and training) because they do not have any system in place, either by means of revalidation or continuing

[6] Available at: http://www.professionalstandards.org.uk/docs/scrutiny-quality/120720-evidence-framework-%28updated%29-psa-version.pdf?sfvrsn=0

professional development (CPD), to assure themselves of the fitness to practise of registrants, and these two regulators are not likely to have a system in place before 2016. We acknowledge that the PSNI and NMC have justifiable reasons for the timescales within which they are aiming to achieve this work

- Three regulators (the NMC, GDC and GCC) were not able to demonstrate that fitness to practise cases were being dealt with as quickly as possible (taking into account the complexity and type of case and conduct on both sides), and therefore have not met the 6th Standard of Good Regulation for fitness to practise
- Two regulators (the NMC and the GCC) were not able to demonstrate that parties were consistently being kept up to date on the progress of their cases and supported to participate effectively in the fitness to practise process. These two regulators have therefore not met the 7th Standard of Good Regulation for fitness to practise
- One regulator (the NMC) was not able to demonstrate that information about fitness to practise cases was being securely retained and its confidentiality protected, and therefore has not met the 10th Standard of Good Regulation for fitness to practise. We were not able to identify whether the GPhC has met this standard as we are waiting for a ruling from the Information Commissioner's Office about a data security breach.

Guidance and standards

7.7 There are four Standards of Good Regulation for guidance and standards (see Annex 2). We are pleased to report that all of the regulators are meeting all of the Standards of Good Regulation in this area. These standards require the regulators to ensure that the guidance documents they have in place prioritise safety and help registrants to apply the regulators' standards to address the current issues and the diverse needs of the public. We check that guidance and standards are publicly available and that regulators take account of the views of stakeholders when developing new guidance.

7.8 We were pleased to note that, after the GOsC published new standards in September 2011, it tested awareness of the standards among registrants in April 2012 and continued with awareness raising activities until September 2012 when the standards came into effect. We were pleased to see that three regulators (the GMC, PSNI and GCC) are setting guidance in new areas where there is relatively little existing guidance and that the guidance reflects issues currently affecting their registrants.

Education and training

7.9 There are five Standards of Good Regulation for education and training (see Annex 2). These standards require the regulators to ensure that their standards for education are linked to their standards for registrants and that there is a proportionate process for the quality assurance of education programmes so that the public can be assured that education providers provide students, trainees and professionals with the skills and knowledge to

practise safely and effectively. We also require regulators to have a system in place to assure themselves of the continuing fitness to practise of registrants.

7.10 We note that the regulators are at different stages of the implementation of a scheme to provide assurance about the continuing fitness to practise of their registrants. We have published guidance about the role that professional regulation plays in supporting registrants to demonstrate that they are fit to practise throughout their practising lives in our paper, *An Approach to Assuring Continuing Fitness to Practise based on Right-Touch Regulation Principles.*[7]

7.11 The GMC's revalidation scheme launched, for all doctors with a licence to practise, on 3 December 2012. Over the following three years the GMC aims to have the first revalidation recommendation submitted to the GMC by the responsible officer for the majority of doctors. We note that a number of the other regulators have expressed an interest in the GMC's scheme and it may serve as a model for them. In the GMC's performance review report we have summarised the actions which the GMC took to prepare for the launch, which we hope will be helpful to regulators wishing to adapt the GMC's scheme. The GOC launched its continuing fitness to practise scheme (Continuing Education and Training) on 1 January 2013. We have identified the use of peer review within the GOC's scheme as an example of good practice which other regulators may find useful to consider in developing their own systems of continuing fitness to practise. Our view is that peer review can be a particularly useful component of a continuing fitness to practise scheme for registrants who are self-employed and/or work alone or with a small number of colleagues and who therefore may be at risk of becoming isolated from the rest of their profession.

7.12 We were pleased to note that the GDC has established an expert advisory group of individuals with relevant experience to provide advice about how its new outcome-focused *Standards for Education* could best be incorporated into the quality assurance of education programmes.

Registration

7.13 There are five Standards of Good Regulation for registration (see Annex 2). We think it is important for public protection and for maintaining confidence in the system of regulation that regulators hold accurate information on the register about the current and historical fitness to practise of registrants and make this information publicly available. It is important that employers are aware of the need to check the registration status of registrants and that the regulators have processes in place to manage the registration process and prevent individuals practising illegally.

7.14 As part of our performance review process we check the accuracy of a sample of the entries on each of the regulator's registers – incorrect and outdated entries have obvious implications for public protection and can cast

[7] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

doubt on the integrity of the register. We are pleased to report that this checking exercise did not reveal any errors in the registers of eight of the regulators.

7.15 Our check did reveal errors on the NMC's register. The NMC is taking action to rectify those errors and the errors we found in last year's performance review. During this year's performance review we also identified a number of areas in which the NMC needs to improve its registration process and we set out a number of recommendations for the NMC in its individual report.

7.16 During 2012/13 the NMC itself identified that improvements were needed to its procedure for validating identity requirements as it had been operating different systems for evaluating the training requirements for applicants from New Zealand, America, Canada and Australia compared with the system for evaluating the training requirements for applicants from other non-European Union countries. It also discovered that improvements were needed to its procedure for validating identity requirements. The NMC stopped processing these types of applications in February 2013 and conducted a review of policy and processes in relation to overseas applications for registration to address deficiencies and stabilise the current process. It has also consulted with the Equality and Human Rights Commission in the redevelopment of its approach and resumed processing applications in April 2013. This is a serious matter but we commend the NMC for the way it is dealing with it. We are currently working with the NMC to follow up on this matter.

7.17 We note that the HCPC worked with its key social care stakeholders during 2012 in order to ensure an effective transfer of regulation of social workers in England from the General Social Care Council (GSCC) to the HCPC – this represented the largest external register transfer that the HCPC has conducted. We are pleased that the HCPC considers the exercise to be a success, as do we.

7.18 We noted that a number of regulators have taken steps to improve their processes for curtailing illegal practice such as an individual using a protected title or carrying out a protected act.

Fitness to practise

7.19 There are 10 Standards of Good Regulation for fitness to practise (see Annex 2). These standards cover performance throughout the fitness to practise function. We check that regulators manage the function in a way that is transparent, fair, proportionate and focused on public protection.

7.20 Meeting and maintaining performance against the 10 Standards of Good Regulation for fitness to practise requires regulators to have effective internal monitoring systems to facilitate continuous improvement as well as internal systems to monitor compliance with procedures. Many regulators use audits to identify areas of weakness that the regulator is then able to target with the aim of improving the quality of decisions. We noted that the GDC's system of audits of the quality of its fitness to practise decisions targets high-risk cases, which we think is an area of good practice. We note that the NMC also audits high risk cases. Other initiatives include the HCPC that has a new team –

part of its role is to review cases where interim orders have been applied for, in order to improve consistency within this group of cases.

7.21 We highlight the three following areas related to the regulators' performance of their fitness to practise function during 2012/13:

(i) Timeliness and increased volumes of cases

7.22 In this year's performance review, three regulators (the NMC, GDC and GCC) were not able to demonstrate that they are meeting the 6th Standard of Good Regulation for fitness to practise (*fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides).* However, we note that all three demonstrated some improvements in the timescales for case handling compared with 2011/12. We acknowledge that improvement in the timeliness of case progression will take some time to become evident. We will report on progress in next year's performance review.

7.23 Some regulators have experienced an increase in the number of fitness to practise allegations they have received this year compared to 2011/12. These increases appear to have been caused by a number of factors: legislative changes have increased the scope of cases that can be considered by the PSNI and HCPC and the GDC and GMC have noted a year-on-year increase in the numbers of complaints and referrals. We note that some regulators, including the NMC, have experienced year-on-year increases in referrals for a number of years.

7.24 The failure to predict a significant increase in case numbers can present resourcing challenges for a regulator and, therefore, make it more difficult to maintain a system of regulation that ensures public confidence. Resources may need to be re-allocated and, in any event, cases will need to be progressed appropriately to ensure they are actively managed and to ensure that action is taken promptly where necessary to protect the public.

7.25 Some regulators are working to identify and understand the reasons for delays in different parts of their fitness to practise processes and some are trialling different initiatives aimed at making the process quicker and less costly. We welcome this work and will share any good practice that we identify.

7.26 Over the last year we have, at the request of the Department of Health, reviewed a number of proposals and suggestions from seven of the regulators we oversee for changes to their primary legislation through Section 60 orders. We were aware that many of the proposals we considered have been discussed by the regulators and the Department of Health for some time. We were asked to consider and prioritise those that are required to protect patients and the public, improve the efficiency and effectiveness of the regulatory body, are consistent with government policy and do not pre-empt or contradict any proposals from the Law Commissions. We identified a number of changes that in our view would improve the timeliness of fitness to practise processes.

7.27 In May 2013 the Department wrote to all the regulators stating that it was 'seeking an early legislative opportunity to bring forward the draft legislation being constructed by the Law Commission' and that consequently it would not proceed at this time with the recommendations we put forward for inclusion in Section 60 orders.

(ii) Raising concerns

7.28 The Mid Staffordshire NHS Foundation Trust public inquiry report recommended a statutory duty of candour to apply to healthcare professionals. It encouraged all regulators to consider whether they operate robust and transparent systems enabling anyone to raise a concern about the fitness to practise of registrants. We note that the 1st Standard of Good Regulation for fitness to practise (*anybody can raise a concern, including the regulator, about the fitness to practise of a registrant)* is met by all the regulators and all regulators: undertake activities to publicise how individuals can raise concerns; have publicly available information which sets out how to raise a concern about the fitness to practise of a registrant and take steps to actively promote awareness including working with employers to help them understand when to make a referral to the regulator.

7.29 We note that during 2012/13 the PSNI conducted a survey of employers and the public to gauge attitudes about when and how registrants should raise concerns about other health professionals. The survey showed that 38% of respondents did not feel that any action should be taken against a health professional who failed to report a concern about a fellow health professional. This is a worryingly high figure and our concern is shared by the PSNI. We will comment in next year's performance review on any action the PSNI takes during 2012/13 in response to that survey. We also note that the GMC has recently introduced a confidential helpline, aimed at enabling doctors to raise serious concerns and to seek advice about patient safety. We will follow up on the impact of that confidential helpline in next year's performance review.

(iii) Maintaining information security

7.30 We have found that the NMC has not met the 10th Standard of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained).* We have also been unable to identify whether the GPhC has met this standard as we are waiting for a ruling from the Information Commissioner's Office. Failures to protect information can cause harm to individuals and can damage public confidence in the regulator. We highlight the need for regulators to have comprehensive information security policies and procedures in place, to ensure that their staff are trained on these policies, and to ensure compliance with the policies is monitored. Failing to have such systems in place may increase the likelihood of an information security incident occurring.

7.31 We note that the GDC is introducing electronic (rather than paper) case bundles for use by its fitness to practise panels (including its Investigating Committee) which should reduce the risk of data security breaches. We will follow up on the effect of this in next year's performance review. In the meantime we highlight the GDC's initiative to move away from paper-based hearing bundles as potentially representing good practice.

Good practice examples

7.32 We have identified examples of good practice, where relevant, within the reports for the individual regulators. In this section we highlight examples of good practice that we consider other regulators might find helpful.

Stakeholder engagement

7.33 We have identified examples of good practice in terms of active stakeholder engagement activities in relation to policy development within the regulators' guidance and standards functions:

- The GMC has expanded its techniques for gathering evidence and opinions and has tailored some of these methods to address particular groups, such as young people or people with learning disabilities, that research showed may be disadvantaged when receiving medical services. This led to a large number of diverse responses being received
- The GDC engaged with stakeholders prior to a full consultation on the revised *Standards for Dental Professionals* and *Standards of Conduct, Performance and Ethics*, which enabled the GDC to listen to concerns about proposed changes and either address them or provide a better explanation about the reasons behind the potential changes being consulted upon.

Maximising the use of online resources for registrants

7.34 The GMC and GOC launched mobile-optimised websites in March 2012 and October 2012 respectively, providing registrants with instant access to guidance and online resources from their mobile devices. In addition, in April 2012, the GMC launched a new online resource offering practical learning tools and advice on the key issues doctors need to consider when treating a patient who has a learning disability. This was launched in response to the GMC noting that there was a growing trend of registrants using mobile devices to access web content and thousands of registrants are noted to have used the mobile site to access both the guidance and the new mobile version of the online learning resource for doctors.

7.35 We note that several regulators are exploring the potential for engagement with registrants through social media.

Induction of those who trained overseas

7.36 The GMC launched a pilot study aimed at ensuring doctors who received training and education overseas are properly inducted into UK medical practice, with a particular focus on ensuring familiarity with the UK health system and an understanding of professional and ethical obligations. We consider that there might be aspects of this pilot study which could be usefully adopted and adapted by other individual regulators.

Examining the challenges for students with vulnerabilities

7.37 One of the ways that the regulators can evidence that they have met the 1st Standard of Good Regulation for education and training ('…*the process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders…')* is to provide guidance to education and training establishments to help ensure disabled students do not face unnecessary barriers to successful careers in health.

7.38 We found that the GMC displayed good practice by establishing the Health and Disability in Medical Education and Training Group in early 2012 to examine the challenges faced by disabled students and doctors in medical education and training and to determine the implications for regulation. The group recommended: that there should be no special categories of registration for disabled students; a review of practical procedure requirements for training programmes and the inclusion of 'named experts' in schools and deaneries to be responsible for ensuring that disabled students have access to support and services.

7.39 We also note that the GMC has commenced work to examine how medical schools can support students with mental health concerns and that in 2013 the GMC will be publishing a risk assessment tool for medical schools to help identify problems in support systems for students with mental health concerns. We consider that there might be aspects of this work that could be usefully adopted and adapted by other regulators.

Supporting witnesses and registrants during the fitness to practise process

7.40 We highlighted in the 2011/12 performance review examples of regulators' activities in the provision of support to witnesses at fitness to practise panel hearings. During 2012/13 this work has been continued by some regulators. The GMC has extended the eligibility for its 'Witness Support Services' programme to all witnesses and complainants irrespective of circumstances (except expert witnesses) and implemented a pilot study to provide access to independent and confidential emotional support to registrants from the initiation of fitness to practise proceedings, in order to limit the negative impact on some registrants from being involved in proceedings. It is also developing a protocol for the sensitive handling of cases involving doctors who are perceived to be at risk of self-harm once fitness to practise cases against them are initiated.

7.41 The HCPC has: increased the use of preliminary meetings to resolve issues in advance of substantive hearings; ensured that it contacts witnesses two weeks in advance of a hearing to identify any issues; ensured that staff who will be present on the hearing day contact witnesses in advance of the hearing to provide continuity of support for witnesses; instructed case presenters to de-brief witnesses who have provided lengthy or disturbing evidence before they leave the HCPC premises, even if this involves a short adjournment to of the hearing, and emailed fitness to practise panel decisions to witnesses in order to inform them of the outcome.

Implementing right-touch regulation

7.42 We note the following examples where a regulator has demonstrated its focus on the principles of right-touch regulation in developing a new approach in one of its function areas:

- *Risk-based approach*: The GMC commissioned the Social Research Centre (SRC) to independently audit its processes for developing guidance. In partnership with the SRC, risk profiles for the types of data gathered were used to inform the GMC's guidance, with the aim of facilitating the identification of key points as well as the assessment of how evidence and views should be represented. The GMC's view is that this risk profiling exercise helped to ensure that data was taken into account and that themes were identified and addressed in the guidance
- *Agility:* The HCPC issued a joint communication with the GSCC to education providers to request pass lists for social work graduates. The HCPC's view is that this action enabled it to begin processing applications made by social work graduates as soon as possible on the transfer of regulatory responsibility from the GSCC as well as enabling education providers to be prepared for the new registration process. We consider that this approach is an example of good practice – the HCPC looked forward to anticipate the change
- *Outcomes-focused:* The GPhC and GDC both produced outcome-focused standards which aim to ensure that those who are required to meet regulatory requirements focus on achieving the desired outcomes rather than simply focusing on putting a process in place. This is in line with our right-touch regulatory approach, which prioritises outcome over process.

8. The regulators in numbers

8.1 In this section, we provide some basic numerical data on the regulators' performance. The regulators themselves have provided this information and it has not been audited by us.

8.2 The data provides some context about the size of the regulators, in terms of the number of professions and professionals that they regulate and the size of their workloads.

8.3 When reading this data for each of the regulators, care should be taken to ensure that misleading comparisons are not made. There are differences in the size of the regulators both in terms of staff numbers and registrants, they all work to differing legislation, rules and processes, they have a varying caseload in terms of registration applications and fitness to practise referrals, and are dependent to a greater or lesser extent on information from third parties, which can impact on the timeliness of their work. Furthermore the time period to which some of the data relates is not directly comparable, as it is only for part of the financial year 2012/13.

Data relates to the financial year 2012/13 unless otherwise stated in the notes.	GCC	GDC	GMC	GOC	GOsC	GPhC	HCPC	NMC	PSNI
REGISTRATION ACTIVITY									
Number of registrants	2,846	101,901	252,431	23,858 2,107 bodies corporate (6)	4,681 (8)	69,231 14,186 premises	310,942	675,148	2,111
Number of new initial registration applications received	158	11,863	12,072	2,098 663 bodies corporate	194	4,091 464 premises	19,424	20,904	1
Number of registration appeals received and concluded and the outcomes of the appeals	0	16 received 12 concluded (1 upheld, 3 rejected, 8 withdrawn)	45 received 58 concluded (1 upheld, 38 rejected, 18 withdrawn, 1 remitted for new decision)	6 received 5 concluded (1 upheld, 4 rejected)	1 received 0 concluded	4 received 3 concluded (3 rejected)	68 received 43 concluded (20 upheld, 17 rejected, 2 remitted to E&T Committee (15), 4 withdrawn)	37 received 28 concluded (7 upheld, 17 rejected, 3 withdrawn, 1 remitted to registrar)	0
Median time taken to process initial registration applications for:									
• **UK graduates**	1 day	11 days	1 day	2 days	2 days	Pharmacists - 9 days Pharmacy technicians - 3 days (13)	6 days	0.6 days (20)	1 day
• **International non-EU graduates**	1 day	11 days	22 days	1 day	54 days	Pharmacists – 9 days (13)	59 days	1.1 days (20)	No applications
• **EU applicants**	1 day	12 days	27 days	2 days	57 days	Unable to provide in this form (12)	40 days	1.6 days (20)	No applications
Annual retention fee	£800 practising £100 non-practising	Dentists - £576 Dental care practitioners - £120	£390 with licence to practise £140 without licence	£260 £20 students	Yr 1 - £340 Yr 2 - £455 After - £610 (9)	Pharmacists - £240 Pharmacy technicians - £108 Premises - £221	£76	£100	£372
EDUCATION ACTIVITY									
Number of educational institutions the regulator is responsible for quality assuring	3	46	55 (3)	16	11	57	150	79	2
FITNESS TO PRACTISE ACTIVITY									
No of cases considered by an investigating committee	197	530	2,183	225 (7A)	28	151	663 (16)	3,540	37
No of cases concluded by an investigating committee	182	291	1,973	223 (7A)	28	100	643 (16)	1,270	24
No of cases considered by a final fitness to practise committee	12	199	209	28 (7B)	9	93	293 (17)	1,535	1
No of cases concluded by a final fitness to practise committee	11	161	209	28 (7B)	9	61	250 (18)	1,280	1

	GCC	GDC	GMC	GOC	GOsC	GPhC	HCPC	NMC	PSNI
FITNESS TO PRACTISE ACTIVITY continued									
The median time taken from receipt of initial complaint to the final investigating committee decision:									
• **Median time taken to conclude**	60 weeks	33 weeks	27 weeks (4)	26 weeks	18 weeks	52 weeks	24 weeks	49 weeks	12 weeks
• **Longest case to conclude**	260 weeks	257 weeks	389 weeks (4)	122 weeks	39 weeks	280 weeks	178 weeks	220 weeks	133 weeks
• **Shortest case to conclude**	3 weeks	11 weeks	1 week (4)	3 weeks	6 weeks	13 weeks	5 weeks	9 weeks	12 weeks
The median time taken from receipt of initial complaint to final fitness to practise hearing determination:									
• **Median time taken to conclude**	68 weeks	80 weeks	88 weeks	99 weeks	45 weeks	113 weeks	61 weeks	109 weeks	65 weeks (22)
• **Longest case to conclude**	101 weeks	432 weeks (1)	316 weeks (4)	184 weeks	154 weeks (10)	379 weeks	258 weeks	361 weeks	65 weeks (22)
• **Shortest case to conclude**	44 weeks	33 weeks	22 weeks (4)	44 weeks	37 weeks	15 weeks	25 weeks	27 weeks	65 weeks (22)
The median time taken from final investigating committee decision to final fitness to practise hearing decision	35 weeks	52 weeks	38 weeks (4)	66 weeks	28 weeks	33 weeks	34 weeks	35 weeks	12 weeks
The median time taken from initial receipt of complaint to interim order decision and receipt of information indicating the need for an interim order and an interim order decision:									
• **Receipt of complaint**	17 weeks	23 weeks (2)	7 weeks (4)	12 weeks	6 weeks	21 weeks	8 weeks	4 weeks	4 weeks
• **Receipt of information**	11 weeks	5 weeks (2)	2 weeks (4)	4 weeks	6 weeks	Not collected (14)	2 weeks	Not collected (21)	3 weeks
Number of open cases that are older than:									
• **52 weeks**	36	124	853	19	3 (11)	119	103 (19)	1,251	5
• **104 weeks**	12	31	239	6	1 (11)	28	21 (19)	370	1
• **156 weeks**	4	16	90	5	0	7	2 (19)	148	1
Number of registrant/Authority appeals against final fitness to practise decisions:									
• **Registrant appeals**	0	8 received	39 received (5)	2 received	0 (12)	5 received	3 received	15 received	0
• **Authority appeals**	0	0	1 received	0	0	0	1 received	1 received	0

Notes

GDC

(1) The GDC has explained that this case proceeded under the previous legislation which allowed a decision on impairment to be deferred to enable the registrant to undertake steps to be able to demonstrate fitness to practise

(2) The GDC has explained that under its new IT system, introduced in April 2012, the GDC is unable to distinguish between the two available methods of initiating an interim order hearing (registrar referrals and Investigating Committee referrals)

GMC

(3) 33 medical schools and 22 deaneries

(4) These figures have been rounded to the nearest whole week

(5) The period in which the appeals were received is 1 January 2012 to 22 April 2013

GOC

(6) The number of registrants is recorded as at 4 April 2013, representing the register following the end of the 2013/14 annual renewal period (and consequently reflect the removals from the register following the end of that period)

(7) The GOC has changed the way it defines:

- 7A - number of cases 'considered' by Investigation Committee – this now excludes multiple considerations by the Investigation Committee of individual cases (they now count the first appearance only), and now includes each individual registrant whose case is considered (they previously counted as a single case one where a single referral featured multiple registrants)

- 7B - 'final fitness to practise committee' – this now excludes reviews of suspension/conditions imposed at final hearings

GOsC

(8) The number of registrants is recorded as at 4 April 2013

(9) For overseas and non-practising osteopaths the figures are 2nd year £230, subsequent years £340

(10) The GOsC has explained to us that this was a health case suspended for 43 weeks in accordance with legislation

(11) The GOsC has defined 'open cases' as ones that have been screened in for investigation but where a final determination has not been made

(12) One appeal which was reported in the 2011/12 performance review report was heard and upheld this year

GPhC

(13) The data is for the period 1 July 2012 to 31 March 2013, for eligible and complete applications. The GPhC has informed us that for applications from EU pharmacist applicants which were complete the general processing times are:

- European automatic applications – 10 days
- European applications via the comparative assessment route – four months

(14) The GPhC has told us that it does not collect this data

(15) Education and Training Committee

HCPC

(16) Includes 120 social worker cases transferred from the General Social Care Council (GSCC) on 1 August 2012

(17) Includes 27 social worker cases transferred from the GSCC

(18) Includes 22 social worker cases transferred from the GSCC

The HCPC has provided data for social worker cases transferred from the GSCC on 1 August 2012 as follows:

- 120 cases considered by an investigating committee
- 120 cases concluded by an investigating committee
- 27 cases considered by a final fitness to practise committee
- 22 cases concluded by a final fitness to practise committee

Receipt of initial complaint to final investigating committee:
- 7 weeks Median time to conclude
- 22 weeks Longest
- 7 weeks Shortest

Receipt of initial complaint to final fitness to practise hearing
- 34 weeks Median time to conclude
- 36 weeks Longest
- 20 weeks Shortest

18 weeks median time taken from final investigating committee decision to final fitness to practise hearing decision

6 weeks median time taken from initial receipt of complaint to interim order decision

4 weeks median time taken from receipt of information indicating the need for an interim order and an interim order decision

(19) HCPC has defined 'open cases' as those which are still under investigation and which have not yet been listed for a hearing

NMC

(20) This data is for average processing times rather than median. As the measure only relates to the time taken once all relevant information is received, the recent pause on processing overseas applications is not reflected in this data

(21) The NMC has told us that it does not collect this information as it measures from the receipt of a referral (complaint)

PSNI

(22) One case has progressed from an initial complaint to final hearing determination during this reporting period

9. The individual regulators' performance review reports

9.1 Our individual performance review reports for the regulators set out:

- Whether the regulators have met or not met the 24 Standards of Good Regulation which cover the four regulatory functions
- How the regulators have demonstrated that they have met or not met the 24 Standards of Good Regulation and the reasons for our view
- The areas for improvement we have identified
- The areas we will follow up on in next year's performance review.

10. The General Chiropractic Council (GCC)

Overall assessment

10.1 The GCC has met the majority of the Standards of Good Regulation during 2012/13 but it is not meeting two of the Standards of Good Regulation for fitness to practise.

10.2 In the 2011/12 performance review we noted that three Standards of Good Regulation were not being met and a further three were being inconsistently met. The GCC has taken steps to address some of our concerns and, as a result, the GCC has improved its performance in some areas. We note that during 2012/13 the GCC completed a review of its regulatory model in order to determine whether it was proportionate and delivered efficiency in terms of speed and cost. This review (which was commenced during 2011/12) led the GCC to conduct a further review of its internal ways of working to ensure compliance with its legislation. This led to improvements in processes and training which has contributed to the GCC improving its performance.

10.3 We do however find that two standards are not met for fitness to practise and this is of some concern. We provide more detail about this in the fitness to practise section. We will expect to see improvements in next year's performance review.

Guidance and standards

10.4 The GCC is meeting all of the Standards of Good Regulation for guidance and standards.

10.5 We note that in 2012/13 the GCC introduced two new guidance documents: *Student Fitness to Practise* and *Principles of Students Acting as Models for Other Students of the Same or Different Sexes*, both published in May 2012. We look at this guidance in more detail in the education and training section of this report.

10.6 In the 2011/12 performance review we reported that the GCC was in the process of developing procedures for chiropractors in relation to the Ionising Radiation (Medical Exposure) Regulations 2000 following a concern raised by the Health Protection Agency and the Care Quality Commission about the quality of radiographic imaging in chiropractic practices. Since the 2011/12 performance review, the GCC has decided that because the number of chiropractors with their own radiography equipment is small, a more proportionate response is to refer registrants to the existing guidance and to develop improved guidelines for referral of patients for x-rays. The Health Protection Agency is now taking forward the development of procedures relating to these regulations.

10.7 In the 2011/12 performance review we noted that the GCC was in the process of reviewing its supplementary guidance on the advertising of chiropractic services. During 2012/13, following consultation with the professional associations, the GCC withdrew its supplementary guidance altogether and it now refers chiropractors to the existing *Code of Practice* and *Standard of Proficiency*. We note that we were told by the GCC that in

2011/12 it had identified a number of websites that were not compliant with its advertising guidance and we recommend that the GCC considers whether this would be best addressed by simply referring chiropractors to the existing *Code of Practice* and *Standard of Proficiency*.

10.8 We think it is confusing for registrants, and does not maintain confidence in the GCC as a regulator, for the GCC to say it will introduce new guidance and subsequently decide not to. We recommend that the GCC's Council considers more carefully whether guidance is needed before this is communicated externally.

10.9 In next year's performance review we will follow up on:

- The review of the Code of Practice and Standard of Proficiency which is scheduled for 2013/14 (with publication scheduled to take place prior to June 2014)
- The review of the Degree Recognition Criteria scheduled for 2014 (with publication in 2015). The Degree Recognition Criteria document sets out the programme outcomes that students need to achieve at the point of graduation to ensure that they are fit to practise as a chiropractor, as well as the criteria that chiropractic programmes and programme providers must meet if their programmes are to be recognised by the GCC.

Education and training

10.10 The GCC has continued to meet the Standards of Good Regulation for education and training. During 2012/13 the GCC has undertaken various pieces of work in the two areas set out below.

(i) Continuing fitness to practise and continuing professional development (CPD)

10.11 During 2012/13 the GCC carried out: a review of the CPD learning cycles undertaken by registrants; a review of the responses to an online questionnaire it used in order to gain registrants' views about the current CPD scheme; and an analysis of other regulators' CPD schemes. The GCC has used these pieces of work to develop updated guidance for registrants on the current CPD scheme. That guidance was sent to all registrants in September 2012.

10.12 In 2012/13 the GCC completed a consultation on its proposed approach for the introduction of a scheme to provide assurance about the continuing fitness to practise of its registrants based on a five-yearly self-assessment by chiropractors, combined with audits of compliance by independent (lay and chiropractic) trained assessors appointed by the GCC. If the assessors consider that a registrant has submitted insufficient evidence of their continuing fitness to practise, they will be asked to identify additional evidence. The GCC anticipates that a relatively small number of registrants who provide insufficient evidence will be asked to complete a test. The GCC also proposes to allow some registrants to be registered as 'revalidated with conditions'.

10.13 The GCC said that its final proposal for a scheme of continuing fitness to practise will take into account the responses to the GCC's consultation. We note the GCC's commitment to taking into account our own paper on continuing fitness to practise[8] in the development of its approach. We will follow up on the progress of this work in next year's performance review.

(ii) New guidance

10.14 In May 2012 the GCC issued guidance for both education providers and students entitled *Student Fitness to Practise*. This was developed following a review of the outcomes of the annual monitoring of education providers which suggested there might be inconsistency in approaching student fitness to practise issues across education providers. In developing the guidance the GCC took note of academic research which suggested that certain behaviours as a student might be indicators of future fitness to practise issues as a practitioner. The GCC sought agreement from education providers to provide copies of the guidance to students and also set this out as an expectation in separate guidance issued to education providers. The guidance requires education providers and students to inform the GCC about student fitness to practise cases that are dealt with by the providers' formal disciplinary mechanisms, so that the GCC can monitor trends.

10.15 In June 2012 the GCC published *Students Acting as Models for Other Students of the Same and Different Sexes.* This guidance aims to provide clarity about the practice of students treating each other as part of their training to treat patients of either gender (including ensuring that students are aware of their rights to refuse to be treated by another student). It was developed following an issue being raised by one of the education providers and takes account of safety issues as well as cultural and religious differences. We find the GCC's work in this area to be good practice.

Registration

10.16 The GCC now meets all of the Standards of Good Regulation for registration.

10.17 Examples from this reporting year of how the GCC is demonstrating that it is meeting these standards include:

- Amending its registration process so that the 'application for retention' form now requires registrants to sign to say that they have read the *Code of Practice* and *Standard of Proficiency*. The GCC said that all registrants have now provided signed statements – which represent a significant improvement on the position in 2011/12, at which time 40% of registrants had not returned a signed statement to say they had read the *Code of Practice*

[8] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

- Developing a new code of practice which formalises the exercise of the registrar's powers relating to registration decisions and sets out the process for dealing with any applicants that have been using the title of 'chiropractor' while not being registered with the GCC.

Dealing with misuse of title and unregistered practice

10.18 In the 2011/12 performance review we reported concerns that while the GCC was sending 'cease and desist' letters to individuals practising chiropractic without being registered with the GCC, it did not have a recorded or formalised process for sending these letters, or for conducting follow-up. We found that the 5th Standard of Good Regulation for registration (*risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk based manner)* was not met.

10.19 In response to our concerns the GCC has carried out the following activities during 2012/13:

- Introduced an automated system which ensures that a case officer follows up on cease and desist letters – if an undertaking to comply is not provided by the individual, then the GCC will commence a criminal prosecution. If the individual does undertake to comply, the automated system ensures that a case officer checks their continued compliance after six months
- Clarified its policy in relation to individuals applying for re-registration who admit to having practised chiropractic in the past while unregistered.

10.20 During 2012/13 the GCC has dealt with 36 complaints involving individuals illegally using the title of 'chiropractor' while not being registered.

10.21 We now find that the 5th Standard of Good Regulation for registration is currently met based on the activities the GCC has carried out in response to our concerns. We will follow up on this area of work in next year's performance review.

Fitness to practise

10.22 The GCC now meets eight of the Standards of Good Regulation for fitness to practise and is not meeting two standards.

10.23 We note that the GCC has improved its performance in some areas during 2012/13. The Chief Executive began annual internal and external audits of the GCC's fitness to practise processes. We note that the latest internal audit report produced in 2012 demonstrates that the improvements made to processes have been implemented by staff during 2012/13. Further improvements are required however to raise the GCC's performance in fitness to practise.

10.24 We set out below the concerns we raised in 2011/12 about the GCC's performance against the Standards of Good Regulation for fitness to practise and the action the GCC has taken to improve its performance during 2012/13.

Unprocessed complaints

10.25 In early 2012 the GCC discovered 128 fitness to practise complaints (or enquiries that might subsequently have become complaints) that had not been properly recorded or processed. This raised concern about the past effectiveness of the GCC which risked undermining public confidence in it as a regulator and we were concerned that there was a potential serious risk to the public. The GCC took a pragmatic and proportionate approach to rectifying the situation – it notified the Council for Healthcare Regulatory Excellence (CHRE) immediately in the interests of transparency, it assessed the extent of the problem, it took remedial action (where it remained possible to do so) and it reviewed its procedures to determine how to prevent a similar situation from occurring again. At that time we independently audited the cases and determined that public protection risks were adequately managed by the action the GCC was taking.

10.26 The GCC sought to investigate the 128 unprocessed complaints but its ability to do so was hampered in some cases by practical difficulties resulting from the length of time that had passed since the complaints were first received. By March 2013, the GCC had concluded 109 of the cases and a further 13 were awaiting determination by the Investigating Committee (IC). The GCC anticipates that all the 128 unprocessed complaints will have been concluded by August 2013. We will follow up on this in next year's performance review.

10.27 In the circumstances we concluded in the 2011/12 performance review that the GCC had not met three of the Standards of Good Regulation for fitness to practise and that a further three standards were not consistently being achieved. We consider that during 2012/13 the GCC's current performance has improved in relation to the two standards that were not being met and these are now being met. We however find that the three standards that were inconsistently being met last year are now not met. Further details are set out below and we will also follow up on the GCC's handling of fitness to practise complaints in our next audit of the cases closed at the initial stages of the GCC's fitness to practise process.

Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant (1st standard)

10.28 The GCC found that one of the root causes of the 128 unprocessed complaints not being progressed was that its usual practice was to only act once a complaint was received in writing. The GCC now appreciates that this was in breach of its own legislation which does not require an allegation to be made in writing before it is investigated.

10.29 During 2012/13 the GCC amended its procedures to reflect its obligations to investigate all allegations, whether or not they are received in writing, and the GCC has trained staff in the new procedures. The GCC has informed us that it now routinely explains the complaints process to complainants in a simple way, in response to our concern that complainants might be 'put off' by the apparent complexity of the process. Copies of the GCC's leaflets explaining the complaints process are now provided in the first piece of correspondence

sent to a complainant by the GCC – although it is disappointing that this has not been part of the GCC process until this year.

10.30 Based on these activities we find that this standard is now met.

Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation (4th standard)

10.31 Case officers are now prompted to consider whether another body (for example another regulator or the police) needs to be informed about the case at an early stage of the investigation. IC members have undertaken refresher training on the 'case to answer' test and the GCC has identified that this has resulted in improved reasons being set out in decision letters. We anticipate that these activities should help the GCC to achieve consistent performance against this standard. We find that this standard is currently met and we will also expect to see evidence of this in our next audit of the cases closed at the initial stages of the GCC's fitness to practise process.

Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct on both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders (6th standard)

10.32 We noted in our 2011/12 performance review report that the GCC appeared to be performing inconsistently in relation to the 6th standard. Our conclusion was reached based on our concerns about the weaknesses in the GCC's performance in progressing cases due to the discovery of the unprocessed complaints which had not been taken forward in a timely manner.

10.33 Following the discovery of the 128 unprocessed complaints (referred to above), the GCC's Chief Executive reviewed the work of the fitness to practise department in 2011/12 and discovered that there were a further 65 cases that had not been progressed as quickly as possible due to these cases not being actively managed.

10.34 In 2012/13 one additional area requiring improvement has been identified relating to the timeliness of imposing interim orders. Cases that require the regulator to impose interim orders must be dealt with as quickly as possible so registrants are restricted from practising when necessary to protect the public. In this year's performance review, we have noted an increase in the median time taken for the GCC to progress a complaint from initial receipt of the complaint to interim order decision from six to 17 weeks – which is among the lengthiest across the regulators that we oversee. The GCC said that the reason for this relates to three cases about one registrant where the police instructed the GCC to take no further action. In another case, there was a failure to identify that an immediate suspension order was required when the complaint was received in 2011 – following the GCC's review of its procedures in 2012 an immediate suspension order was requested. We note that the GCC handles a relatively small number of cases and therefore a delay in one case may have a significant effect on the median. We will follow up on this timescale in next year's performance review.

10.35 It is the responsibility of the GCC to actively manage cases and track and monitor the progress of cases to prevent undue delays of this nature. We note that the median time taken from the receipt of information indicating the need for an interim order to an interim order decision being made has also increased – from six to 11 weeks. We will follow up on this timescale in next year's performance review.

All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process (7th standard)

10.36 In our last audit of the cases closed at the initial stages of the GCC's fitness to practise process (in 2011) we expressed concern about delays in communicating the outcomes of IC meetings. Following this, in the 2011/12 performance review we concluded that these delays meant there was inconsistent compliance with the 7th standard for fitness to practise. The GCC advised us that it would amend its processes in light of our audit findings and it has taken action during 2012/13 to do so, including moving to a system where the allegations are drafted by a lawyer and approved by the IC, rather than being drafted by the IC itself.

10.37 The GCC has introduced a new requirement that the minutes of IC meetings are to be agreed within two weeks (rather than five weeks as previously) and decisions that there is 'no case to answer' are to be communicated within 24 hours. Decisions that there is a 'case to answer' are also to be communicated within 24 hours although the full reasons for that decision (and an explanation of the process) are provided at a later stage. We recognise that the GCC has achieved improvements in the speed at which it communicates the outcomes of IC meetings during 2012/13, but we remain concerned that the timescales for provision of the reasons for decisions remains lengthy despite the relatively low volume of cases handled by the GCC compared to other regulators we oversee. This has the potential to undermine confidence in the GCC's regulatory process.

10.38 We encourage the GCC to look at any further measures it can take to improve the speed of the IC process.

10.39 We also note that the development of the GCC's website to enable complaints to be made online has not been completed although this was work that has continued from 2011/12. Given our concerns about the GCC's performance against the 7th standard, we recommend that the GCC ensures that this work progresses more quickly than it has.

10.40 Based on our findings relating to the timeliness of imposing interim orders and the timeliness of the IC process, we find that the 6th and 7th standards are not met. We will consider the timeliness of imposing interim orders and the IC process in more detail in our next audit of the cases closed at the initial stages of the GCC's fitness to practise process and also in next year's performance review.

Information about fitness to practise cases is securely retained (10th standard)

10.41 In the 2011/12 performance review we noted that there were weaknesses in the GCC's system for ensuring the security of fitness to practise data. As a result we concluded that the GCC did not meet this standard. The GCC's Council reviewed its operational procedure in September 2012; permanent staff have now been trained on this procedure and temporary staff are being supervised. We find that the GCC now meets this standard.

10.42 In next year's performance review report we will follow up on:

- The outcome of a planned external audit which will consider case progression, delays caused by the regulator, adherence to procedures, consideration of the need for interim order applications and further improvements
- The outcome of a planned external review of feedback from witnesses, registrants and other parties involved in fitness to practise hearings
- The timeliness of the GCC's fitness to practise process, including the IC process and the time taken to impose interim orders
- The GCC's progress in completing the 128 unprocessed complaints found in 2012
- The development of the GCC's website to enable complaints to be made online (which is work continued from 2011/12)
- Outcomes from the further training identified for IC and Professional Conduct Committee members
- Progress with the production of a 'conditions bank' to support panel members with imposing consistent and comprehensive conditions of practice orders
- The development of support processes for witnesses. We note that this is also work that has continued from 2011/12 and we therefore recommend that the GCC ensures that a process is in place as soon as possible. We draw the GCC's attention to the work of the GMC and HCPC in this area, both of which operate systems and process for supporting witnesses from which the GCC may be able to learn.

11. The General Dental Council (GDC)

Overall assessment

11.1 The GDC meets all but one of the Standards of Good Regulation.

11.2 In February 2013 we published our report to the Secretary of State for Health in response to his request to us to investigate the concerns that were raised by the former Chair of the GDC upon her resignation in May 2011.[9] Those concerns related to the GDC's governance and the fulfilment of its statutory duties and we were asked to pay particular attention in our investigation to the GDC's performance of its fitness to practise function.

11.3 In that report we concluded that, 'notwithstanding … the fact that improvements can still be made … we do not consider based on the evidence that the GDC has failed or is failing to carry out its statutory functions'.

11.4 The GDC investigation report also identified that the GDC did not take effective action to address the weaknesses in its fitness to practise process that we identified in our 2009/10 and 2010/11 audits of the cases closed at the initial stages of the fitness to practise process and in our performance review for 2009/10 (published in summer 2010) more promptly which was the responsibility of the Chair, the Council and the executive in place at the time.

11.5 In the 2011/12 performance review we noted that the GDC was not meeting two of the Standards of Good Regulation for fitness to practise relating to the timeliness of case progression and the quality of decision making. We anticipated seeing improvements in these two areas in our audit of the cases closed of the initial stages of the GDC's fitness to practise process in 2012, following improvement measures that the GDC was in the process of implementing.[10] Only a relatively small number of the cases we audited in 2012 were opened after the GDC had implemented its improvement measures and we therefore had a limited opportunity to assess the effectiveness of the improvement measures. We were, however, pleased to note in our audit report that the positive impact of the changes introduced in 2011/12 was visible in the small of number of relevant cases that we audited. There appeared to be, in general, good compliance with the changes to process that have been introduced and we also did not identify any decisions made at the initial stages of the fitness to practise process that might pose immediate risks to patient safety. We will follow up on this in our next audit of the cases closed at the initial stages of the GDC's fitness to practise process in 2013.

---

[9] Professional Standards Authority, 2013. An Investigation into Concerns Raised by the Former Chair of the GDC. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/special-reviews-and-investigations/130204-gdc-investigation-report-final.pdf (para 6.20)

[10] CHRE, 2012. Audit of the General Dental Council's Initial Stages Fitness to Practise Process. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/audit-reports/gdc-ftp-audit-report-2012.pdf?sfvrsn=0\

Guidance and standards

11.6 The GDC continues to meet the Standards of Good Regulation for guidance and standards. Examples of ways in which the GDC has continued to meet these standards include:

- Completion of a consultation on the revised *Standards for Dental Professionals* and *Standards of Conduct, Performance and Ethics*
- Active stakeholder engagement activities in relation to policy development for standards and guidance. Many of these engagement activities were carried out prior to full consultation, so that the feedback from the engagement activities could improve the quality of the consultation and provide key stakeholders with helpful background information in advance. These activities also enabled the GDC to listen to concerns about proposed changes and either address them or explain the reasons behind the changes so stakeholders were supported to understand the changes resulting from the projects. We consider that this is good practice
- Extensive distribution of the GDC's *Smile* leaflet (which explains the role of the GDC). The GDC ran an email campaign to raise awareness of these leaflets with 63 community groups and 33 local authorities with significant ethnic minority populations. This is also an area of good practice.

11.7 In next year's performance review we will follow up on:

- The GDC's plans to raise awareness of its revised *Standards for Dental Professionals* that were approved by its Council in March 2013 (following the completion of the consultation on the *Standards of Conduct, Performance and Ethics* in December 2012). These plans will be implemented in early 2013
- The GDC's plans to improve its analysis of fitness to practise case data, to facilitate the monitoring and evaluation of trends indicating areas where further standards and guidance might be needed. This work is scheduled for completion in August 2013
- The outcome of a consultation on the proposal made by the Direct Access Working Group for patients to have direct access to any registered dental professional for the provision of dental care and treatment which is within the dental professional's scope of practice and for which that professional is trained and competent, without the prior need for referral from a dentist
- The GDC's review of its *Scope of Practice* guidance – this work was paused pending the outcome of the consultation on *Direct Access*. The *Scope of Practice* is the GDC's document setting out the skills that can be expected of a GDC registrant on qualification, 'additional skills' which a registrant in that group might go on to develop during their career and duties which registrants in that group are not permitted to carry out.

Education and training

11.8 The GDC continues to meet all the Standards of Good Regulation in education and training.

11.9 In addition, the GDC has carried out some development work in two particular areas of its education and training function. We describe some aspects of this work below:

(i) Continuing fitness to practise

11.10 During 2012/13 the GDC published a literature review entitled, *Effectiveness of CPD in Dentistry* and a research report, *Registrant and Provider Perspectives on Mandatory CPD in Dentistry in the UK*. The GDC found that these two pieces of work have helped it to understand what its registrants currently do to maintain their fitness to practise, as well as the context within which they carry out continuing professional development (CPD). During this period the GDC also commissioned research into information and evidence sources for its proposed scheme of continuing fitness to practise. One of the conclusions of that research was that a continuing fitness to practise scheme should require individuals to have personal development plans with elements that are both formative (ie where participants receive developmental and qualitative feedback throughout the process) and summative (ie where participants are required to undergo an assessment of learning).

11.11 Following consultation in 2010 on the GDC's proposals for a scheme of revalidation, the GDC agreed in August 2012 to introduce an enhanced CPD scheme. The CPD scheme will be the first step in developing plans for a scheme to provide assurance about registrants' continuing fitness to practise. The GDC's proposal is to link the registrant's reflective practice (where this is carried out) and planned learning and development to the GDC's standards and retention of registration. The GDC consultation on the enhanced CPD scheme closed at the end of January 2013. We will follow up on the outcome of this work in next year's performance review.

11.12 We anticipate that our paper about continuing fitness to practise[11] will be useful to the GDC in the development of its continuing fitness to practise system. In this paper, we recommend that regulators take a proportionate and outcome-based approach to developing a continuing fitness to practise system. We also recommend that regulators gain a clear understanding of what registrants do and the context in which they do it to help quantify risks presented – this means that the GDC will need to develop a risk based model to provide assurance about continuing fitness to practise which takes account of the different types of professionals that the GDC regulates.

(ii) Quality assurance of education programmes

11.13 The GDC developed new *Standards for Education* which became applicable from September 2012. The GDC is using the new standards to provide the framework for the quality assurance of new programme submissions and for the inspection of existing programmes. The GDC has updated its quality assurance process based on the revised standards and this became

[11] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

operational from November 2012. In our view the GDC demonstrated good practice in its work in this area by establishing an expert advisory group of individuals with relevant experience to provide advice about how the standards could best be incorporated into the GDC's quality assurance process.

11.14 The new standards aim to set out the GDC's expectations more clearly and to ensure that students achieve the learning outcomes set out in *Preparing for Practice* (the GDC's document that describes the outcomes an individual must be able to demonstrate at the end of their training in order for them to be registered with the GDC, eg the ability to describe the principles of an evidence-based approach to learning, clinical and professional practice and decision making). We consider that this outcome-based approach accords with the principles of right-touch regulation and we regard this work as an example of good practice.

11.15 In next year's performance review we will examine the following activities:

- The development, delivery and evaluation of the GDC's approach to assuring continuing fitness to practise
- The GDC's review of its *Standards for Education* which is planned for the 2013/14 academic year. These standards set out the criteria against which the GDC will quality assure educational providers to enhance the transparency and the consistency of the inspection process from the perspectives of both the GDC and the education provider, ensuring that providers are clear about the standards against which they are being assessed
- Any planned changes to the GDC's education programme quality assurance process, following its analysis of feedback from education providers in 2012/13
- The GDC's review of the purpose and usefulness of Specialist Lists[12] in 2013 (a continuation of the work commenced in 2011/12). This review will consider the purpose and usefulness of Specialist Lists in light of the need for public protection and the oral health needs of patients
- The outcomes of the research and stakeholder engagement work on pre-registration training, looking for evidence of any particular risks to patient safety during the transition of a student to fully unsupervised practice as a registered professional. The GCC's Council established a working group in September 2012 to explore the case for introducing pre-registration vocational training for dental graduates. The working group considered the available evidence from healthcare and other professions in the UK and from dentistry in other jurisdictions. It made a recommendation to the Council in December 2012 on the scope of a full evaluation of this area and the report of the working group was produced in April 2013.

[12] Specialist Lists are held by the GDC and are lists of registered dentists who meet certain conditions and are entitled to use a specialist title. Any registered dentist can work in a particular field of dentistry (eg oral surgery) but only those on specialist lists can call themselves a 'specialist' because they have met certain requirements and been given the right by the GDC to use the title 'specialist'.

Registration

11.16 The GDC continues to meet the Standards of Good Regulation for registration.

11.17 In addition, the GDC has completed a number of activities aimed at improving or maintaining its performance – either by improving communication with its stakeholders or by maintaining the accuracy of the registers. These activities included:

- The introduction of a three-stage checking procedure as part of the process for assessing registration applications as well as restoration applications made by UK applicants. This has reduced the number of serious and non-serious errors in the processing of applications
- Proactively contacting registrants to improve the timeliness of applications for registration renewals. This has resulted in a reduction in the numbers of administrative 'lapses' from the register, which occur when a registrant fails to apply for renewal of their registration in time for it to be processed before their current registration expires and can disrupt patient services as registrants are unable to practise lawfully while their registration has lapsed
- Planning for a potential increase in activity in the registrations department after July 2013, when over 37,000 dental care professionals are expected to complete their first five-year cycle of CPD activity. Those that have not undertaken the required 150 hours of CPD (of which a minimum of 50 hours must be verifiable) may need to be removed from the register
- Improving the procedures of the GDC's illegal practice team which has included introducing meetings between the illegal practice team lawyers and investigators on an individual and regular basis to ensure investigators have regular access to legal advice and lawyers provide advice or direction on each investigation. The GDC said that this has resulted in matters being concluded quicker and in a larger number of investigations resulting in successful prosecutions.

Administrative lapses from the register of registrants who are the subject of fitness to practise allegations

11.18 The GDC will remove from the register any registrant who has not paid their annual retention fee and/or complied with their CPD requirements. However the GDC's policy is that removal from the register on these grounds should not take place in circumstances where the registrant is currently subject to a fitness to practise investigation as the GDC needs to retain its jurisdiction so that it can take appropriate action if that registrant's fitness to practise is ultimately found impaired. Unfortunately it appears that on 13 occasions in 2012/13 this policy was not adhered to by GDC staff and the GDC had not identified this had occurred because it did not have systems in place to check or audit compliance of the policy.

11.19 This meant that registrants who were the subject of fitness to practise allegations were incorrectly removed from the GDC's registers, which resulted in the investigations and/or hearings terminating without any findings being reached. While their removal from the registers means those individuals are no longer legally able to practise as GDC registrants (and therefore there should be no direct risk to public protection), it also means that the allegations against them were not adjudicated upon or even necessarily fully investigated.

11.20 This is an undesirable outcome both for any individual complainants involved in the allegations and for wider public protection – should any of those individuals apply for restoration to the GDC's registers in the future, the GDC may find it difficult to obtain evidence relating to the original allegations. It also does little to maintain public confidence in the regulatory process.

11.21 We note that the GDC has put in place a new procedure to prevent a recurrence of this situation, which involves the fitness to practise administration team manually checking the fitness to practise history of a registrant before they are removed from the register. This should mitigate the risk but it does not eliminate it altogether as there is still the possibility of human error.

Practising without indemnity insurance

11.22 When harm has been caused as a result of negligence by a professional, the patient who has been harmed should be able to obtain financial redress. Such redress is usually provided through the professional's insurance arrangements. We note that the GDC does not currently have a process requiring registrants to provide assurance that indemnity insurance is in place. In 2011 we exercised our powers under Section 29 of the NHS Reform and Health Care Professions Act 2002 to refer a GDC case to the High Court of England and Wales. One of the reasons for this was that the fitness to practise panel had not taken seriously the fact that the registrant did not have indemnity insurance in place. We were successful in that the High Court remitted the case back to the GDC to be heard again by a newly constituted panel.

11.23 We were disappointed that in April 2013 we again had to refer a GDC case to the High Court where the fitness to practise panel did not take sufficiently seriously the fact that the registrant did not have indemnity insurance in place. This appeal has not yet been heard.

11.24 We note that the GDC intends to revise its approach to annual declarations, so that individuals will be required to self-declare each year on a number of factors including their indemnity cover. In order to introduce these changes, the GDC will need to amend its rules and it is working with the Department of Health to introduce rule changes in 2013. In the meantime, we recommend that the GDC considers what steps it can take now to gain better assurance that registrants have indemnity insurance in place and thereby maintain confidence in its system of regulation.

11.25 In next year's performance review we will follow up on:

- The implementation of a new IT system in the registrations directorate which commenced in January 2013 and is aimed at facilitating online registration applications (this is work that is ongoing from 2011/12)
- The outcomes of work that the GDC plans to undertake to contact former dental care practitioners to ensure they are aware of their ineligibility to practise following removal from the register for non-payment of the annual retention fee.

Fitness to practise

11.26 The GDC has met nine of the Standards of Good Regulation for fitness to practise, however one remains not met.

11.27 In the 2011/2012 performance review we noted that the GDC was not meeting two standards and was inconsistently meeting one further standard. We outline the GDC's performance in 2012/13 against these standards below.

Fitness to practise cases are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of both sides (6th standard)

11.28 In the 2011/12 performance review we found evidence that demonstrated a failure to progress cases as quickly as possible. During 2012/13, in response to our concerns and as part of its own programme of improvement work in fitness to practise, the GDC has introduced a number of changes which include:

- Greater numbers of decision makers at the triage stage, in order to manage more effectively the increase in the number of complaints that the GDC is receiving each year
- Greater scrutiny of the timeliness of case progression by means of audits by the Compliance Team, which considers whether key performance indicators are being met and whether agreed procedures are being followed. This information is fed back to individuals where necessary and may lead to training
- An increased pool of clinical experts and legal advisers for panels in order to minimise any delays in obtaining advice due to lack of availability
- An amendment to the investigation process so that from April 2012 clinical advice is obtained earlier in the process – under the previous process the first opportunity to obtain clinical advice was at the Investigating Committee (IC) stage. The advice is provided by the National Clinical Assessment Service (NCAS), which provides a view about whether the clinical care provided by the registrant was care that could reasonably have been expected of a dentist working in the same discipline. Where the GDC assesses that the case relates to a single, non-serious, clinical issue with no other aggravating features, and NCAS finds that the registrant was working at the level of professional practice

reasonably expected of a registrant in the same discipline, the case is likely to be closed at assessment and not referred to the IC at all

- The introduction of the Pre-Hearings Case team (from April 2012) to improve case management to reduce the numbers of hearing adjournments.

11.29 The GDC has introduced a change to its process whereby casework managers are now permitted to be single decision makers at the initial stage of the investigation process – the previous process required decisions to be made by three members of staff. The GDC states that this change has improved overall timeliness. We are concerned that casework managers are permitted to close individual cases before a framework of assessment criteria, to ensure consistent decision making, has been established. However we acknowledge that the GDC's quality assurance process has not identified any inappropriate closure decisions made using this process (only administrative errors) and that it is developing assessment criteria which will be used in future internal audits. We will look for evidence of consistent and appropriate decision making using this process in our next audit of the GDC's handling of the cases closed at the initial stages of its fitness to practise process in summer 2013 (although we appreciate that we will only have a limited opportunity to assess this as the process will only apply to a proportion of cases).

11.30 We note that the GDC has reduced the numbers of cases which were received three or more years ago from 55 in the 2011/12 performance review to 16, which is a positive indicator of improvement in timeliness. We recognise that the progression of these older cases has had an adverse impact on the following measures:

- The median time taken to conclude cases from receipt of initial complaint to the final IC decision has increased by 10 weeks and is now 33 weeks
- The median time taken from the final IC decision to the final fitness to practise panel decision has increased by two weeks and is now 52 weeks.

11.31 We also note that the median time taken from the receipt of the initial complaint to an interim order decision is 23 weeks for referrals by the IC and the registrar[13] although we note that the median time taken from receipt of information indicating the need for an interim order and an interim order decision is five weeks. Delays in applying for interim orders have the potential to directly impact on public protection and confidence in the regulator. This is because the passage of time can expose patients to risk during that period if the registrant is able to practise when they are not safe to do so. The regulator may also find it harder to convince a panel that an interim order is necessary if no further incidents have occurred during the period of delay. We recognise that the GDC's registrar, under its legislation, is not able to refer a case to the Interim Order Committee independently which has an impact on the length of this process.

[13] We recognise that the timeframe may be different for referrals made by the IC and by the registrar.

11.32 In our view, while some improvements have been made to progress cases more quickly and prevent blockages in the process, delays remain in some areas of the process. We are particularly concerned about the length of time taken for a decision to be made about an interim order. This demonstrates that the GDC is not yet meeting this standard.

All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession (8th standard)

11.33 In the 2011/12 performance review we found that this standard was not met and we referred to examples of GDC decision letters (identified during our 2011 audit of the cased closed at the initial stages of the GDC's fitness to practise process) which did not fully address all the issues or properly explain why the GDC was not taking any further action. In response to our concerns, and as part of its own programme of improvements in fitness to practise, the GDC has introduced the following during 2012/13:

- An updated Indicative Outcomes guidance document to be used by the IC to improve consistency in decision making. Training for the IC members on the new guidance has been conducted
- Audits of the quality of decisions made at the triage stage and the IC stage by the Compliance Team, which has been in place since November 2011. We note that the Compliance Team targets high risk cases, which we regard as good practice
- A review programme to evaluate the performance of fitness to practise panels – which involves assessment, peer review and training of panellists.

11.34 We were pleased to note that we found some examples of better quality decision letters during our audit of the cases closed at the initial stages of the GDC's fitness to practise process[14] in 2012. We will look for further evidence of improvement in this area in our next audit in 2013.

11.35 We find this standard is currently met and we hope to report on consistent performance against this standard in next year's performance review.

Information about fitness to practise cases is securely retained (10th standard)

11.36 In last year's performance review we reported inconsistent compliance with this standard, due to a data breach that had resulted from a past IC chair being sent IC papers in error. We note that the GDC has undertaken further staff training in 2012/13 to ensure awareness of the relevant policies.

[14] See footnote 10.

11.37 We also note that during 2012/13 the GDC has introduced the use of electronic (rather than paper) case bundles for its fitness to practise panels and the IC committee. The GDC plans to complete the transition to electronic bundles by 2015. This should reduce the risk of data security breaches and as such is an area of potential good practice. We consider that this standard is now met.

11.38 In next year's performance review we will follow up on:

- The outcomes from the GDC's ongoing work to make it easier to raise a fitness to practise concern – which includes making the online form more visible on its website, updating the leaflet *How to Raise a Concern* and meeting with the Dental Complaints Service to improve the referral criteria for concerns referred on to the GDC
- The outcomes of the initiatives to improve the GDC's performance against the 6th and 8th Standards of Good Regulation for fitness to practise
- The implementation of any recommendations following our next audit of the cases closed at the initial stages of the GDC's fitness to practise process (in summer 2013).

12. The General Medical Council (GMC)

Overall assessment

12.1 The GMC meets all of the Standards of Good Regulation. It has continued to maintain its performance as an effective regulator across all its regulatory functions. This is commendable as the GMC has also acted to develop its work and drive improvement across its functions including the finalisation of its development of a scheme for continuing fitness to practise. It has also implemented new governance arrangements and appointed a chair and council.

Guidance and standards

12.2 We consider that the GMC continues to meet the Standards of Good Regulation for guidance and standards. The GMC has developed a number of initiatives and in particular, a new edition of its foundation guidance for registrants, *Good Medical Practice* (GMP), was published in March 2013.

12.3 We consider that the GMC has demonstrated good practice in setting guidance and standards in the following two ways which relate to all four of the Standards of Good Regulation for guidance and standards. We set out examples under each heading:

(i) Standards and guidance prioritise patient safety, are evidence-based, address current issues in practice and are easily accessible

12.4 The GMC's new edition of GMP reflects current issues in medical practice and we find this to be an area of good practice. GMP includes guidance about the use of social media and gives prominence to doctors' responsibilities for ensuring patients get help with basic care. This takes account of public concern and concerns expressed in the media about the standards of care for older patients and those with dementia and learning disabilities. The explanatory notes for GMP also include information about the conflicts of interest of doctors and the issue of doctors commissioning local services. This was in response to the need to manage conflicts of interests effectively in clinical commissioning groups to ensure the probity of commissioning decisions and to protect the integrity of the doctors involved in such decisions.

12.5 The GMC commissioned the Social Research Centre (SRC) to independently audit its processes for developing guidance. In partnership with the SRC, risk profiles for the types of data gathered were used to inform its guidance. This was intended to enable key points to be identified and to evaluate how evidence and views should be represented. The GMC said risk profiling helped ensure data was taken into account and themes identified and addressed in the guidance.

12.6 The GMC launched two pieces of guidance relating to assisted suicide – one aimed at fitness to practise panels dealing with doctors who have been involved in an assisted suicide case; and the other at registrants.

12.7 The GMC launched a mobile-optimised website in March 2012, providing doctors with instant access to GMC guidance and online resources from their mobile devices.

12.8 The GMC extracted data from fitness to practise cases to inform its new child protection guidance. This was in response to concerns in the medical press that paediatricians raising child protection concerns were more likely to be complained about to the GMC and more likely to be treated harshly during fitness to practise procedures.

(ii) Methods for engagement are maintained and expanded in the development of new standards and guidance

12.9 The GMC used a range of techniques to gather evidence and opinions in developing the new edition of GMP. These techniques included questionnaires, an online poll, ballot box postcards, meetings, focus-groups and in-depth interviews with interested parties.

12.10 In addition, the GMC tailored some of these methods to address particular groups (such as young people and people with learning disabilities) that research showed may be disadvantaged when receiving medical services.

12.11 In April 2012, the GMC launched a new online resource offering practical learning tools and advice on the key issues doctors need to consider when treating a patient who has a learning disability (such as communication, consent and assessing and maximising the patient's capacity to consent).

12.12 In next year's performance review, we will follow up on the outcomes of the following pieces of work:

- Research into the factors that influence doctors' decisions to follow guidance and standards and the barriers that prevent registrants from raising concerns when patient care or safety may be at risk. This is work that has continued from 2011/12
- The strategic work the GMC is considering on the way it uses information to determine how and in what areas the GMC develops guidance
- The development of a patient version of GMP and the planned new guidance, *Good Practice in Prescribing,* following the outcome of research on prescribing in general practice
- The development of a programme to assist doctors in their treatment of older people which will commence in 2014, similar to the online resource for the treatment of those with learning disabilities.

Education and training

12.13 In our 2011/12 performance review, our view was that the GMC was not yet meeting the standard relating to the continuing fitness to practise of registrants (*through the regulator's continuing professional development/revalidation systems, registrants maintain* the *standards required to stay fit to practise)*. We find that this standard is met and the GMC is therefore now meeting all of the Standards of Good Regulation for education and training.

12.14 We highlight the GMC's activities in this function in two particular areas:

(i) Continuing fitness to practise

12.15 The GMC launched revised guidance in June 2012 on continuing professional development (CPD) to provide a framework for doctors to maintain and improve their practice and which describes how doctors should plan, carry out and evaluate their CPD activities. Registrants are required to reflect their learning needs based on GMP and consider patients and the wider healthcare team when considering their learning needs.

12.16 The GMC's revalidation scheme launched, for all doctors with a licence to practise, on 3 December 2012. Over the following three years the GMC aims to have the first revalidation recommendation submitted to the GMC by the responsible officer for the majority of doctors.

12.17 We note that a number of other regulators we oversee have expressed an interest in the GMC's scheme and it may serve as a model for them. We note that in readiness for the launch the following steps were completed:

- Information systems and processes were in place to receive recommendations from responsible officers and designated bodies and to make revalidation decisions
- Processes were tested with key stakeholders to ensure they were simple and compatible with local systems
- Guidance for doctors was published, as well as protocols and guidance for responsible officers and employers
- Principles were developed and agreed with the UK health departments to ensure consistency
- Quality assurance processes and controls were established from the outset, including a legal framework, local governance arrangements, guidance, training and development of responsible officers and advisory services for responsible officers and registrants
- Connections were established with local designated bodies whose role will be to monitor and assist registrants with complying with their obligations.

12.18 The new Employer Liaison Service (ELS) was set up to create a stronger local GMC presence with employers. The GMC anticipates that the ELS will maintain confidence in the GMC's system of regulation by making it easier to share information between the GMC and employers about the (continuing) fitness to practise of doctors. The ELS supports the GMC's scheme by ensuring that revalidation schedules are administered, responsible officers are supported and employers provide feedback to the GMC about fitness to practise issues.

12.19 Further developments within this programme of work in 2013, which we will follow up on in next year's performance review, will include:

- Finalising a 'regulatory intelligence model', including developing a dataset for monitoring continuing fitness to practise activity of doctors and outcomes
- Establishing a national advisory forum to assess the information received
- Planning to design and commission research into the effectiveness of the continuing fitness to practise scheme for doctors
- Working with the wider healthcare community to develop sustainable, stable networks of responsible officers following the recent restructuring of the NHS in England.

(ii) The quality assurance of medical education and training programmes

12.20 In the 2011/12 performance review we noted that the GMC had introduced a team to enhance its ability to respond promptly to concerns about education and training providers. The team focuses on specialties where concerns are most likely to arise (emergency medicine, obstetrics and gynaecology and surgery). This year, the team has been deployed on 10 visits and feedback from deaneries has been that the specialist GMC perspective adds weight to local processes. The team's work also enables the GMC to be involved with designing solutions and monitoring and the GMC said that it enables better and timelier assurance that serious issues are being addressed appropriately.

12.21 The GMC's performance against standards in this function has been innovative and displayed good practice. We highlight the following activities:

- The establishment of the Health and Disability in Medical Education and Training Group in early 2012 to examine the challenges faced by disabled students and doctors in medical education and training to determine the implications for regulation. The group recommended that there should be no special categories of registration for disabled students, a review of practical procedure requirements for training programmes and the inclusion of 'named experts' in schools and deaneries responsible for ensuring disabled students have access to support and services
- Work with the Medical Schools Council[15] to examine how medical schools can support students with mental health concerns and the publication of a risk assessment tool in July 2013 for medical schools to help identify problems in support systems for students with mental health concerns

[15] The Medical Schools Council represents the interests and ambitions of UK medical schools as they relate to the generation of national health, wealth and knowledge through biomedical research and the profession of medicine.

- Continuing research on the Working Time Regulations (which set limits on the numbers of hours that can be worked in an average working week) to examine ways to examine the impact of the Working Time Regulations on medical education and training
- The launch of a pilot programme aimed at ensuring doctors new to UK practice are properly inducted into UK medical practice, with a particular focus on the ethical and professional standards that they will be expected to meet.

12.22 In next year's performance review we will follow up on:

- The outcomes of the implementation of the continuing fitness to practise (revalidation) scheme and the revised CPD guidance, including how these are ensuring registrants maintain the standards required to stay fit to practise
- The evaluation of the impact of the Regional Liaison Service, which is aimed at promoting understanding of continuing fitness to practise, engaging with medical students on professionalism and broadening the GMC's understanding of patient and public representation in the NHS
- The development of a medical education risk profile to inform future quality assurance visits to identify concerns earlier
- The outcome of the review of the quality assurance of medical education and training, commenced in 2012 (which will continue in 2013 to draw on lessons from the Mid Staffordshire NHS Foundation Trust public inquiry report) and the outcome of the complementary review of education and training standards in 2013
- The outcomes from publishing the risk assessment tool in July 2013 for medical schools to help identify problems in support systems for students with mental health concerns
- The work to review the impact of *Tomorrow's Doctors (2009),* the GMC's standards for teaching, learning and assessment for education providers, beginning with research which will commence in 2013/14.

Registration

12.23 We consider that the GMC continues to meet all the Standards of Good Regulation for registration.

12.24 Examples from 2012/13 of how the GMC is demonstrating that it is meeting these standards include:

- The introduction of a Quality Assurance Team aimed at raising awareness among operational teams about common types of error, with a view to preventing them. System reports alert advisers about minor mistakes that are rectified before they impact services and checklists provide additional prompts to staff who access applications

- The temporary registration of over 850 international doctors for the 2012 Olympic and Paralympic Games. The GMC will use the learning from this exercise to inform the way it registers doctors for the 2014 Glasgow Commonwealth Games
- The use of audits of registration applications to identify areas for improvement and training. Changes have been made to the methods for auditing the acceptability of certain types of evidence such as overseas postgraduate qualifications and sponsorship agreements for doctors gaining GMC registration
- The sharing of data with other stakeholders (such as the NHS) and locating registered doctors when returned correspondence indicates the doctor may have moved to ensure that the public and employers can trust the integrity and accuracy of the register. We find this to be an area of good practice.

12.25 In next year's performance review we will follow up on:

- The changes to regulations (for implementation in 2013/14) that will limit the time a doctor can be provisionally registered to no more than three years and 30 days. At the moment, there is no legal limit on the length of time a doctor can practise while provisionally registered, which has led to a number of doctors remaining on provisional registration for excessive lengths of time
- The progress of work (commenced in 2011/12) to review the Professional and Linguistic Assessments Board (PLAB) test which is one of the means by which doctors who qualify outside the European Economic Area demonstrate they have the required knowledge and skills to practise in the UK
- The outcome of a study by the GMC to assess whether the International English Language Testing System offers the appropriate measure of the language ability of prospective doctors and whether the current level required is appropriate
- The continuing work to review the information that the GMC collects, retains and publishes about registered doctors which commenced in 2011/12.

Fitness to practise

12.26 The GMC continues to meet the Standards of Good Regulation for fitness to practise. It has maintained an effective, transparent, proportionate and secure fitness to practise process and has achieved this against a backdrop of rising fitness to practise case volumes.

12.27 Examples from 2012/13 of how the GMC is demonstrating that it is meeting these standards include:

- Launching 'Your Health Matters' – an internet resource for doctors in fitness to practise proceedings due to health reasons

- Publishing high level principles (which will apply to the nine health and social care professional regulators we oversee) on the power to make a referral to the Independent Safeguarding Authority (ISA) or Disclosure Scotland. This clarifies that a regulator may not use its powers to make a referral where the concerns about an individual relate to their professional competence and there are no wider safeguarding concerns which cannot be solely mitigated by regulatory action. The GMC has also led discussions with the ISA to develop guidance for regulators on the power to refer to the vetting and barring scheme. This includes guidance on the criteria which should be used to decide whether a referral may be appropriate
- Reducing the time for an interim order hearing to be held to 2.3 weeks (from the point at which information is received indicating the need for an interim order) thereby ensuring that registrants who are not safe to practise are prevented from doing so as quickly as possible in the public interest
- Identifying learning points from cases that are closed with a finding of 'no case to answer' and sending these to the registrant.

12.28 In this reporting year, the GMC has implemented the following two important initiatives:

(i) Medical Practitioners Tribunal Service (MPTS)

12.29 The MPTS, launched in June 2012, is the part of the GMC that adjudicates on cases that proceed to a final fitness to practise hearing or meeting and is operationally separate from the GMC's Investigation Team. It is funded by and responsible to the GMC for its efficiency and performance and was created to provide an operational separation between the investigation and prosecution functions and the adjudication process. The separate governance and accountability arrangements are intended to increase public and medical confidence in the impartiality of the adjudication process.

12.30 The MPTS maintains a Quality Assurance Group which monitors MPTS's hearing outcomes, identifies continuous improvement and addresses quality assurance issues with panels. All Fitness to Practise and Interim Order Panel decisions taken in cases where the outcome does not match the outcome the GMC asked the Fitness to Practise Committee to impose are reviewed by the Quality Assurance Group.

12.31 The GMC also operates a Decision Review Group to monitor decision making throughout all aspects of the fitness to practise work. There is formal correspondence between the two groups which allows the case management and MPTS teams to raise points with one another about case management and adjudication.

(ii) Employer Liaison Service (ELS)

12.32 As we note above (see para 12.18), the ELS was set up in January 2012 to create a stronger local GMC presence with employers. The GMC anticipates that the ELS will maintain confidence in the GMC's system of regulation by

making it easier to share information between the GMC and employers. Employment Liaison Advisers feed employer perspectives and queries on case handling back into GMC procedures and provide feedback to employers about fitness to practise processes. It was anticipated that one of the benefits of the ELS would be to increase understanding among medical directors about when to make a referral. While it is difficult to gauge precise figures, the GMC notes that between April and December 2012 there were 138 employer referrals where there had been explicit intervention by an Employment Liaison Adviser.

Supporting parties during the fitness to practise process

12.33 The GMC has undertaken a number of activities to support participants in the fitness to practise process and examples include:

- Extending eligibility for its Witness Support Services programme to all witnesses and complainants irrespective of circumstances (except expert witnesses)
- Implementing a pilot study to provide access to independent and confidential emotional support to registrants from the initiation of fitness to practise proceedings to limit the negative impact on some registrants of being involved in proceedings
- Developing a protocol for sensitively handling the cases of doctors who are perceived to be at risk of self-harm once fitness to practise proceedings are brought against them.

12.34 In next year's performance review we would like to follow up on:

- The evaluation of two separate pilot studies of meetings with doctors and complainants. One pilot involved offering meetings to doctors in which they were given the opportunity to agree the proposed sanction and avoid the need for the hearing to take place; the other pilot involved meetings with complainants at the outset and conclusion of a case to ensure the complainant's understanding of the process and outcome
- The evaluation of the pilot to provide access to independent and confidential emotional support to registrants from the initiation of fitness to practise proceedings
- Outcomes following the completion of the complainant experience survey in 2013
- Outcomes from the Lean review of the fitness to practise process, commenced in 2013, which will be used to review the end-to-end fitness to practise process with the aim of streamlining processes and seeking efficiencies. 'Lean' is a term used to describe a range of process review methodologies based on five stages: diagnosis, focus, improve, sustain and implementation
- The pilot study of sending registrants copies of complaints closed at initial assessment that may have some learning value for a doctor.

13. The General Optical Council (GOC)

Overall assessment

13.1 The GOC continues to perform as an effective regulator and meets all of the Standards of Good Regulation.

13.2 We consider it has demonstrated good practice in relation to its Continuing Education and Training (CET) scheme, which will support the GOC with obtaining robust evidence to provide assurance about the continuing fitness to practise of registrants.

13.3 In the 2011/12 performance review we found that 10th Standards of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained)* was not met and inconsistent performance was demonstrated in relation to the 6th standard (*fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides)*. We note that both these standards are now met.

Guidance and standards

13.4 We consider that the GOC continues to meet the Standards of Good Regulation for guidance and standards. We highlight two areas of the GOC's activities in 2012/13.

(i) Standards framework review project

13.5 The GOC is undertaking a project to review its processes for setting, developing and publishing its standards of competence, conduct and performance. The project will ensure the standards are up to date and consistent with good practice in order to promote high standards of practice in the profession. It is informed by feedback from the GOC's education and fitness to practise teams so that current issues facing registrants, and examples of their good practice, are reflected in the revised standards. For example, the Investigation Committee (IC) recommended that the *Code of Conduct for Business Registrants* should make explicit reference to registrants' responsibilities for handling fitness to practise complaints about registered employees.

13.6 The GOC has worked with other professional health and social care regulators to identify good practice models for standards frameworks and documentation. It has used opportunities for collaborative working, particularly to explore whether common standards of conduct and ethics are achievable. The approach will aid consistency for professionals and the public and make accessible standards up to date in terms of both practice and legislation. The revised framework will be informed by input from optical professionals and the public through the GOC's two Stakeholder Reference Groups. The GOC expects to propose the revised standards framework to its Council in November 2013, following consultation in autumn 2012.

13.7 We will follow up on this work and the GOC's activities to evaluate the effectiveness of this project in next year's performance review.

(ii) The provision of advice and guidance

13.8 The GOC has introduced a Clinical Advisory Panel to support GOC staff with responding to enquiries from third parties about standards to improve both the speed and quality of response. The GOC intends to gauge the impact of this additional resource in 2013, as well as assessing stakeholder expectations of its role in providing advice generally.

13.9 The GOC issues an electronic bulletin which has featured articles on issues that have previously generated queries about standards and fitness to practise complaints. The topics highlighted will be monitored to assess whether fitness to practise referrals and enquiries reduce.

13.10 Guidance has been made available in conjunction with partner organisations on areas of confusion for the public; for example a factsheet on the sale and supply of low vision aids was produced with the Royal National Institute for the Blind and Association of British Dispensing Opticians.

13.11 In October 2012 the GOC completed work to make its internet site easier to use on mobile devices and, since the re-launch, internet traffic to the *Codes of Conduct* has increased significantly. We find this to be an area of good practice.

13.12 In next year's performance review we will follow up on:

- The outcomes following the completion of the standards framework review in November 2013
- The outcomes following the GOC's activities to evaluate the effectiveness of the revised standards (particularly in relation to fitness to practise) and its role in providing advice and guidance to stakeholders
- The identification of risks to the public of features of optical businesses, particularly in light of the research report received in March 2013, to inform a review of its current model of optical business regulation.

Education and training

13.13 The GOC continues to meet all the Standards of Good Regulation for education and training. We highlight the GOC's activities in two particular areas.

(i) Continuing fitness to practise scheme

13.14 We consider that the GOC's new CET system, introduced on 1 January 2013 is capable of providing assurance about a registrant's continuing fitness to practise and supports the GOC with meeting the 2nd Standard of Good Regulation for education and training (*through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise).* It is too soon to judge whether or not these ambitions will be achieved.

13.15 The CET system is proportionate in the breadth and depth of the activities it requires registrants to undertake. Within a three-year period registrants are required to demonstrate that they have:

- Participated in peer review
- Reflected on their own practice, the practice of other registrants and on feedback from patients and peers
- Used interactive learning methods with peers and experts in relation to half of the required elements
- Completed activities in all the competencies relevant to their professional group and scope of practice.

13.16 The CET record will be monitored and steps taken where necessary to ensure each registrant has undertaken learning and development activity specific to their scope of practice each year.

13.17 We note the data generated for CET will inform the development of the GOC's education standards and that the new CET IT system will allow the GOC to audit 100% of the CET portfolio of activities of all registrants, collect information about the quality of education and training provision (which can be related to risks in practice) and collect feedback from patients and the public.

13.18 We consider that the use of peer review within the GOC's continuing fitness to practise scheme to be an example of good practice. This mode of learning is particularly useful in situations where registrants work alone or with a small number of colleagues and can become isolated from the profession.

(ii) The quality assurance of education programmes

13.19 The GOC identified from its quality assurance of education providers in 2012 that assessors required greater clarity regarding the attainment of core competencies by students. Guidance and a template record were devised by the GOC in July 2012 to provide a robust audit trail of each student's competence assessment compiled by the provider identifying how, when and by whom assessments were conducted. This record will be maintained irrespective of which qualifications an individual has studied for and will be audited by the awarding body prior to issuing professional qualifications.

13.20 The GOC has developed case studies from fitness to practise cases and registration declarations for use in the 'professional conduct' module of undergraduate training programmes and introduced compulsory discussion about the *Codes of Conduct* and *Competency Framework* with students during quality assurance visits for education providers. We find this to be good practice because it supports students' understanding of the importance and practical application of professional standards.

13.21 The use of case studies has also informed the peer review activities for registrants in the CET scheme. This approach directly links education and training requirements with the standards required of registrants and supports the GOC with meeting the 1st Standard of Good Regulation for education and training (*standards for education and training are linked to standards for registrants).*

13.22 In next year's performance review we will follow up on:

- The outcomes of the GOC's continuing fitness to practise scheme, particularly related to registrants' compliance with the requirements of the first year of the CET scheme and the GOC's assessment of the scheme's effectiveness
- The challenges of sharing data with other organisations involved in, and publishing reports of, visits to education providers conducted jointly (in whole or in part) with other agencies
- The outcomes from the review of the effectiveness of the use of dedicated visit panels which are tailored for each of the five types of quality assurance visits that are conducted of education providers. This will be conducted in March 2014.

Registration

13.23 The GOC meets all of the Standards of Good Regulation for registration. The following examples show how it has achieved this in this year's performance review:

- All registrant groups are now able to complete their retention online from January 2012. We agree with the GOC that this facility enables improvement in the efficiency of the retention process and the accuracy of the online public register
- In order to be able to identify GOC-registered professionals working in or contracted by the NHS, the GOC was working on utilising a unique identifier with the body responsible for IT infrastructure in the NHS Connecting for Health.[16] This improves transparency in the registration process and the accessibility of information to relevant parties
- The GOC consulted in July 2012 on the draft guidance for registrants setting out how its registrar will decide on the action to take in response to declarations about ill health. This aims to help applicants to join and be retained on the register and to understand their responsibilities in relation to declarations, as well as the way in which the GOC will deal with those declarations.

Unregistered practice

13.24 The GOC has increased resourcing in its Illegal Practice Unit to meet the demands of increased illegal practice, such as unlawful sight tests and fitting of contact lenses, unlawful supply of spectacles, prescription and zero-

[16] From April 2013 this role has moved to the Health and Social Care Information Centre.

powered contact lenses and the misuse of a protected title. Activity in relation to the sale of zero-powered contact lenses accounts for over 70% of the GOC caseload.

13.25 The GOC has successfully used its 'cease and desist' action to curtail illegal activity where it suspects unregistered practice has occurred. We also note that the GOC has commissioned research, with a report due in April 2013, into the risks to the public of different types of practice, both legal and illegal. This will inform the subsequent development of a strategy.

13.26 In next year's performance review we will follow up on:

- The implementation of an independent quality assurance monitoring process in the registration directorate and the impact this has had on improving processing times
- Plans to introduce a monitoring process linked to the delivery of its customer relationship management (CRM) database. We note that the new CRM system was originally scheduled to be fully operational in 2012 but is unlikely to be in use before the end of 2013
- A revised strategy to tackle illegal practice, including any prosecutions
- The outcomes of the research conducted into business regulation, from which a report was produced in March 2013, and the outcomes of the research into student regulation, which will include reviewing alternative systems and stakeholder feedback. We note that this work was commenced in 2011/12 and has been delayed
- The outcomes of a pilot study into sharing indemnity insurance data to be undertaken from April 2013.

Fitness to practise

13.27 The GOC has demonstrated that it meets all the Standards of Good Regulation for fitness to practise.

13.28 Examples of ways that the GOC has achieved this include:

- Obtaining expert input from the charity Victim Support to supplement its established witness support programme and using this to develop a more personalised and responsive programme
- Improving the fitness to practise area of its website to make it more user-friendly and provide direct contact details for the fitness to practise team
- Revising template letters to remind registrants of the need to inform primary care trusts and clinical commissioning groups about the investigation.

13.29 We note that the average number of days taken to hear a case has increased from 1.3 to 2.7 days. The GOC has tried to analyse why hearings are taking longer. It has found that expert witnesses are being used more often and that cases are therefore becoming more complex leading to longer hearings. It has therefore begun to facilitate meetings at which experts can identify and narrow the areas on which they disagree, which serves to focus expert evidence given at hearings.

13.30 In the 2011/12 performance review we concluded that there was inconsistent performance in meeting the 6th Standard of Good Regulation and the 10th standard was not met. We provide more information about how the GOC has improved its performance against these standards below.

Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides (6th standard)

13.31 We were concerned in the 2011/12 performance review about the time taken from the final Investigation Committee (IC) decision to the final fitness to practise hearing decision. The GOC took action to address our concerns by making further hearing days available in 2012/13 and using external venues where required which has included utilising those run by other regulators. It has also made staff resource available to support the increased activity. However, we note that the median time taken from the final IC decision to the final fitness to practise hearing decision has increased by 12 weeks (from 54 weeks in 2011/12 to 66 weeks in 2012/13).[17]

13.32 We note that in 2012/13 the median time taken for cases to progress from initial receipt to the final IC decision has been maintained at 26 weeks, despite an increase in the numbers of referrals and a 20% increase in cases considered or concluded by the IC. This is positive and we note that further hearing days will be made available from April 2013 which the GOC anticipates will make further improvements. We will follow this up in next year's performance review.

13.33 We also note a substantial reduction in the length of time taken from the receipt of a complaint to the interim order decision (from 12 weeks in 2012/13 compared with 37.5 weeks in 2011/12). This was achieved by making more hearing days available and improves the GOC's ability to protect the public.

13.34 While this is positive, the length of the GOC's end-to-end fitness to practise process has increased as follows:

- The shortest length of time taken to conclude a case increased by 14 weeks (from 30 weeks in 2011/12 to 44 weeks in 2012/13)
- The longest length of time taken to conclude a case increased by 32 weeks (from 152 weeks in 2011/12 to 184 weeks in 2012/13).

13.35 We note that the GOC is exploring further ways in which it can improve its performance against this standard. We find this standard is currently met, notwithstanding that there are some weaknesses in performance. We will examine the timescales for the GOC's fitness to practise process closely in next year's performance review.

[17] The GOC has changed the way it measures performance for IC and fitness to practise cases. The figures presented here for 2011/12 have been newly provided by the GOC in April 2013 for the purposes of comparison in this year's performance review.

Information about fitness to practise cases is securely retained (10th standard)

13.36 We found that this standard was not met in the 2011/12 performance review because of a number of information breaches at the adjudication stage of the fitness to practise process. In response to the concerns we raised about the security of its data and information governance, the GOC's registrar issued guidance to all staff, the Council and panellists. External experts have been engaged to develop a comprehensive strategy to devise and embed appropriate robust processes; the processes should be ready for testing by April 2013. This project will include the development of policies, in relation to data protection, access to information and records management and retention. These will be underpinned by changes to processes in ICT and operational areas, by the identification of staff responsibilities, by improving the risk register, improving business continuity plans and training for all staff, Council members and panellists who handle data. The project will deliver a framework to provide for the review and audit of the system.

13.37 Based on this comprehensive strategy we find that this standard is currently met. We will follow up on the implementation of this strategy in next year's performance review and expect to see that the GOC is continuing to meet its responsibilities for information governance.

13.38 In next year's performance review we will follow up on:

- The implementation of the CRM system at the end of 2013, along with the introduction of internal quality assurance systems and planned review of its end-to-end processes in the fitness to practise function
- The outcomes of planned improvements to its work to support witnesses including introducing tailored guidance for witnesses and a feedback mechanism
- The implementation of its strategy for information governance.

14. The General Osteopathic Council (GOsC)

Overall assessment

14.1 The GOsC has maintained its effectiveness as a regulator and is meeting all the Standards of Good Regulation across its regulatory functions.

14.2 We note that the GOsC has evaluated our previous performance review reports to identify learning from the activities of other regulators and best practice. It used this to identify new areas of work in its corporate plan for 2013 – 2016. We anticipate that this will lead to improvement and we will follow up on this in next year's performance review.

Guidance and standards

14.3 The GOsC continues to meet the Standards of Good Regulation for guidance and standards.

14.4 The GOsC has achieved this in 2012/13 in the following ways:

- The GOsC has conducted activities to raise awareness about its new *Osteopathic Practice Standards* (OPS) which came into effect from 1 September 2012. In April 2012 the GOsC tested awareness of the new OPS (published in September 2011) through its registrant opinion survey and results indicated that 72% of respondents said they were aware of the new OPS. The GOsC continued with awareness raising activities until September 2012 when the standards came into effect. The GOsC is working to evaluate the effectiveness of its work in this area. We consider this to be an example of good practice
- The GOsC has set up a Patient and Public Partnership Group to provide patient and public perspectives about standards and guidance and assist in the development of communication materials. The group has helped develop new public information leaflets and has fed back on draft guidance on consent. This is an improvement which should help ensure stakeholder involvement in the GOsC's development of guidance and standards
- Following consultation in 2012, the GOsC formed a steering group (with professional, educational and osteopathic research bodies in the UK) to promote professional standards and values across the profession. The GOsC is adopting a facilitating role in the group. This approach aims to provide support for the future development of the osteopathic profession by those organisations best placed to do so
- The GOsC has worked with the National Council for Osteopathic Research and the British Osteopathic Association (BOA) to establish a repository of information about risks in osteopathic care. The GOsC intends for this to be used to inform the development of additional guidance and standards

- In 2009 the GOsC commissioned a number of research projects exploring adverse events associated with osteopathy to improve understanding of these risks. The GOsC published the final research findings in August 2012 and these have contributed to the GOsC's review of its guidance on consent and revised public and practitioner information
- The GOsC has adopted a common system of classification for claims and complaints about osteopaths made to the regulator, the BOA and the professional indemnity insurance providers from January 2013 to identify trends.

14.5 In next year's performance review we will follow up on:

- Progress with the GOsC's research into the effectiveness of osteopathic regulation and how this can help to ensure registrants meet and maintain standards
- Any early outcomes from the analysis of the data from the common system for categorising complaints about osteopaths (which the GOsC aims to complete by April 2014) with a view to developing standards and guidance to address weak areas of osteopathic practice
- Progress with the GOsC's collaborative work with professional, educational and osteopathic research bodies in the UK on the future development of the osteopathic profession.

Education and training

14.6 The GOsC meets all the Standards of Good Regulation for education and training.

Guidance on osteopathic pre-registration education

14.7 In August 2012, the GOsC published *Preparedness to Practise,* the findings of research commissioned by the GOsC to help it to identify whether further support is required to help students make the transition to being a practitioner. The research found that new graduates are safe to start practising independently after graduation and they are familiar with the current standards. However, it also identified areas that could benefit from further education and training or other support (such as clinical and communication skills).

Continuing fitness to practise

14.8 In September 2012 the GOsC successfully concluded a 12-month pilot study for its proposed continuing fitness to practise scheme, which had involved 5% of all registered osteopaths. The proposed scheme had four stages and the pilot study was limited to the first of these stages: self-assessment. The other three stages involve clarification, peer review and a formal assessment of clinical performance. Registrants are only required to proceed to the next stage when responses at the earlier stage are unsatisfactory. The registrant can be directed to undertake remedial activities at any stage of the process, and a referral can be made using the GOsC's fitness to practise procedures if significant concerns arise.

14.9 The aim of the pilot was to explore how osteopaths can best demonstrate that they continue to be fit to practise, given that they are often self-employed and/or work alone which can limit their opportunities for peer review or evaluation from colleagues. The pilot used tools such as clinical audit, patient feedback and structured reflection to support osteopaths to demonstrate their continuing fitness to practise.

14.10 We note that an independent evaluation of the pilot found that 75% of participants reported that they reflected more on their clinical practice and 40% reported that their participation benefitted patients. We were pleased to note that many participants said they would continue to use pilot tools such as patient feedback and peer review to develop their practice in future, and that taking part in the pilot had enabled them to document their practice better. Some registrants perceived the scheme to be complex and administratively burdensome, and the GOsC is considering how to develop the scheme while addressing these issues. We acknowledge the work involved in the pilot. We note the GOsC's commitment to considering our paper on continuing fitness to practise[18] in developing its scheme and note it will approve a scheme design for further consultation in 2013/14.

14.11 In next year's performance review, we will follow up on the following:

- The development of guidance on osteopathic pre-registration education to ensure learning outcomes are aligned with the new OPS, which is being undertaken by the GOsC's Osteopathic Pre-registration Working Group (comprising education providers, patients and students)
- The design for a scheme of continuing fitness to practise which combines the outcomes of the revalidation pilot and the CPD consultation, due to be consulted on at the end of 2013
- The outcomes from the development of 'professionalism in osteopathy' tools which are web-based inventories that pose ethical scenarios for student participants and elicit their views on the seriousness of the ethical case posed and what action they would take in certain situations (such as breaches of patient confidentiality). The student is able to compare their responses to those of other participants so that they can evaluate where their view fits within their student cohort.

Registration

14.12 We consider that the GOsC continues to meet the Standards of Good Regulation for registration.

14.13 We note that the GOsC completed a review of the appearance and functionality of the online register. Additional information was made available on the register in 2012/13. Information about a registrant's gender and the full date of registration is available and the register can be searched by

[18] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

registration number. These improvements should make it easier for the public and employers to access information about registrants.

14.14 In the GOsC's 2012 survey of registrants the GOsC queried the attitudes and responses to unregistered practice. The survey found that 96% of osteopaths would take action if they knew of an unregistered person claiming to be an osteopath and 84% of these respondents would contact the GOsC. Some of these respondents said they would also talk to the person directly about the issue or spread the word locally and others would refer the matter to professional bodies, the police and their local trading standards organisation. Based on this, the GOsC wants to clarify to its registrants that the purpose of regulatory action by the GOsC is patient protection rather than safeguarding the market. The GOsC has added to its website more information regarding the risks to patients of being treated by an individual who is not registered by the GOsC.

14.15 The GOsC is reviewing its process for registration appeals. The GOsC received feedback on procedures from Council members involved in the two most recent appeals to inform improvements to the procedures. The GOsC will introduce the new procedure in 2013. The GOsC has not reviewed its approach to registration appeals since 1998. We note that appeal numbers are low (there was only one in 2012/13); nonetheless, it is important that procedures reflect operational reality and reviewing procedures at regular intervals ensures they remain accurate and aligned with overall business systems. We therefore recommend that a shorter timeframe is agreed for future reviews of the procedure.

14.16 The GOsC used to have a policy of listing certain osteopaths on its register as non-practising while in limited circumstances they may have been taking clinical responsibility for patients. In October 2012, the GOsC's Council reconsidered its position and removed this anomaly to ensure that any osteopath listed as non-practising must in no circumstances be taking clinical responsibility for patients. The GOsC has written to the small number of osteopaths affected to explain the position. It has also updated publicly available information to communicate this to registrants and patients.

14.17 In next year's performance review, we will follow up on:

- Any outcomes of the work to design and conduct a public survey to test the usability and accessibility of the online register, with the aim of identifying where improvements may be needed
- The outcomes of the work on illegal practice including ensuring that those reporting concerns about unregistered individuals practising osteopathy are informed about the regulatory action taken, the GOsC's development of guidance and its work to link register searches to advice about the appropriate action to take in the event of discovering an unregistered practitioner.

Fitness to practise

14.18 The GOsC has demonstrated that it continues to meet the Standards of Good Regulation for fitness to practise.

14.19 Examples of how the GOsC has achieved this are set out below:

- Agreeing a policy in December 2012 that convictions or cautions involving drugs or alcohol will be investigated as evidence of a possible underlying health problem. We note that other regulators who have adopted a similar approach have found it useful in identifying health and performance concerns which might not otherwise be apparent
- Conducting a hearings management audit considered by the GOsC's Audit Committee in November 2012 which concluded that hearings were conducted appropriately, were well managed by chairs and determinations were well set out and reasoned
- Developing new guidance to assist the Professional Conduct Committee (PCC) when it is considering the imposition of conditions of practice orders. This was the subject of a consultation which closed in May 2013.

14.20 We note that the GOsC closed a consultation in May 2013 on its revised *Indicative Sanctions Guidance* (ISG) which sets out guidance to the PCC when considering the appropriate sanction to impose. We note that before the Fitness to Practise Policy Committee's review of this guidance in 2012 the ISG had not been reviewed since November 2007. We therefore reiterate our recommendation (see para 14.15) that a shorter timeframe is agreed for future reviews.

Re-introduction of Rule 8 of the GOsC's Professional Conduct Committee (Procedure) Rules 2000

14.21 Rule 8 allows certain cases which have been referred by the Investigating Committee (IC) to the PCC to be disposed of without a hearing. Rule 8 may be used where the registrant admits all allegations, the registrant accepts that the allegations amount to unacceptable professional conduct and the PCC concludes admonishment is the appropriate sanction. Rule 8 only operates in the time between a referral from the IC and the hearing of the PCC. The GOsC has not exercised its discretionary powers under Rule 8 since 2003.

14.22 Our response to the GOsC's targeted consultation in August 2012 asked the GOsC to consider how such cases would be included on the public register, whether there was provision for quality assurance of these types of decisions, particularly to ensure consistency and what approach would be taken if a complainant objected to the GOsC dealing with a case under Rule 8, which could impact on confidence in the GOsC's system of regulation. We also recommended that the GOsC consulted more formally and widely particularly because most complaints come from members of the public so, in our view, their opinions should be considered.

14.23 We are pleased that the GOsC concluded that wider public consultation would be appropriate before any decision to re-introduce Rule 8. This consultation concluded on 31 January 2013. Despite efforts to engage patient groups, the GOsC noted that responses were almost exclusively from osteopaths who favoured the re-introduction of Rule 8. In March 2013 the GOsC therefore recommended to its Council that Rule 8 be re-introduced. We will follow up on this in next year's performance review and we will also

review decisions made using Rule 8 using our powers under Section 29 of the NHS Reform and Health Care Professions Act 2002.

14.24 In next year's performance review we will follow up on:

- The changes made as a result of the public consultation on the revised ISG and guidance for the PCC on conditions of practice orders
- The outcomes from the decision of the GOsC's Council that Rule 8 of the GOsC's Professional Conduct Committee (Procedure) Rules 2000 is re-introduced
- The plans to improve registrants' understanding of and confidence in the fitness to practise process, share learning from the fitness to practise process with registrants and set out the regulatory role of the GOsC related to providing assurance about the fitness to practise of osteopaths, in light of the GOsC's analysis of the 2012 survey of osteopaths.

15. The General Pharmaceutical Council (GPhC)

Overall assessment

15.1 The GPhC meets all but one of the Standards of Good Regulation. We are not able to confirm whether the GPhC meets the 10th Standard of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained)* as we are waiting for a ruling from the Information Commissioner's Office about a data breach incident that occurred in 2012/13.

15.2 We noted in the 2011/12 performance review that the GPhC was inconsistently meeting the 2nd and 3rd Standards of Good Regulation for registration due to the accuracy of registration applications for pharmacy technicians, the time taken to process these applications as well as the accuracy of the online register. We also found that the 6th Standard of Good Regulation for fitness to practise *(fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides …*) was not met. We are pleased to report that the GPhC has taken steps to address the concerns we highlighted in the 2011/12 performance review.

15.3 We commend the GPhC's development of new, outcomes-focused *Standards for Registered Pharmacies as* good practice which emphasises the responsibilities of pharmacy owners and superintendent pharmacists to ensure compliance.

Guidance and standards

15.4 We consider that the GPhC has continued to meet all the Standards of Good Regulation for guidance, as demonstrated by the examples below.

Standards for Registered Pharmacies

15.5 The GPhC's new standards, entitled *Standards for Registered Pharmacies,* were launched in September 2012 after consultation with stakeholders including groups representing patients, registrants, pharmacy owners and primary care commissioning organisations across England, Scotland and Wales. The standards are distinct from those that apply to registered pharmacy professionals and will refer to the GPhC's new enforcement powers to issue improvement notices, to impose conditions or, in serious cases of non-compliance, to close pharmacies.

15.6 Responsibility for compliance rests with pharmacy owners and superintendent pharmacists whose decisions have a powerful impact on patient safety and service delivery and quality. We note the GPhC will not have full enforcement powers until Parliament has approved the new standards as Rules. The consultation and Parliamentary approval necessary for the standards to be adopted as Rules is unlikely to happen before October 2013. However, during 2013 the GPhC plans to develop a new framework for inspections to determine if the new standards are being met.

15.7 The new standards are compliant with the principles of right-touch regulation, in particular their focus on outcomes rather than processes. We commend the GPhC for its development and implementation of these standards which we consider to be good practice.

Encouraging public and patient participation

15.8 Prior to the consultation on the *Standards for Registered Pharmacies*, the GPhC held four patient and public workshops and devised a consultation toolkit which included a short guide to consultation best practice and was circulated to 35 organisations representing patients and the public across Great Britain. The toolkit was aimed at encouraging stakeholders to communicate their views and demonstrate the GPhC's commitment to carrying out engagement activities. Early stakeholder engagement helps to ensure that patient and public perspectives inform the GPhC's development of standards and guidance and we find this to be an area of good practice.

15.9 In next year's performance review we will follow up on:

- The impact of stakeholder engagement activities on developing a new approach to inspections
- The additional guidance planned on the provision of internet pharmacy services, the preparation of unlicensed medicines and the supply of Pharmacy only (P) medicines (as opposed to medicines that are available for purchase by the public over the counter)
- The outcomes of the stakeholder survey in 2013 to test awareness and perceptions of the GPhC's core outputs, including standards and guidance.

Education and training

15.10 The GPhC meets all the Standards of Good Regulation for education and training. The GPhC has carried out a number of activities to develop its performance in this function, details of which are set out below.

15.11 During 2012/13 the Pharmaceutical Society of Northern Ireland (PSNI) adopted the GPhC's *Future Pharmacists: Standards for the initial education and training of pharmacists in Great Britain* and agreed a joint accreditation process for master's degree programmes with the GPhC, to include a six-year accreditation cycle and three yearly practice placement reviews. This joint working between the two regulators for pharmacy in the UK should enhance public protection and public confidence by ensuring that standards for pharmacy education and training continue to be consistently applied throughout the UK.

Outcome-focused standards

15.12 The GPhC has made an initial evaluation of the impact of *Future Pharmacists: Standards for the initial education and training of pharmacists*, which it introduced in 2011. Feedback from one education provider was that the clarity of the standards and the framework they provided helped it to design a course focused on ensuring students can deliver safe and

successful patient care, as well as displaying the necessary competence levels in traditional science-based skills such as pharmaceutical chemistry and pharmaceutics. This is good practice and an illustration of how outcomes-focused standards can help to ensure that education provision remains current and relevant to patient needs.

Continuing fitness to practise

15.13 In 2012 the GPhC's Council agreed that the general principles for the continuing fitness to practise scheme that is introduced must be consistent with those previously identified by the Department of Health's Non-Medical Revalidation Working Group.[19] The Council concluded that the scheme should:

- Focus on providing assurance about continuing fitness to practise rather than on a fixed point assessment
- Consider more than one source of information
- Assess against a standard based on the GPhC's *Standards of Conduct, Ethics and Performance* that apply to all registrants
- Take full account of the structure of the pharmacy workforce
- Be appropriately costed and subject to testing, including piloting.

15.14 Following a stakeholder workshop in July 2012 and Council discussions in December 2012, the GPhC identified further themes for development of a model. These included clarifying roles and responsibilities and providing guidance on how the *Standards of Conduct, Ethics and Performance* should be used in evaluation. We hope the GPhC also finds the Authority's paper[20] on continuing fitness to practise helpful in the development of its thinking. The GPhC aims to agree a model by 2015 and we will follow up on the GPhC's activities to prepare for this in next year's performance review.

Quality assurance of education programmes

15.15 In November 2012 the GPhC published procedures with the Pharmaceutical Society of Northern Ireland (PSNI) for the mutual recognition of initial education and training. This means that both the GPhC and the PSNI will recognise the other's pre-registration training and master's degrees, although the registrant must complete their training and registration assessment in one jurisdiction to be eligible for recognition by the other. This is an improvement as it should help to maintain consistency with the standards required for registration as a pharmacist throughout the UK.

---

[19] The Department of Health Non-Medical Revalidation Working Group was established to take forward the recommendations in the 2007 White Paper *Trust, Assurance and Safety.* The working group produced a report defining revalidation and setting out principles to guide the development of revalidation.

[20] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

15.16 The GPhC has introduced competency-based recruitment procedures for its education accreditors who carry out the quality assurance of education programmes. It has also specifically recruited newly graduated registrants to these roles, following its review of a similar initiative carried out by the General Medical Council.

15.17 In next year's performance review we will follow up on:

- The outcomes of the GPhC's evaluation of the impact of continuing professional development (CPD) rule changes introduced in July 2011. From July 2012 the GPhC began carrying out checks to ensure that the CPD entered was relevant to the scope of the registrant's practice and relevant to the provision of safe and effective patient care. Under this new framework the GPhC has the power to remove registrants from the register for non-compliance with CPD requirements
- The progress of the work to agree the GPhC's scheme for continuing fitness to practise in 2015.

Registration

15.18 We find that the GPhC meets all of the Standards of Good Regulation for registration. We note the following activities in 2012/13:

- From 26 September 2012, pharmacy professionals returning to the GPhC register after more than a year's absence need to provide a portfolio of evidence that maps their current competence against the GPhC's core *Standards of Conduct, Ethics and Performance*. After evaluation, the registrar decides whether registration should be granted. This is an improvement as it helps the GPhC to ensure that only those registrants with the necessary skills, knowledge and competences are registered
- The GPhC has successfully prosecuted two cases of unregistered practice. In one case the pharmacist practised while suspended, and in the other case an individual practised after they had been erased from the register. The GPhC now requires applicants who are seeking restoration to the register to complete an additional declaration that they have not worked as a pharmacist or pharmacy technician in Great Britain while unregistered other than on occasions known and investigated by the GPhC
- The registration process now includes checking mechanisms to help ensure the accuracy of the process for approving registration applications.

15.19 In the 2011/12 performance review we raised concerns about the GPhC's inconsistent compliance with the 2nd and 3rd Standards of Good Regulation for registration. We provide an update about the GPhC's performance against these two standards below.

The registration process including the management of appeals is fair, based on the regulators' standards, efficient, transparent, secure and continuously improving (2nd standard)

15.20 We welcome the GPhC's decision to remove the previous requirement for European-qualified applicants to the GPhC register to submit health/medical declarations. European-qualified applicants now only need to make a self-declaration, which brings them into line with the process that applies to UK applicants. We view this as a proportionate and right-touch approach which promotes fairness and equal opportunities.

15.21 In the 2011/12 performance review we recommended that the GPhC review its handling of the processing of registration applications, and raised concerns about difficulties it experienced with timely processing of applications from pharmacy technicians. We noted that approximately 33% of grandparenting applications[21] and 40% of other pharmacy technician applications contained errors and considered that any reduction in errors would have a positive impact on the time taken to process applications. The GPhC has revised the application form and guidance notes and subsequently reported improvements in the quality of pharmacy technician applications, as in 2012/13 approximately 20% of applications needed further evidence or information before an assessment could be completed. It also found that the management and processing of applications has become less administratively onerous. Based on this improvement we now find that this standard is met.

Accuracy of the online register

15.22 As part of our performance review of the regulators, we conduct an accuracy check of the regulators' registers and this helps us assess compliance with the 3rd standard (*through the regulators' registers, everyone can easily access information about registrants).* Incorrect or outdated entries have obvious implications for public protection and cast doubt on the integrity of a register.

15.23 In the 2011/12 performance review we noted that one entry did not attach the relevant fitness to practise determination as per the GPhC's policy. The GPhC took steps to address this and ensure it would not be repeated. We are pleased to report that in this year's register check no errors were found. Based on this we find that the 3rd standard is now met.

15.24 In next year's performance review we will expect to see evidence that the GPhC is maintaining its performance and continuing to meet the Standards of Good Regulation for registration.

[21] Whenever a new profession becomes regulated, and titles are protected, there is a 'grandparenting' period. The grandparenting period allows people who have previously been practising the profession, but who do not hold an approved qualification to become registered if they can demonstrate they meet certain criteria.

Fitness to practise

15.25 The GPhC is meeting nine of the Standards of Good Regulation for fitness to practise. We are not able to confirm whether the GPhC meets the 10th Standard of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained)* as we are waiting for a ruling from the Information Commissioner's Office about a data breach incident that occurred in 2012/13.

15.26 The GPhC has undertaken a number of activities to meet the standards, which we highlight below:

- Providing a bulletin to Statutory Committee members to update them on relevant matters between training sessions from September 2012
- Introducing routine quality checks at each stage of the investigation and case management process from January 2013
- Conducting monthly reviews of the outcomes of all Investigation Committee and Fitness to Practise Committee cases and issuing learning points to inform internal training. Further bespoke training was designed as a result of reviews of transcripts of Interim Order Panel hearings and panel members are not permitted to sit on Interim Order Panel hearings unless they have completed the training
- Introducing a 'Quality Circle' for staff across the teams to ensure staff views about improvement and innovation are captured and acted upon. Broader themes are communicated to practitioners through newsletters and the GPhC website
- Implementing an accountability framework in January 2013 setting out the levels and types of management and statutory authority delegated to staff across the organisation. Quality assurance checks of delegated decision making have been built in to the process to ensure decisions are taken at the proper level
- Producing a staff guidance document on letter writing and updating staff guidance on the use of voluntary undertakings in health cases where misconduct is linked to a registrant's adverse health.

Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients or service users. Where necessary the regulator protects the public by means of interim orders (6th standard)

15.27 In the 2011/12 performance review we found that this standard was not met due to the timeliness of case progression. In the 2011/12 performance review we noted that the GPhC aimed to conclude all cases that were transferred from the Royal Pharmaceutical Society of Great Britain (RPSGB)[22] by September 2012. We note that the GPhC has not achieved this. However, by

[22] 589 fitness to practise cases were transferred from the RPSGB when the GPhC took over responsibility for the regulation of the pharmacy professions and pharmacy in September 2010.

March 2013, only 11 cases remained open and we will follow up on this in next year's performance review.

15.28 In the 2011/12 performance review we noted that no stage specific performance measures were in place to enable the GPhC to evaluate how quickly cases were progressing through the fitness to practise process. Instead, the GPhC measured the 'end to end' performance and had a general service standard that all cases should conclude within 12 to 15 months. In our view, the absence of stage-specific measures limits the GPhC's ability to adequately demonstrate to its Council and other stakeholders that timeliness issues are being properly addressed. Similarly, there is unlikely to be sufficient management information available to help identify and address any issues in parts of the fitness to practise process that might be particularly problematic. It is essential to manage workflow evenly, because delays in one part of the process that cause backlogs will stress the system unless relieved quickly.

15.29 We note that the GPhC has taken a number of positive steps to address our concerns, including:

- Monthly case conference meetings with all investigations staff
- Team-specific case progression meetings, at which all cases over target timeframes are reviewed to identify and resolve case progression issues
- The introduction of new investigations and case management procedures with key performance indicators for the completion of key case management tasks which are reviewed at a team level
- Reviewing data about fitness to practise cases which is supplied as part of the operational and financial performance monitoring reporting to Council.

15.30 Our audit of the cases closed at the initial stages of the GPhC's fitness to practise process[23] in 2012 concluded that the majority of cases we audited met the GPhC's key performance indicators for closure. We also noted particular good practice as 21 cases (out of the 100 cases we audited) were closed well within the GPhC's targets for doing so. This demonstrated that the new processes introduced in May 2012 with the intention of improving timeliness were effective. All of the delays we found in our audit related to cases closed prior to the new processes being introduced.

15.31 Based on these improvements we now find that this standard is met.

Information about fitness to practise cases is securely retained (10th standard)

15.32 We note a data security breach occurred in February 2013 when the GPhC inadvertently included the address of a witness in the bundle sent to the registrant in advance of an interim order hearing. In this case there was

[23] CHRE, 2012. Audit of the General Pharmaceutical Council's Initial Stages Fitness to Practise Process. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/audit-reports/gphc-ftp-audit-report-2012.pdf?sfvrsn=0

potential for substantial distress to be caused and actual harm to the witness. The GPhC reported the matter to the Information Commissioner's Office and commissioned an external audit to determine what steps needed to be taken to prevent this occurring again. We note that the GPhC has policies in place related to disclosure of information and staff have been trained on them. The GPhC is waiting for a ruling from the Information Commissioner's Office about this incident and we are therefore not able to confirm if the GPhC has met this standard. We will follow up on the actions that the GPhC has taken in relation to this incident in next year's performance review.

15.33 In next year's performance review we will follow up on:

- The outcomes from the introduction of the quality assurance function across the fitness to practise process
- Updates about the action plan produced in response to recommendations made in our audit of the cases closed at the initial stages of the GPhC's fitness to practise process 2012
- The outcomes of the work on engagement with vulnerable registrants, witnesses and complainants to help these stakeholders to engage with the fitness to practise process
- The development of a new case management system, work that commenced in 2011/12
- The guidance for registrants involved in fitness to practise complaints which the GPhC expects to roll out in October 2013
- The closure of cases transferred from the RPSGB.

16. The Health and Care Professions Council (HCPC)

Overall assessment

16.1 The HCPC has maintained its performance as an effective regulator across each of its regulatory functions. This is notable given that it has completed a significant amount of work to prepare for and implement the transfer of regulation of social workers in England from 1 August 2012. In particular this has included working with the General Social Care Council (GSCC), the Social Care Councils in Scotland, Wales and Northern Ireland and a broad range of other key stakeholders. The HCPC has set out the framework for regulation and the approval of education programmes, published standards of proficiency and communicated the key changes to relevant groups.

16.2 Since much of the HCPC's activity in 2012/13 has focused on the preparation for and implementation of the transfer of regulation of social workers in England, we have reported specifically about these activities. Despite the additional work involved, the HCPC has maintained its performance across all areas of its responsibility.

16.3 We noted in the 2011/12 performance review that the HCPC was not meeting the 3rd Standard of Good Regulation for education and training (*the process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees…)* because, while the HCPC had a quality assurance in place, in our view the perspectives of service users were not properly taken into account. We are pleased to report that this standard is now met and that the HCPC now meets all of the Standards of Good Regulation.

Guidance and standards

16.4 The HCPC continues to meet all the Standards of Good Regulation for guidance and standards. Its work in this area has included:

- Continuing with its programme of work to revise the standards of proficiency for each professional group it regulates
- Consulting on the implications of the Department of Health's announcement in July 2012 that medicines legislation would be amended to enable chiropodists, podiatrists and physiotherapists to independently prescribe medicines where this was clinically appropriate and where this falls in the professional's scope of practice
- Participating in initiatives on professionalism for health professionals including beginning a dialogue with health professionals about the concept of professional behaviour.

Changes following the transfer of regulation of social workers in England in August 2012

16.5 Social work is one of a number of professions in which people can train to become 'approved mental health professionals' (AMHPs). AMHPs exercise functions under the Mental Health Act 1983 relating to decisions made about patients with mental health disorders, including the decision to apply for compulsory admission to hospital. Before working as an AMHP, a social worker needs to complete the appropriate training. The GSCC previously had responsibility for approving these training programmes, as part of their role for regulating social workers. The HCPC acquired powers in August 2012 to approve education programmes for AMHPs when the Health and Social Care Act 2012 amended the HCPC's governing legislation.

16.6 As part of the preparations for the transfer of regulation of social workers in England to the HCPC, the GSCC re-approved all such programmes to ensure they met the GSCC's requirements. As a result the HCPC will not visit these programmes until 2013/14.

16.7 The HCPC's new powers include the powers to set criteria for approving education programmes for AMHPs, publishing those criteria and communicating the criteria to education providers. The HCPC developed interim criteria based on the GSCC's latest reports and the HCPC is working on developing stand-alone criteria for dealing with concerns if they arise and to approve and monitor education programmes for AMHPs going forward. We will follow up on this in next year's performance review.

16.8 The HCPC has also taken action to raise awareness amongst social work professionals and their employers about the changes in standards for social workers in England. This has included an information mailing to all social work registrants, articles in the professional press, a live web session, events and presentations. This is an area of good practice.

16.9 In next year's performance review, we will follow up on:

- The completion of the revised guidance, *A Disabled Person's Guide to Becoming a Health Professional,* which will involve commissioning research, involving disabled people and students in developing the guidance and public consultation
- The mapping of UK wide advocacy and patient groups as part of a wider stakeholder mapping exercise. This work commenced in 2011/12 but was delayed due to the HCPC's prioritisation of work to implement the transfer of regulation of social workers in England. The HCPC now aims to complete this in 2013
- The progress of the development of stand-alone criteria for dealing with concerns about education programmes for AMHPs
- The progress of the review of *Standards of Conduct, Performance and Ethics* which commenced in July 2012 and will be concluded in 2016. We will also follow up on the outcomes of research conducted in 2013 which aimed to find out whether registrants were aware of the standards, if they understood them, whether the standards reflected professional practice and the public's expectations of registered professionals, whether the

standards were applicable across all the professions, whether the standards were accessible to a range of audiences and whether any further principles may need to be included in the standards.

Education and training

16.10 The HCPC is meeting all the Standards of Good Regulation for education and training.

The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees (3rd standard)

16.11 We concluded in the 2011/12 performance review that this standard was not met although we noted that the HCPC had made progress towards meeting it. This was because the HCPC was not incorporating the views and perspectives of service users in its quality assurance process. The HCPC had sought to satisfy itself that there was an evidence base demonstrating the benefits of involving service users' perspectives in the quality assurance process.

16.12 During 2012/13 the HCPC has been working on the development of a new standard of education and training which will make service user involvement an express requirement in the design and delivery of programmes. The HCPC is reviewing its definition of 'lay visitor' to remove the requirement for educational experience and thereby attract a service user perspective. We are therefore pleased to report that this standard is now met.

Changes following the transfer of regulation of social workers in England in August 2012

16.13 Under the previous regulatory system, the GSCC held a register of social work students. The HCPC decided not to continue with the registration of social work students. This decision was taken after considering the responses to a consultation and the findings of a literature review. Following this it was concluded that the most proportionate and effective means of managing the fitness to practise fitness to practise of students was through the HCPC's standards for education and training and through the quality assurance of education and training programmes.

16.14 The HCPC set up the Social Work Student Suitability Scheme on 1 August 2012 to manage the transitional arrangements for the registration of social work students in England from the GSCC. This scheme will be in place until the HCPC has visited all social work education and training programmes to check whether these institutions meet the HCPC's standards for education and training. This scheme enables the HCPC to:

- Provide an opinion, in exceptional circumstances, to a social work education provider about whether an applicant is of suitable character to be admitted to a programme
- Investigate where the HCPC considers that an education provider has failed to deal with a credible complaint about a student appropriately

- Maintain a record of students who are not permitted to participate in a social work programme in England
- Manage open cases concerning individuals applying to be on the student register maintained by the GSCC
- Consider the outcomes of an education provider's fitness to practise procedures to determine whether a student should be prohibited from a programme. We note that by December 2012 the HCPC had placed seven students on the prohibited list, as they had been struck off the GSCC student register following concerns raised about their conduct and competence, and they were therefore not permitted to participate in the education programme.

16.15 As we set out above (see para 16.6) all programmes which were approved by the GSCC automatically received transitional approval from the HCPC once the regulation of social workers in England transferred to the HCPC in August 2012. Under these arrangements, 282 pre-registration social work programmes and 30 education programmes for AMHPs were transitionally approved.

16.16 The HCPC developed a three-year schedule of quality assurance visits for education programmes that were previously under the GSCC's remit. The prioritisation of visits for education providers across academic years took account of certain factors (such as the GSCC's quality assurance evidence at the point of transfer and the supply and demand of placements within regions). It also involved applying timelines for visits flexibly so that relevant factors could be taken into account (such as new concerns arising about the transitionally approved programme).

16.17 This approach was considered to be the most proportionate, while also taking into account current issues in the social work education sector which include the development of a professional body and uncertainty around student bursaries. The HCPC's process included a review of the quality assurance visits of education programmes in summer 2013 to ensure there were no risks of education providers developing students who do not meet the HCPC's standards.

Continuing fitness to practise

16.18 The HCPC began a schedule of audits in 2008 which selected a random sample of registrants and asked for evidence that the HCPC's continuous professional development (CPD) standards were met. In cases where registrants fail to provide a CPD profile within the allowed timeframe, or if a submitted CPD profile is rejected, registrants are given notice that they will be removed from the register in 28 days. The HCPC has continued with these CPD audits this year. The majority of registrants selected for a CPD audit were found to be meeting the CPD standards.

16.19 In the 2011/12 performance review we reported that the HCPC was planning to undertake two multi-variant analyses. The first related to CPD audit data looking at correlations between the outcomes of CPD audits and variables such as age, gender and place of registration. We note that this has not yet

commenced. The second related to data about registrants who have had a sanction imposed on them at a final fitness to practise hearing between 2003 and 2009 to determine whether there were any predictive factors in these cases. We noted that the findings from this work will inform the HCPC's proposals for a continuing fitness to practise scheme.

16.20 We were pleased to note that the HCPC's Council considered our policy paper on continuing fitness to practise[24] in May 2013 as part of its review of the approach to putting in place a continuing fitness to practise scheme. The HCPC agree with our view that the focus of any regulator's approach to continuing fitness to practise should be on outcomes and the scheme that is put in place can be and, in most cases, should be achieved by means other than revalidation (where revalidation is defined as a periodic assessment of fitness to practise).

16.21 In next year's performance review we will follow up on:

- The outcomes of the work aimed at achieving greater service user involvement in the quality assurance of education programmes and the review of the definition of 'lay visitor' to remove the requirement for educational experience
- The review of CPD standards and the process for auditing against the CPD standards which the HCPC advised us will take place in the 2013/14 business year.

Registration

16.22 The HCPC is meeting all of the Standards of Good Regulation for registration.

16.23 As part of our performance review of the regulators we conduct an accuracy check of the regulators' registers and this helps us assess compliance with the 3rd standard for registration (*everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice).* Incorrect or outdated entries have obvious implications for public protection and cast doubt on the integrity of a register. In last year's performance review we noted inconsistent performance against this standard as we identified one entry on the HCPC's register that was incorrect. The HCPC took steps to address this error and ensure it would not be repeated. We are pleased to report that in this year's accuracy check of the register no errors were found.

16.24 The HCPC has continued to make improvements to its registration function and the approach continues to be efficient and effective. The following improvements are noted:

- The HCPC has agreed on two tests to satisfy the English language proficiency requirement (rather than a much larger number) to enhance

[24] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

confidence that the applicants who need to provide evidence of English language proficiency meet requirements

- The introduction of an online process to reduce the time taken to process readmission forms when a registrant fails to apply for renewal of their registration in time for it to be processed before their current registration expires (which can disrupt patient services as registrants are unable to practise lawfully while their registration has lapsed).

Changes following the transfer of regulation of social workers in England in August 2012

16.25 The transfer of the social work register to the HCPC occurred over the summer 2012 when social work students were receiving final results and needed to register with the regulator for the first time. The HCPC implemented the learning from its experience of introducing new groups to the HCPC register in the past. For the transfer of social work regulation, the HCPC issued joint communication with the GSCC to education providers to request that a full set of pass lists for social work graduates be available to the HCPC in advance of the date of transfer. Building on its previous experience, this enabled the HCPC to begin processing applications from the date of transfer and the HCPC feels it processed applications more quickly because of this. We find this to be an area of good practice as the HCPC's approach was to look forward to anticipate the change and it enabled education providers to be prepared for the new requirements.

16.26 We have noted above (see para 16.8) the HCPC's activities to engage with stakeholders in the social work sector. The HCPC's engagement activities included contact with key employers, organisations representing social work employers and direct engagement with directors and assistant directors of adult and children's services to ensure that these stakeholders were mindful of the importance of social workers renewing their registration. We note that the exercise to manage the process for social workers in England joining the HCPC register was the largest external register transfer that the HCPC has conducted. We are pleased that the HCPC considers the exercise to be a success, as do we.

Fitness to practise

16.27 The HCPC has continued to meet all of the Standards of Good Regulation for fitness to practise. This is particularly noteworthy because when the HCPC became responsible for the regulation of social workers in England from August 2012 it saw an increase in the volume of allegations it was dealing with and an expansion of its scope.

16.28 The HCPC has also acted to develop its work across the fitness to practise function to drive improvements. This has included the following activities:

- Training in mental health awareness, by the mental health charity Mind, to improve awareness and to enable fitness to practise staff to assist individuals identified as having mental health issues

- The introduction of a Case Advancement Team which was set up to manage the cases which are identified at an early stage as needing more time or effort to complete in a timely manner. The team aims to ensure that adequate support is provided to complainants who find the fitness to practise complaints process more difficult (such as complainants who have difficulty articulating their concerns). To support this team with progressing cases, an additional monthly meeting is held to focus on case handling strategy and focuses solely on the advancement of cases. There are also monthly meetings with the Communications Team to consider any issues related to high-profile cases and anticipating any media issues and a monthly meeting with the Hearings Team, which is responsible for providing support to witnesses, to consider the disclosure of evidence or complex witness management issues
- The introduction of an electronic case management system (CMS) which was aimed at creating a paperless system and greater efficiency. Efficiency improvements are expected as a result of the increased ability for monitoring workloads, improved management information, reduction of the risks around information security and improved tracking of sanctions
- The introduction of the new Assurance and Development Team – one of the roles for this team will be to review cases where interim orders have been applied for. The team will use the information learned from these reviews to feed into the review of staff guidance and the review of the HCPC's *Interim Order Practice Note* (issued by the Council as guidance for interim order panels). As the HCPC identifies, it is important to ensure consistency in the decisions made in cases involving registrants that may pose a risk to public protection and this is particularly so when greater numbers of staff are involved in making such decisions. We will consider the effectiveness of this initiative further in our audit of the initial stages of the HCPC's fitness to practise process in 2013.

Changes following the transfer of regulation of social workers in England in August 2012

16.29 The HCPC's engagement activities were noted above (see para 16.8) as good practice. In relation to the fitness to practise function, this has also included communication with all local authority social services to advise them of the different powers the HCPC has in relation to fitness to practise cases.

16.30 The Council agreed 'Just Disposal' criteria in July 2012 which included processes and provisions to ensure the continuity of the regulatory process for those social work registrants subject to conditional registration, those suspended and registrants for whom there was an outstanding application for registration or renewal at the time of the transfer. The criteria were set with the intention that, when reviewing fitness to practise cases about social work professionals, the HCPC meets its statutory obligations for handling cases in a manner that is fair, transparent, consistent and proportionate.

16.31 The HCPC was also quick to review the cases transferred from the GSCC. This included reviewing all cases where an interim order was in place within the first month of the transfer, reviewing and assessing all transferred cases

by 20 August 2012 in accordance with the 'Just Disposal' criteria and concluding seven out of nine appeals made by social workers who appealed against the final fitness to practise decision made by the GSCC. The prioritisation of the review of these cases was appropriate and meant the HCPC has been able to tackle the increase in activity in the fitness to practise function without a decrease in its performance against the Standards of Good Regulation for fitness to practise.[25]

Alternative dispute resolution – mediation pilot

16.32 We noted in last year's performance review that the HCPC had commenced work to scope out a mediation pilot, the results of which the HCPC was considering to inform its approach to alternative dispute resolution. The HCPC has not finalised its operational approach for mediation which will include guidance on the types of cases that would be suitable for resolution by mediation. In principle, the cases could include both those where there is a 'case to answer' and where there is 'no case to answer'. We look forward to receiving more information about the outcome and analysis of this pilot which will commence in June 2013 and last for six months.

Witness support

16.33 In our publication *Modern and Efficient Fitness to Practise Adjudication*[26] we recommended that greater support should be provided to witnesses throughout the investigation and adjudication stages to allow them to participate fully in the process. The HCPC has undertaken significant activities in relation to how it works with witnesses in the adjudication process. Significant activities have been carried out in the area of witness support and we are pleased that the HCPC has taken account of our publication in doing so – this is an area of good practice. The following activities are of note:

- Increasing the use of preliminary meetings to resolve issues (including those affecting witnesses) in advance of substantive hearings
- Contacting witnesses two weeks in advance of a hearing to identify issues
- Ensuring that staff who will be present on the hearing day contact witnesses in advance of the hearing to provide continuity of support for witnesses
- Instructing case presenters to debrief witnesses who have provided lengthy or disturbing evidence before they leave, even if this involves a short adjournment to proceedings

[25] The data for the timely progression of the cases transferred from the GSCC shows that half of the 120 cases which reached a final Investigating Committee decision did so within seven weeks of receipt by the HCPC and half of the 27 cases which reached a final hearing did so within 34 weeks of receipt.

[26] CHRE, 2011. Modern and Efficient Fitness to Practise Adjudication: CHRE's advice for Secretary of State. London: CHRE. Available at: http://www.professionalstandards.org.uk/library/document-detail?id=f5e82527-bb44-4e8b-9df0-91b4f987b6b7

- Seeking feedback from witnesses via feedback forms and carrying out debriefing calls on request
- Emailing panel decisions to witnesses to inform them of the outcome.

Improvements to the adjudication process

16.34 The HCPC is considering how to reduce the numbers of hearings which do not conclude in the allocated time. It has found that there were greater numbers of adjournments where the registrant did not attend and was not represented which it considers may be because the panels then took a longer time to determine whether it was acceptable to proceed in the absence of the registrant. A paper was considered by the HCPC's Fitness to Practise Committee in May 2012 and the HCPC will continue to monitor the numbers of cases that do not conclude as expected – we will follow up on this in next year's performance review.

16.35 It has also considered cases which were not well founded and has noted that this can often be due to the standard or nature of the evidence that is presented. It has noted that its panels often prefer oral evidence where there is a conflict between oral testimonies and documentary evidence. The HCPC has taken steps consider how it can encourage witnesses to attend hearings wherever appropriate as noted above. We would be interested in the outcomes of this work and will follow up on that in next year's performance review.

The approach taken to those registrants who have convictions and cautions for drug or drink-related offences

16.36 The HCPC commissioned research in August 2012 into the concepts of public protection and impairment of a registrant's fitness to practise in relation to ill health. This was in response to our earlier recommendation[27] that regulators should routinely request a health assessment for all registrants who are convicted of a drug or drink-related offence. Following the consideration of the results of the research in February 2013 the HCPC concluded that it will continue with its approach of not routinely requesting a health assessment in such cases but considering it on a case-by-case basis. We are disappointed by this as we note that other regulators have found that investigating convictions and cautions involving drugs and alcohol has led to identifying an underlying health and performance concern in the registrant which might otherwise not have been apparent. However we note that the HCPC's decision is based on evidence which it has assessed. We will continue to keep this issue under review.

[27] Para 2.21 of CHRE, 2011. Performance Review Report: Changing regulation in changing times 2010/11. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/scrutiny-quality/chre-performance-review-report-2010-11.pdf?sfvrsn=0

16.37 We would like to follow up on the following areas in next year's performance review:

- The progress with completing the social worker fitness to practise cases transferred from the GSCC
- The outcomes from the pilot of mediation together with the development of the HCPC's operational approach. We would be interested in the HCPC's criteria for cases which are suitable for mediation in line with the HCPC's general policy that the purpose of fitness to practise proceedings is to protect the public. We are also interested in how the HCPC will ensure the transparency of the decisions that are made. We note that another purpose of fitness to practise proceedings is to maintain standards and promote confidence in regulation
- The work the HCPC is carrying out to reduce the numbers of adjudication cases which do not conclude in the allocated time and its consideration of cases that are not well founded
- The outcome of the Assurance and Development Team's review of the HCPC's practice on the application of interim orders and its guidance for staff.

17. The Nursing and Midwifery Council (NMC)

Overall assessment

17.1 In the 2011/12 performance review we found that, while the NMC had met many of the Standards of Good Regulation, there were eight standards that were either not met or which were being met inconsistently.

17.2 At the request of the Under Secretary of State we carried out a strategic review of the NMC to examine whether its structure, its resource allocation and strategic leadership were aligned to enable the delivery of the NMC's core functions using an efficient, effective and 'right-touch' approach to regulation. The strategic review (published in July 2012)[28] contained high-level recommendations for improvement in the delivery of the NMC's regulatory functions.

17.3 The NMC accepted all the recommendations in our strategic review and is implementing a significant programme of change in both its governance and operations. We said in that strategic review that 'we would expect to see demonstrable improvement within two years.' The 2012/13 performance review therefore covers the first nine months of the NMC's improvement programme.

17.4 In this reporting year, 2012/13, a new Chair has been appointed, the interim Chief Executive has been appointed to the post of substantive Chief Executive for a fixed period, three directors have been substantively appointed to lead the directorates responsible for continued practice (education and standards), registration and fitness to practise and a restructure of the organisation has been completed. This organisational restructure followed an internal high-level review of activities and consideration of whether each activity was necessary for public protection. Our strategic review concluded that many of the NMC's past failures arose from its failure to properly understand its regulatory purpose and its lack of clear, consistent strategic direction so the reconsideration of priorities was an appropriate first step to take. The NMC has stated that public protection is now central to its approach and that public protection is the 'litmus test' against which all current and proposed work is now measured. However, we are concerned that the NMC has not yet been able to identify measures to assess whether or not that 'test' has been passed.

17.5 In autumn 2012, in its evidence for this year's performance review, the NMC referred to the development of a number of strategies for the fitness to practise, registration, education and standards directorates aimed at setting out its aims and objectives and identifying success measures which were to be approved by its Council. However the development of these strategies

[28] CHRE, 2012. Strategic Review of the Nursing and Midwifery Council. London: CHRE. Available at: http://professionalstandards.org.uk/docs/special-reviews-and-investigations/chre-final-report-for-nmc-strategic-review-%28pdf%29.pdf?sfvrsn=0

has been delayed so that these can be considered once the Council is reconstituted in May 2013. We note that one of the recommendations in our strategic review was that the overall strategy of the NMC needed to be better articulated by its Council, implemented by management and understood by staff. The delay with agreeing these strategies will therefore necessarily delay the NMC's ability to implement the cultural and operational changes required to drive improvements against the Standards of Good Regulation.

17.6 We were encouraged to read in the NMC's evidence for this year's performance review that our strategic review findings and recommendations, the findings from the 2011/12 performance review and the principles of right-touch regulation were among the factors influencing the NMC's change programme.

Guidance and standards

17.7 The NMC continues to meet all the Standards of Good Regulation for guidance and standards. We reported in the 2011/12 performance review that the NMC had stopped or deferred a number of pieces of ongoing standards and guidance work, in order to focus its resources on necessary improvements in the registration and fitness to practise functions. There has therefore been relatively little change in the standards and guidance function during 2012/13 other than maintenance of the activities that we have described in previous performance reviews.

17.8 We note that the NMC has created a 'regulation in practice' area on its website to help registrants apply their professional judgement and put regulatory principles into practice. We consider this to be an improvement in the NMC's performance.

17.9 The NMC's new *Midwives Rules and Standards* came into force on 1 January 2013. In finalising the new standards, the NMC placed greater focus on the NMC's regulatory role. The new rules and standards are clearer about what is expected of midwives and midwifery supervisors and no longer repeat material contained elsewhere. We consider that this represents an improvement.

17.10 A new Standards Development Team was formed in January 2013. The team's key tasks are to:

- Develop a strategy to include risk-based criteria for determining the NMC's approach to developing standards and guidance
- Establish an evaluation methodology to enable the assessment of the impact of new standards and guidance.

17.11 We look forward to reporting on further progress and developments in these areas of the NMC's work. In next year's performance review we will follow up on the following which the NMC has told us it will be doing in 2013/14:

- The outcomes of the establishment of the evaluation methodology and the policy on the development of standards which will be reviewed by the NMC's Council in July 2013

- Any early outcomes from the cycle of planned reviews of existing standards which is due for completion by the end of 2014.

Education and training

17.12 The NMC continues to meet most of the Standards of Good Regulation for education and training, with the exception of the 2nd standard, which relates to the regulator's system for continuing professional development (CPD)/continuing fitness to practise. We highlight below the work that the NMC has undertaken during 2012/13 in relation to this standard, as well as in relation to the quality assurance of education programmes.

Through the regulator's CPD/revalidation systems, registrants maintain the standards required to stay fit to practise (2nd standard)

17.13 We note that the Mid Staffordshire NHS Foundation Trust public inquiry report[29] recommends that the NMC implements a system of revalidation and the House of Commons Health Committee also expressed concern about the delay with the NMC implementing a system of revalidation. The NMC has not progressed with implementing a system of revalidation and has made a conscious decision to pause development to prioritise other activity that is more directly linked to its core regulatory functions.

17.14 We note that the NMC has taken into account our paper on continuing fitness to practise[30] in which we take the view that regulators should be able to provide assurances of the continuing fitness to practise of their registrants and that this can be and, in most cases, should be achieved by means other than formal revalidation (where revalidation is defined as a periodic assessment of fitness to practise).

17.15 The NMC has publicly committed to launching its system of continuing fitness to practise in stages in December 2015 with pilots at every stage. The next step in that process will be for the NMC's Council to consider a strategy by September 2013.

17.16 During March 2012, in response to a recommendation made by the Health Select Committee (in 2011), the NMC audited its current post-registration, education and practice ('Prep') standards and concluded that they were deficient because they were not evidence-based and could not provide adequate assurance about a registrant's continuing fitness to practise. The NMC decided it will develop strengthened standards aligned to its existing legislation which will supersede the current Prep standards.

---

[29] Recommendation 229 of the Mid Staffordshire NHS Foundation Trust public inquiry report: 'it is highly desirable that the Nursing and Midwifery Council introduces a system of revalidation similar to that of the General Medical Council…'

[30] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

17.17 We will expect to review progress with the development of a continuing fitness to practise scheme in next year's performance review and we also anticipate the NMC's proposal will be based on an appropriate analysis of risk (as we highlighted to the NMC in the 2011/12 performance review).

Quality assurance of education programmes

17.18 In the 2011/12 performance review, we found that the 3rd standard (*the process for quality assuring education programmes is proportionate)* was inconsistently being met. The NMC concluded that its previous programme for the quality assurance of education programmes was over burdensome and not focused on outcomes. This was also our assessment and the view of third parties who provided feedback to us as part of the performance review process.

17.19 The key risks for patient safety and public protection lie in the practice environment when students have direct contact with patients as part of their training. The NMC's previous system was duplicating existing quality monitoring systems at significant cost to the NMC. The NMC reduced the number of monitoring visits it conducted of education and training providers from 54 visits in 2011/12 to 16 visits in 2012/13. The 16 visits conducted in 2012/13 were targeted at those training programmes that had been affected by service reconfiguration and resource constraints (such as pre-registration nursing and midwifery and health visiting nursing) because those programmes would also contain challenges for supporting learning and assessment in practice, and therefore were perceived by the NMC to carry the greatest risk. Those education and training programmes that were not subject to a monitoring visit during 2012/13 were required to complete a self-assessment and exception report.

17.20 We welcome the NMC's decision to move to a more risk-based approach in this area and we now find that the 3rd standard is currently met, however we are also of the view that the NMC could improve its performance further against this standard. We recommend that consideration is given to ensuring that the risk assessment tool that the NMC uses to identify which providers should be subject to quality assurance visits accurately identifies those providers that represent the highest risks. We noted that a high number of the providers that were selected for a monitoring visit in 2012/13 met or exceeded all the standards. This suggests that the current risk assessment tool may not be robust.

17.21 In next year's performance review we will follow up on:

- The NMC's progress on developing a continuing fitness to practise scheme for an initial staged launch with pilots from December 2015 and the development of its strategy which will be considered by the NMC's Council in September 2013
- The NMC's progress with the development of strengthened Prep standards
- The implementation of the new quality assurance framework in September 2013 and any early evidence of the effectiveness of the

NMC's change in approach to the quality assurance of education programme.

Registration

17.22 The NMC has identified the integrity of its register as its top corporate risk. The NMC has not met the 2nd Standard of Good Regulation for registration (*the registration process, including the management of appeals, is fair, based on the regulators' standards, efficient, transparent, secure, and continuously improving*) or the 3rd Standard (*through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice*).

17.23 We note the following improvements in the NMC's performance that have taken place during 2012/13:

- Joint work with the Royal College of Midwives to consider how independent midwives might practise fully protected by insurance. This issue is complicated by the changes in the contractual arrangements for midwives that have resulted from the reorganisation of health services in England. We look forward to learning the outcome of this work in next year's performance review
- The introduction of a peer review quality assurance process for the decisions made by the Registration Team, which is aimed at achieving consistency and maintaining quality
- Monthly monitoring by the executive team and the Council of management information about the registration function (such as the timeliness of processing registration applications, renewals and customer service).

17.24 In the 2011/12 performance review we noted concern related to the following two standards which were not met and we provide an update about the NMC's performance against these two standards below:

The registration process, including the management of appeals, is fair, based on the regulators' standards, efficient, transparent, secure, and continuously improving (2nd standard)

Online registration

17.25 The NMC has deferred its plans for online registration to an unspecified future date, in order to prioritise other activity that it considers to be more directly linked to its core regulatory functions. Online registration would assist the NMC in preventing inadvertent lapses from the register and with the timely updating of the register (by providing 24-hour access to professionals wanting to join the register or renew existing registration). Given that the NMC has identified the integrity of its register as its top corporate risk it is questionable whether it was appropriate for the NMC to delay these plans. We note that the NMC's *Corporate Plan 2013 – 2016* includes plans to develop online services for registrants in 2013/14 and then deliver them during 2014 – 2016.

Registration appeals

17.26 We noted in the 2011/12 performance review that there had been delays with progressing registration appeals. Last year the NMC was not able to conclude any of the 19 appeals it received during the period April to December 2011, thereby failing to meet its own target for concluding such cases within nine months. We were told that in 2011/12 the NMC had introduced better case management, increased legal resources and trained more panel chairs and members to attempt to improve its ability to progress registration appeals within its targets for doing so.

17.27 It is evident that further improvements are needed to expedite the progression of appeal hearings; as at 1 November 2012 there were 30 outstanding appeals, seven of which had been awaiting a hearing for more than nine months. We acknowledge that 27 appeals had been concluded by March 2013 and in four appeals the delay was partly due to external factors outside of the NMC's control and that the NMC has increased both the available legal and panel resources during 2012/13 with the aim of improving the throughput of appeals. Nevertheless, it is clear that the NMC has some way to go to meet its current target, let alone to meet the target it has set for itself in 2013/14 of concluding appeal hearings within three to six months. We will follow up on the NMC's progress with improving the timeliness of its appeals process in next year's performance review.

17.28 Under the NMC's processes, appeals must be chaired by Council members and in this reporting year the NMC had only two trained panel members. Once the NMC's Council is reconstituted in May 2013 it is anticipated that a greater number of Council members will be identified and trained to chair registration appeal hearings during 2013/14. This should facilitate the scheduling of a greater number of hearings and therefore put the NMC in a better position to achieve its target.

Timeliness of progressing registration applications

17.29 In last year's performance review we expressed concern about the NMC's ability to manage the volume of registration applications it receives. We are pleased to report that the NMC met its key performance indicator (KPI) for processing registration applications during 2012/13. This represents an improvement in performance from 2011/12 (when insufficient staffing resources left the registration department unable to cope with the demand).

Customer service

17.30 In the 2011/12 performance review we reported that, while the NMC had improved its performance in answering calls, we remained concerned that during one quarter 13,488 calls had gone unanswered. In its evidence submission for this year's performance review the NMC told us that it is now answering calls quicker and is continuing to focus on reducing the number of unanswered calls through scheduling of resources and analysing call patterns and trends. The evidence shows that during 2012/13 38,404 calls (9% of calls) went unanswered and while this is an improvement from 2011/12, it appears to us that this aspect of customer service has not yet improved sufficiently and consistently.

Overseas registration

17.31 All regulators should have a process in place for registering professionals who qualified outside the European Union and who want to work in the UK. In February 2013 the NMC began an internal review of its registration process for overseas applicants. In the course of that review, the NMC discovered that it had been operating different systems for evaluating the training requirements for applicants from New Zealand, America, Canada and Australia compared to the system for evaluating the training requirements for applicants from other non-European Union countries. It also discovered that improvements were needed to its procedure for validating identity requirements. The NMC stopped processing these types of applications in February 2013 until the review had been completed. It also consulted with the Equality and Human Rights Commission in the re-development of its approach to the evaluation of overseas applications and resumed processing such applications in April 2013.

17.32 We note that this internal review only related to the current policy and processes in relation to overseas applications for registration. This was a short-term review aimed at addressing deficiencies to stabilise the current process. The NMC said that a more wide-ranging review will take place and at that point the NMC will undertake full consultation.

17.33 This is a serious matter but we commend the NMC for the way it is dealing with it. The NMC is keeping us informed on its progress in dealing with this matter. We do not yet have the timescales for this second wide-ranging review, however, when the NMC's review is published we will be considering it to determine the risks to patient safety and public confidence in regulation particularly from potentially unfair registration decisions having been made in the past. In next year's performance review we will report on whether the NMC's new approach has dealt with the concerns identified.

17.34 We do not yet have evidence of improved performance against the 2nd standard and we find that it continues to not be met.

Through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice (3rd standard)

Improving accessibility of the NMC's register and employers' awareness of the need to check the register

17.35 The accessibility of the register and improving employers' awareness of the need to check the register are important to ensure public protection and to promote confidence in the effectiveness of the regulatory system.

17.36 In September 2012 the NMC stopped its previous practice of issuing registrants with cards showing their NMC PIN numbers – in order to reduce the risk of registrants/their employers relying on those cards (which show information that may become out of date) for confirmation of their registration status. As anticipated by the NMC, this appears to have led to an increase in employers' use of the Employers Confirmation Service (which provides more information than is available in the NMC's public-facing online register –

including each registrant's full registration history as well as details of current cautions, conditions of practice, suspensions or striking off orders, or whether registration has lapsed.

17.37 The NMC has said that it plans to develop proposals to undertake research to establish the levels of public use of its register so that it can monitor the use of the register and that it will continue to actively promote checking the register as a tool to safeguard the public. Other proposals for development include setting targets for greater numbers of employers carrying out register checks (once the NMC has established the levels of current usage). The NMC has not yet determined the methods for achieving the delivery of greater awareness among employers about the need to check the registration status of nurses and midwives.

17.38 We note that in August 1012 the NMC's own Public and Patients Involvement Forum suggested that the NMC could do more to raise awareness of the facility to check the register online. In light of this feedback, and in the absence of any information demonstrating that there is greater awareness of the need to check the register, we encourage the NMC to create and implement plans to raise awareness among employers about the need to check the register. We will follow up on its progress in this area in next year's performance review.

Publicising information about suspended registrants and struck off individuals

17.39 In the 2011/12 performance review we recommended improvements to the information available on the NMC's register. Of particular concern was that the register did not show information about registrants who had been suspended or about individuals who had been struck off the register.

17.40 We are pleased to report that as of January 2013 the NMC has implemented a new policy which means that information about registrants who have been suspended or individuals who have been struck off the register since 1 January 2008 will remain on the register indefinitely (with the exception of information relating to individuals who are deceased). We recognise that the NMC's decision that information about registrants whose suspension pre-dates 1 January 2008 (or individuals who were struck off prior to that date) will not be shown on the register. This is in line with our recommendation that regulators who begin to publish information about suspended and struck off individuals take a proportionate approach[31] to doing so.

17.41 Each year as part of the performance review process, we carry out a random check of a sample of each of the regulators' registers to ensure that each register accurately reflects the registration status of each registrant. Incorrect or outdated entries have obvious implications for public protection and cast doubt on the integrity of a register.

[31] CHRE, 2010. Health Professional Regulators' Registers: Maximising their contribution to public protection and patient safety. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/registers---good-practice-report.pdf?sfvrsn=0

Follow up on last year's register check

17.42 In last year's check of the NMC's register we found an incorrect entry relating to an individual who had been incorrectly restored to the register before the completion of a return to practice course. After we alerted the NMC to this error, improvement actions were implemented including an audit of the registration database. That audit itself revealed a high number of errors on the register. During 2012/13 the NMC has continued running daily checks of the accuracy of the register and reconciling historical discrepancies, as well as implementing training and quality assurance. The work to reconcile historical discrepancies identified 1,500 cases where the data held on the registration and the fitness to practise systems were not consistent. The NMC put in place an action plan to resolve each of these inaccuracies.

17.43 The NMC also commissioned an independent audit which took place in November 2012 and concluded that the system, controls and procedures that had been put in place since the historical discrepancies were identified were adequate and that staff were complying with them.

17.44 We are pleased to report that the NMC took appropriate action to address the errors on its register once these became apparent, and that it also took appropriate steps to minimise the risk of any recurrence. When we conducted the register check this year we noted that we did not find similar errors to those discovered as a result of last year's register check. While we welcome the improvement activities that the NMC has taken during 2012/13 we note with concern that the checks continue to expose five to 10 discrepancies daily (which are immediately rectified).

This year's register check

17.45 We identified two individuals who were not included on the register at all although conditions were in place restricting the scope of their practice. In both these cases, the individuals had failed to pay their registration fee. In normal circumstances, failure to pay the registration fee would result in the individual's registration 'lapsing' and their removal from the register. However in circumstances where a registrant is subject to conditions of practice, the legislative framework means that their registration must be maintained, even if they fail to pay the registration fee. Unfortunately in both cases the individuals' details had been wrongly removed from the register due to staff error (the required 'under investigation' flag had not been activated). The staff error that led to these individuals being removed from the register had not been identified by the NMC because it did not have systems in place to check or audit the placing of 'under investigation' flags. After we notified the NMC of this issue it informed us that the matter was being dealt with as a corporate serious incident. By February 2013, following daily checks, a further 28 similar errors were identified.

17.46 As a result of our feedback about last year's register check, the NMC took a number of remedial steps, including training by registrations staff for fitness to practise staff and running daily checks to ensure similar problems are fixed immediately. The errors we identified in this year's register check suggest that the NMC has not yet taken effective action to minimise the risks of

discrepancies between the registration and fitness to practise databases which is continuing to lead to inaccuracies in its online register.

17.47 We acknowledge that the discrepancies we identified during our register check in 2012/13 revealed fewer errors than those identified during the 2011/12 register check, however we remain concerned that the NMC had not identified and rectified them itself. Based on the errors identified during this year's register check, the number of discrepancies that are still being identified combined with the lack of a comprehensive and robust process within the NMC to ensure the accuracy of its register, we have concluded that the 3rd standard is still not met.

17.48 In next year's performance review we will follow up on:

- The review of registration policies and procedures which the NMC will complete in 2013/14
- The effectiveness of the NMC's activities to improve the integrity and accuracy of its register
- The impact of the NMC's planned activities to improve the accessibility of the register and to encourage employers to check individuals' registration status
- The outcome of the change in the NMC's registration process for overseas applications and whether it has dealt with the concerns identified
- The NMC's preparations resulting from the Department of Health planning for an overarching legislative framework to implement the European Union requirements that professional indemnity insurance be a condition of registration. We would be interested in the NMC's plans to put in place the adjustments to its registration processes and systems to meet the expected requirements.

Fitness to practise

17.49 In the 2011/12 performance review we noted that we had continuing concerns about the NMC's performance against a number of the Standards of Good Regulation for fitness to practise. Those concerns have not yet been resolved although some progress has been made towards improvement.

17.50 In particular, in the 2011/12 performance review we expressed concern about the quality of the NMC's investigations, the standard of its record keeping, and the inconsistent and ineffective use of risk assessments. We followed up on these issues in our audit of the NMC's handling of cased closed at the initial stages of its fitness to practise process in 2012.[32] Our audit found examples of improved record keeping and correspondence in some cases, however, we also found various weaknesses, including in relation to cases

[32] CHRE, 2012. Audit of the Nursing and Midwifery Council's Initial Stages Fitness to Practise Process. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/audit-reports/nmc-ftp-audit-report-2012.pdf?sfvrsn=0

which were opened after the start of the NMC's improvement programme in January 2011.

17.51 In our strategic review of the NMC[33] we noted that, 'improving fitness to practise is a key priority for the NMC but it does not have an easily digestible narrative plan that can be referred to by Council or communicated to its staff and stakeholders. In our view it would benefit from having a fitness to practise strategy. This would enable the Council to think through its purpose, describe success, set specific objectives and then determine the measures needed to assure itself of delivery'. We note that the NMC is delaying producing strategies until its new Council is constituted (due to be completed in May 2013). In the meantime the NMC has developed a plan for the fitness to practise directorate listing a number of the NMC's aspirations which it hopes to achieve by 2016. In next year's performance review we will consider the NMC's performance against the measures it is developing and also consider whether or not it has consistently achieved improvement across three areas of improvement in its fitness to practise function: the quality of its decision making, timeliness and customer service.

17.52 We review below the NMC's current performance in each of these three areas and the related four Standards of Good Regulation for fitness to practise.

(i) Quality of decision making

17.53 In addition to the evidence that the NMC submits to us during the annual performance review process, we assess the quality of the NMC's decision making in fitness to practise through our audits of a sample of 100 cases that do not proceed to a final fitness to practise hearing and through our reviews of the final decision made at a fitness to practise hearings – we carried out 1,643 reviews of final decisions in 2012/13.

17.54 In the 2011/12 performance review we noted that the NMC was not meeting the 4th and 8th Standards of Good Regulation for fitness to practise, both of which relate to the quality of decision making. We acknowledge the steps the NMC has taken to improve its decision making during 2012/13 by enhancing its quality assurance arrangements and by delivering training to its fitness to practise panellists. We have seen evidence of some improvement during 2012/13 in the quality of decision making in some cases that we have reviewed.

All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel (4th standard)

17.55 In February 2012, a rule change enabled the NMC to streamline its processes for applying for an interim order to be imposed – cases can now be referred directly to an investigating committee (IC) panel to consider making an interim order application. The NMC had a process in place in

[33] See para 8.27 of the July 2012 Strategic Review of the Nursing and Midwifery Council, see footnote 28

January 2011 that required risk assessments to be conducted although these were not consistently being recorded. The NMC amended its process so that from February 2012 there was a requirement for risk assessments to be recorded in every case. In our audit of cases closed at the initial stages of the NMC's fitness to practise process in 2012 we audited eight cases which had been opened after February 2012. We were pleased to find that risk assessments had been completed in all eight cases, demonstrating compliance with the process. We will check for continued compliance with the completion of risk assessments in our next audit in 2013.

17.56 In the period from April 2012 to March 2013 the NMC applied to the High Court for extensions to interim orders that had previously been imposed in 381 cases. This represents an increase in the number of such High Court applications compared to 2011/12. We are concerned that the ongoing delays with progressing the fitness to practise caseload have necessitated such a high number of applications for extensions of interim orders (which by definition are only imposed in cases which involve allegations that are serious enough for a panel to decide that an interim order is necessary for public protection). In its submission for the 2011/12 performance review the NMC stated that it expected there to be a decrease in the number of applications for extensions of interim orders, as a result of its increased hearings capacity from January 2012. In such circumstances, a failure to complete the fitness to practise process before the expiry of the interim order could leave the public exposed to the risk of harm.

17.57 It is of concern that the NMC's prediction has proved to be inaccurate and that the number of applications to the High Court for extensions of interim orders has increased rather than decreased during 2012/13. The NMC has told us that this is due to greater numbers of interim orders being imposed on cases. We do not find that this explanation is reasonable however. This explanation would only make sense if the additional volume of interim orders being imposed were being imposed for shorter periods meaning that they would add to the tally of those needing High Court extensions. We note that the NMC is encouraging its panels to impose interim orders for at least 18 months to take into account the time needed for the NMC to carry out its investigation.

17.58 A large number of applications for High Court extensions indicates that cases were not prioritised properly on receipt and progressed. The failure to make improvements with the high numbers of interim orders that require High Court extensions indicates that this standard is not yet met.

All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession (8th standard)

17.59 We note evidence of some improvement during 2012/13 in the quality of decision making in a number of cases. However we have not yet seen good quality decision making being sustained consistently across the caseload. Our reviews of final decisions made by the NMC's fitness to practise panels continue to generate learning points for the NMC's Fitness to Practise Team

and for the Fitness to Practise Panels, that relate to avoidable procedural errors, as well as the quality of the panels' decision making.

17.60 In our audit of the cases closed at the initial stages of the NMC's fitness to practise process[34] in 2012 we found that, 'there was inadequate information gathering, giving rise to the risk that a robust investigation was not carried out before closing individual cases, insufficient explanations or inaccurate details being provided in decision letters sent to registrants and complainants, with the result that some may not have fully understood the reasons for the decisions made by the NMC and some may have been left with the perception that the quality of the investigation was not robust.'

17.61 We therefore find that the 8th Standard of Good Regulation is not yet met. We will look for evidence of continuing and consistent improvements to the quality of the NMC's decision making at the initial stages of its fitness to practise process in our next audit, (scheduled for the summer of 2013), and we will monitor evidence of consistent improvements to the quality of decision making at final fitness to practise hearings through our review of each decision. We will also follow up on this in next year's performance review.

(ii) Timeliness of fitness to practise activities

Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients. Where necessary the regulator protects the public by means of interim orders (6th standard)

17.62 Delays in progressing casework can lead to risks for patient safety and public protection if they mean that a registrant is permitted to continue to practise unrestricted when they are not safe to do so. Delays with progressing casework can also lead to a loss of public confidence in regulation. In the 2011/12 performance review we noted that the delays we had identified in the NMC's casework progression appeared to be due to ineffective case management, human error and inadequate internal oversight of investigations. In our audit of the cases closed at the initial stages of the NMC's FTP process in 2012 we also found delays in the progression of cases as well as a lack of active case management.

17.63 In 2012/13 the NMC has undertaken a significant amount of activity aimed at improving case progression. This included a significant increase in the volume of final fitness to practise panel hearings scheduled to be held each day from 16 per day in September 2012 to an estimated 22 hearings per day by the second quarter of 2013.

17.64 In January 2013 the NMC had 584 cases which were received before January 2011. The NMC anticipates that all of these cases will be concluded by autumn 2013.

[34] See footnote 32.

17.65 We note that during 2012/13 the NMC has successfully reduced the number of cases that are more than three years old (it has reduced the total by 51), although there has also been an increase in the number of cases that are between two and three years old (an increase of four cases).

17.66 Average caseloads within the Screening Team have reduced from 101 (as we reported on in 2011/12) to 83 (as at September 2012). Case Investigation Team members currently have average caseloads of 17 to 25. The average caseloads for the Case Preparation Teams (which prepare cases for adjudication) remain at 124 although it is anticipated that this number will reduce once staff are fully trained. High caseloads have an impact on the ability to progress cases and on customer service and we encourage the NMC to continue to review its teams' caseloads and the resources available to them.

17.67 We note below the NMC's performance in relation to the timeliness of fitness to practise casework and some of its own KPIs:

- The NMC is not meeting its KPI for progressing 90% of investigations within 12 months although the average length of time taken to investigate has decreased. In December 2012 the average length of an investigation was 10 months and this has reduced considerably from 22 months two years ago which is a positive development
- There has been a reduction in the median time taken from the final Investigating Committee decision to the final fitness to practise hearing decision by 13 weeks (from 48 weeks in the 2011/12 performance review to 35 weeks in 2012/13) and this is a positive development
- In its Council papers the NMC has advised its Council that it is unlikely to achieve its target for progressing all cases to the first day of the final fitness to practise hearing (once the referral to the fitness to practise panel had been made) within six months until December 2014. In March 2013, the NMC was progressing cases to the first day of the final fitness to practise hearing within 8.4 months for all cases and 40% of all cases were progressed within six months.

17.68 Due to our concerns about the large number of cases that await a final hearing, as well as the NMC's failure to achieve its own KPIs, we have concluded that this standard is not yet met.

(iii) Customer care

All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process (7th standard)

17.69 The NMC has improved the timeliness of its decision letters to interested parties during part of the 2012/13 period, although its performance is inconsistent:

- Investigation Committee decision letters were sent out within five days in 98 to100% cases between September 2012 and February 2013. However

we note that in December 2012, performance dropped considerably and only 26% of letters were sent within five days

- Adjudication decision letters were sent within 5 days in 96 – 99% cases between September 2012 and February 2013. However we note that in January 2013, 80% of letters were sent within five days.

17.70 The NMC has carried out a number of activities aimed at improving customer service. Customer service standards were first introduced in August 2011, including a standard requiring customer service feedback forms to be sent to all parties. During our audit of the cases closed at the initial stages of the NMC's fitness to practise process in 2012, we identified at least three cases in which such forms had not been sent out. At that time the NMC admitted that staff had not routinely been sending the forms out. The NMC said it had reminded managers of their responsibilities for case updates to be provided to the parties. In the absence of an automated system to ensure that updates are provided, in the absence of quality assurance processes to check that this has been done and with individual caseloads remaining high, in our view, it is unlikely that simply reminding managers about the requirements will be effective.

17.71 The NMC has also told us that it has introduced new roles to increase the support available to witnesses at fitness to practise hearings. However, recent feedback we have received complained of delays and frustrations for witnesses attending NMC hearings and it appears that the steps the NMC has already taken have not resolved all the issues.

17.72 We acknowledge that when the NMC achieves consistent improvement with the progression of its casework and the quality of its decision making those improvements should contribute to an increased level of customer satisfaction.

17.73 In view of the number of continuing weaknesses with regard to customer service, we have concluded that the 7th standard is still not met. We recommend that the NMC considers how its quality assurance framework includes how to identify measurable improvement in the quality of its customer service for the purposes of next year's performance review.

Quality assurance

17.74 In the 2011/12 performance review we noted that the NMC had continued with its 'Serious Event Reviews' (which are conducted whenever a required action is not undertaken, eg when an update is not provided within six weeks or when no action is taken on a case for 12 weeks). In the 2011/12 performance review report and in our audit report in 2012 we recommended that the NMC should review the value of its Serious Event Reviews for driving improvements. We have not seen evidence that the Serious Event Reviews are a sufficiently robust mechanism to consistently prevent the recurrence of errors either during the performance review process or as a result of our audits of the cased closed at the initial stages of the NMC's fitness to practise process in 2011 and 2012.

17.75 In order for quality assurance to be effective it is important to have systems for the reliable and consistent reporting of management information as well as agreement about what 'quality' looks like, how it can be measured and the nature, extent and location of current weaknesses. In the 2011/12 performance review we noted weaknesses with the NMC's management information. In 2012/13 the NMC has commissioned an external audit of its management information to improve the quality of management data. In doing so the NMC should be in a better position to judge whether its KPIs are realistic and achievable.

17.76 However, we note that the NMC does not appear to take into account its own processes when it is setting KPIs. For example, during 2012/13 the NMC introduced a KPI requiring interim orders to be imposed within 28 days in 80% of cases. This KPI was not met between September and December 2012 (performance ranged from 53% - 72% during that period). The NMC has said that it had not achieved the KPI partly as a result of difficulties with gathering evidence and scheduling in some cases, but mainly because a large number of interim order hearings are scheduled and do not go ahead. We note that the NMC did meet the KPI in March 2013. Given it has so recently met the KPI we will look again to see if it is consistently being achieved in next year's performance review.

17.77 Our conclusion is that the NMC has not yet achieved adequate and consistent improvements in the quality of decision making, timeliness and customer service and it does not meet all of the related Standards of Good Regulation. In our view, improving its quality assurance arrangements should help the NMC to identify its areas of ongoing weakness and therefore to improve compliance with its processes. It is essential that the NMC puts in place adequate systems to generate relevant management data, that it identifies appropriate and measurable objectives and that it makes best use of quality assurance to identify ongoing weaknesses so that these can be addressed and to motivate and support its staff and panellists to consistently achieve acceptable standards in decision making, timeliness and customer service. The NMC has recently appointed a staff member to lead work on strengthening quality assurance within the whole organisation. We hope to be in a position to report on evidence of consistent improvements in next year's performance review.

17.78 In the 2011/12 performance review we also raised concerns about the NMC's information governance arrangements. We provide an update about the NMC's performance below.

Information about fitness to practise cases is securely retained (10th standard)

17.79 In the 2011/12 performance review we noted that there were 27 breaches of information security by the NMC during 2011. Between April and September 2012 there were a further 23 information security incidents. Information security incidents impact on public confidence in the regulator.

17.80 We note that one information security incident during 2011 led to the NMC being fined £150,000 by the Information Commissioner's Office (in February

2013) for losing three DVDs which contained evidence, including sensitive personal information, relating to a disciplinary investigation. This was considered by the Information Commissioner's Office to be a serious breach of the Data Protection Act 1998 which includes a requirement that organisations have, 'appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data'. The NMC had voluntarily reported the breach, co-operated fully with the Information Commissioner's Office and carried out an investigation including searching for the missing DVDs. It was nevertheless criticised by the Information Commissioner's Officer for failing to take any measures (such as encryption) to protect against accidental loss, given the harm that might result and the nature of the data concerned. While the NMC's reaction to the incident was positive, the incident itself raises concerns about the robustness of the NMC's information governance arrangements. We have therefore concluded that this standard is not yet met.

17.81 The NMC has aimed to improve its performance against this standard during 2012/13 by completing a security gap analysis in September 2012, producing an improvement plan and strengthening its policies. We hope that during 2013/14 the embedding of the new policies and the implementation of the improvement plan will ensure that the number of incidents reduces. We will continue to monitor the NMC's performance against this standard.

New case management initiatives

17.82 During 2012/13 the NMC has introduced two initiatives which have the potential to significantly affect both public protection and the maintenance of public confidence. We will therefore look in some detail at the evidence of the impact of these initiatives in next year's performance review:

- Consensual panel determinations – whereby parties agree a statement of facts, an admission that the registrant's fitness to practise is impaired and a proposed sanction. The agreement is then considered by a fitness to practise panel which has complete discretion about whether to accept the proposal or to require a hearing to be held. This was the subject of a public consultation in the summer of 2012 and the NMC's Council authorised its implementation in January 2013. We will review all such decisions using our powers under Section 29 of the NHS Reform and Health Care Professions Act 2002
- Voluntary removal from the register – whereby a nurse or midwife who admits that their fitness to practise is impaired and who does not intend to continue practising can apply to a fitness to practise panel to authorise their removal from the register without a full public hearing of the allegations against them. The NMC consulted on this initiative between August and October 2011 and the NMC's Council approved implementation in September 2012. We will review a sample of these decisions in our next audit of the cases closed at the initial stages of the NMC's fitness to practise process in 2013.

17.83 The NMC will complete a full evaluation of the effectiveness of these two initiatives by September 2013 and we will follow up on this in next year's performance review.

17.84 As well as looking for evidence of improvement in our next audit of the cases closed at the initial stages of the NMC's fitness to practise process in 2013 and in our ongoing review of final fitness to practise panel determinations, we will continue to work with the NMC during 2013/14 to monitor the progress it makes in improving its performance in the areas we have highlighted.

18. The Pharmaceutical Society of Northern Ireland (PSNI)

Overall assessment

18.1 While meeting its core responsibilities across the regulatory functions, the PSNI has concentrated much of its activity on planning, preparing for and implementing the changes to its governing legislation that came into force on 1 October 2012.

18.2 The PSNI has said that the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 initiated the largest changes in its history. Until 2012 the PSNI's statutory power to impose sanctions in fitness to practise cases was limited to removing registrants from its register. The legislative changes introduced in 2012 mean that the PSNI is, like the majority of the other regulators that we oversee, now able to impose a range of sanctions following a finding that a registrant's fitness to practise is impaired. This strengthens the PSNI's ability to protect the public, uphold professional standards and maintain public confidence in the regulation of pharmacy in Northern Ireland. It also allows it to respond proportionately to issues of conduct and competence. Another major change brought in by the new legislation is the requirement for all registrants to complete continuing professional development (CPD), which will become effective from June 2013.

18.3 We welcome the introduction of the new legislation and consider that the resulting changes should allow the PSNI to protect the public more effectively. We discuss these changes in more detail below. We will of course look carefully in our audit of the cases closed at the initial stages of the PSNI's fitness to practise process in 2013 and in next year's performance review at how the PSNI is using its new powers.

Guidance and standards

18.4 The PSNI continues to meet all the Standards of Good Regulation for guidance and standards.

18.5 Examples of its activities during 2012/13 are set out below:

- The production of revised *Standards for Pharmacist Prescribers* (published in April 2013). This should help registrants to comply with changes to the legislation governing the professional administration of controlled drugs by pharmacists in Northern Ireland
- The publication of a new standards document, *Standards for Internet Pharmacies*, in October 2012. The PSNI anticipates that this will help to maintain public confidence in the relatively new area of the provision of pharmacy services via the internet. It sets out the standards pharmacists must comply with when providing pharmacy services via the internet and therefore contributes to the PSNI's role in public protection

- Conducting surveys of pharmacy employers and the public to gauge attitudes about when and how registrants should raise concerns about other health professionals. The employers' survey showed that 38% of the employers who responded believed no action should be taken against registrants who do not report a concern about another healthcare professional. In response to this finding, the PSNI issued revised guidance on raising concerns in February 2013. The revised document contains an added emphasis on registrants' responsibilities for reporting concerns about other health professionals and highlights that any failure to report concerns could result in action being taken by the PSNI against the non-reporter. We consider the results of the survey may reflect an attitude which could present a risk to public confidence. The PSNI will conduct a further survey of registrants later in 2013.

18.6 In next year's performance review we will follow up on:

- The consideration of engagement strategies used by other regulators to forge closer links with a wider range of stakeholders, which the PSNI hopes will encourage greater patient and public participation in the development of standards and additional guidance
- The planned review of the 2009 Code of Ethics during 2013 to ensure that the code remains relevant to the changes in legislation that were introduced in October 2012
- Any action taken by the PSNI following the results of the planned survey of registrants' attitudes to raising concerns about other health professionals.

Education and training

18.7 The PSNI meets four of the five Standards of Good Regulation for education and training.

18.8 In November 2012 the GPhC published procedures with the PSNI for the mutual recognition of initial education and training. This means that both the GPhC and the PSNI will recognise the other's pre-registration training and master's degrees although the registrant must complete their training and registration assessment in one jurisdiction to be eligible for recognition by the other. This is an improvement as it should help to maintain consistency with the standards required for registration as a pharmacist throughout the UK.

18.9 In 2011/12 we reported that the PSNI did not meet the 2nd standard (*through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise*). The legislative changes that took place in 2012 place the PSNI in a better position to be able to meet this standard. CPD of itself does not demonstrate continuing fitness to practise in our view although it is a necessary requirement. We set out further details about the PSNI's performance against this standard below.

Continuing fitness to practise

18.10 The previous legislative framework did not make the completion of CPD mandatory (although the PSNI's voluntary CPD scheme had good rates of participation from registrants). In preparation for the introduction of compulsory CPD, during 2012/13 the PSNI has completed a review of its CPD processes and publicly consulted on a new CPD framework and standards. The PSNI trained CPD assessors in May 2012 and has reported improvements in the consistency of their subsequent assessments. We note that the first registrants must submit their CPD portfolios by June 2014.

18.11 Currently there is no timeframe for the introduction of a scheme of continuing fitness to practise. While the PSNI's Council has begun consideration of the options, the changes that would be needed to the legislative framework are being considered by the Department of Health, Social Services and Public Safety for Northern Ireland (DHSSPSNI).

18.12 In the 2011/12 performance review we found that this standard was not met because the PSNI did not have a system in place (either by means of CPD or by means of revalidation) for assuring itself of the continuing fitness to practise of registrants albeit that this was partly due to the confines of the legislative framework. The PSNI has not yet implemented the legislative framework so, while the legislative framework puts the PSNI in a better position to be able to meet this standard, this standard is not yet met.

18.13 We recommend that the PSNI and the DHSSPSNI take into account our paper on continuing fitness to practise[35] in developing its scheme. In this paper we take the view that regulators should be able to provide assurances of the continuing fitness to practise of their registrants by means of a risk-based approach. We also find that this can, and in most cases should, be achieved by means other than formal revalidation (where revalidation is defined as a periodic assessment of fitness to practise).

Standards for pre-registration training

18.14 The PSNI has adapted its guidance on pre-registration training and formulated *Standards for Pre-registration Training* in August 2012, thereby making the requirements compulsory for all trainees, prospective trainees, pre-registration tutors and employing organisations. The PSNI has implemented an online portfolio system for 2012/13 for pre-registration trainees, which mirrors the compulsory CPD submission system for registrants. It is aimed at encouraging trainees to undertake CPD and apply standards from the outset of their careers.

18.15 During 2012/13 the PSNI adopted the General Pharmaceutical Council's (GPhC) *Future Pharmacists: Standards for the initial education and training of pharmacists in Great Britain* and agreed a joint accreditation process for master's degree programmes with the GPhC, to include a six-year

[35] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

accreditation cycle and three yearly practice placement reviews. This joint working between the two regulators for pharmacy in the UK should enhance public protection and public confidence by ensuring that standards for pharmacy education and training continue to be consistently applied throughout the UK.

18.16 In next year's performance review we will follow up on:

- The effectiveness of the PSNI's recently introduced online portfolio system for pre-registration trainees
- The implementation of the PSNI's compulsory CPD scheme. We note that registrants will be required to submit information about CPD by June 2014
- Any outcomes of the work with the DHSSPSNI about how to put in place a system to assure themselves about the continuing fitness to practise of registrants.

Registration

18.17 The PSNI continues to meet all the Standards of Good Regulation for registration.

18.18 In the 2011/12 performance review we reported that the PSNI did not permit applicants for registration to rely upon a self-declaration about their health but instead required verification by a doctor. We did not consider that to be a proportionate or right-touch approach. We are pleased to report that the PSNI has changed its policy and began permitting self-declaration of health matters from 1 January 2013.

Publishing sanctions online

18.19 The PSNI has adopted, as an interim measure, the GPhC's policy on the publication of fitness to practise information on the public-facing register, pending the outcome of a public consultation by the PSNI on the disclosure and publication of fitness to practise information on its register. We note that details of individuals who have been removed (or struck off) from the register are not currently displayed. We think this information should be publicly available.

18.20 The new legislation provides the PSNI with the opportunity to provide full and comprehensive historical and current fitness to practise information about its registrants on its register, including details of individuals who have been removed. Our view is that it is in the public interest for the PSNI's register to display full information about a registrant's fitness to practise history and that registers should provide comprehensive information that reflects all current sanctions including suspensions and those who have been struck off. [36] This will improve transparency and help to maintain public confidence in regulation.

[36] CHRE, 2010. Health Professional Regulators' Registers: Maximising their contribution to public protection and patient safety. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/registers---good-practice-report.pdf?sfvrsn=0

18.21 In next year's performance review we will follow up on:

- The outcomes of the public consultation on the disclosure and publication of fitness to practise information on the public-facing register
- The outcomes of audits of its registration decisions. These were conducted following the PSNI's observations of the Pharmaceutical Society of Ireland's (the professional regulator for pharmacists in the Republic of Ireland) audit processes with a view to adapting these for its own purposes. We note that the PSNI is now conducting internal audits of its registration decisions
- The outcomes of the work to consider the value of the PSNI holding a voluntary register for pharmacy technicians in Northern Ireland. Surveys of the public and employers were conducted in 2012 and we note that the PSNI's Council will consider the issue in 2013, following the outcomes of further research on the costs and benefits of holding such a register.

Fitness to practise

18.22 The PSNI is currently meeting nine out of 10 of the Standards of Good Regulation for fitness to practise. In our 2011/12 performance review we acknowledged that the legislative framework that was then in place limited the PSNI's ability to meet all of the standards and in particular the three highlighted below.

18.23 We consider that the PSNI now has the legislative framework in place to enable it to meet all the Standards of Good Regulation for fitness to practise. We will look for improvements to the PSNI's fitness to practise process and improvement with meeting these standards during our audit of the initial stages of the PSNI's fitness to practise process in September 2013, as part of our reviews of all final fitness to practise hearing decisions and in next year's performance review.

18.24 We set out more information below about the new changes and the PSNI's performance against the following three Standards of Good Regulation that we found were not met in the 2011/12 performance review.

All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel (4th standard)

18.25 Under its previous legislative framework the PSNI had no powers to impose interim orders to restrict a registrant's ability to practise while it investigated fitness to practise allegations. The only measure the PSNI could take was to prioritise the most serious cases to ensure that they were investigated as swiftly as possible.

18.26 The legislation that came into effect in 2012 gives the PSNI the power to impose interim orders and thereby allows the PSNI to ensure the public is protected from any registrant who might pose a risk, during the period in which the allegations are under investigation. The Statutory Committee (the committee responsible for imposing interim orders and final fitness to practise hearings) imposed the PSNI's first interim order in November 2012.

18.27 The new legislation also specifically provides that the PSNI's registrar can raise a concern, issue advice and refer cases to its FTP panels. During 2012/13, 18% of fitness to practise allegations were initiated by the registrar and we consider that this indicates that the PSNI is now better able to take prompt regulatory action to protect the public even in cases where a concern is not raised by a third party. While the new legislation has allowed improvements in the PSNI's performance against this standard only one interim order was imposed since the legislation came into effect; we are therefore unable to confirm whether this standard is met. We will consider this further during our audit of the PSNI's handling of the cases closed at the initial stages of its fitness to practise process and in next year's performance review.

The fitness to practise process is transparent, fair, proportionate and focused on public protection (5th standard)

18.28 The legislative changes that took effect in October 2012 have aligned the PSNI's fitness to practise framework with those of other health professional regulators. Some of the changes it introduced will support the PSNI's ability to fulfil its role related to public protection – notably the legislation confers a power to impose an interim order on registrants restricting their practice until fitness to practise proceedings have concluded, specifying that ill health can be a ground on which a registrant's fitness to practise may be impaired and providing the PSNI's fitness to practise committees with a fuller range of sanctions (rather than the single sanction of removal from the register that was available under the previous framework). The introduction of a wider range of sanctions allows the PSNI to act fairly and proportionately when imposing sanctions. Over time we will check whether these sanctions are being applied appropriately and report on this.

18.29 We acknowledge that previously the PSNI's Scrutiny Committee (the committee that decides whether to refer cases to the Statutory Committee) had no formal powers to refer fitness to practise cases to the Statutory Committee for a final hearing. We note there has been a 70% increase in the number of cases considered at the Scrutiny Committee stage, in comparison with the same period during 2011/12. We consider that this increase in referrals suggests that the new legislation is strengthening the regulatory framework for public protection.

18.30 We will look for evidence that the PSNI is operating its new fitness to practise framework appropriately, fairly and proportionately through our reviews of all final fitness to practise decisions, as well as during our audits of cases closed at the initial stages of the fitness to practise process. We note that the PSNI's annual fitness to practise report is publicly available. The PSNI's website also provides information about the types of cases that the PSNI can and cannot deal with and advice about the fitness to practise process, how to complain and how learning feeds into the fitness to practise process. Based on this transparency as well as the PSNI's exercise of its new fitness to practise powers (to impose interim orders, consider health cases, impose a broad range of sanctions and refer a greater number of cases to its Fitness to Practise Committees) we find that this standard is currently being met.

Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients. Where necessary the regulator protects the public by means of interim orders (6th standard)

18.31 In our 2011/12 performance review we reported concerns about weaknesses in the timeliness of case handling at the initial stages of the PSNI's fitness to practise process.

18.32 As set out above, following the implementation of the new legislative framework in 2012, the PSNI has begun to impose interim orders, which allows it to minimise the risk of harm to the public resulting from delays with the conclusion of the fitness to practise proceedings.

18.33 Key performance indicators for all stages of the fitness to practise process were embedded in January 2013 and performance against these is reported to the Fitness to Practise Committee on a monthly basis. Monitoring key performance indicators helps provide assurance to the Council that fitness to practise cases are handled with the appropriate urgency and that this has obvious benefits for maintaining confidence in the PSNI's system of regulation.

18.34 During 2012/13 there have been reductions in the median times taken to process cases as follows:

- The median time from receipt of the initial complaint to the final fitness to practise hearing has reduced from 119 to 65 weeks
- The median time from receipt of the initial complaint to the final Scrutiny Committee decision has reduced from 46 to 12 weeks
- The number of cases that have been open for more than two years has reduced from four to one.

18.35 We are pleased to note improvements with the progression of cases through the fitness to practise process following the implementation of the new legislation and the co-operative joint working between the PSNI, the DHSSPSNI and the Health and Social Care Board (each of which participate in the Pharmacy Network Group).

18.36 Based on the improvements noted above, we find that this standard is currently met.

18.37 Currently there is limited supporting evidence to conclude that the introduction of new legislation has led to improvements in the PSNI's fitness to practise function, given its very recent implementation combined with the PSNI's relatively small fitness to practise caseload. We will therefore follow up on the PSNI's performance against the Standards of Good Regulation for fitness to practise and will be considering the following in next year's performance review:

- The numbers of interim orders made compared with the numbers of applications made

- Details of the PSNI's monitoring of the use and effectiveness of its risk assessment and prioritisation processes
- Details of how the PSNI is using learning to improve the fitness to practise process and its various regulatory functions
- The PSNI's annual report on its fitness to practise function
- The time taken by the PSNI to process cases and the processes it uses to prioritise cases and to ensure cases are progressed without undue delay.

18.38 In next year's performance review, we would also like to follow up on how involvement with the Pharmacy Network Group and with other stakeholders enhances the effectiveness of the PSNI's new fitness to practise framework.

19. Conclusions and recommendations

19.1 We continue to be satisfied that most of the regulators are performing well across their regulatory functions.

19.2 We have drawn attention, at the end of each of the sections within each regulator's performance review report, to the areas of that regulator's work which we intend to follow up on in next year's performance review. We have also included, within each regulator's performance review report, any recommendations about areas of concern. In addition to this we make the following general recommendations:

For the regulators

19.3 We recommend that the regulators should:

- Review this year's performance review report as a whole, taking account of our views, and consider whether they can learn and improve from the practices of the other regulators
- Address any areas of concern that are highlighted in this year's performance review report
- Ensure that their Councils review and discuss the performance review report in a public Council meeting.

For the Authority

19.4 We will continue to review and refine the approach we take to undertaking the performance review process. We will consult on any proposed changes during 2013.

19.5 The Mid Staffordshire NHS Foundation Trust public inquiry report makes recommendations (indirectly and directly) that are relevant to the regulators we oversee and we will monitor the regulators' responses and report on this in next year's performance review.

For the Departments of Health in the UK

19.6 During 2012 we have, at the request of the Department of Health in England, reviewed a number of proposals and suggestions from seven of the regulators we oversee for changes to their primary legislation through Section 60 orders.[37] We were aware that many of the proposals we considered have been discussed by the regulators and the Department of Health for some time. We were asked to consider and prioritise those that are required to protect patients and the public, improve the efficiency and effectiveness of the regulatory body, are consistent with government policy and do not pre-empt or contradict any proposals from the Law Commissions. We identified a number of changes that in our view fulfilled these criteria, including a number that would close potentially serious loopholes in current

[37] A Section 60 order allows Parliament to make changes to the regulators' legislation without the need for an Act of Parliament. They can take up to two years to be approved.

public protection arrangements. We recommended that the Department of Health in England considers these as candidates for a Section 60 order ahead of any changes that may be anticipated arising from the Law Commissions' review.

19.7 In May 2013 the Department wrote to all the regulators stating that it was 'seeking an early legislative opportunity to bring forward the draft legislation being constructed by the Law Commission' and that consequently it would not proceed at this time with the recommendations we put forward for inclusion in Section 60 orders. We agree that the Law Commissions' legislative proposals are, if they can be implemented quickly, the best opportunity for reform. However we recommend that this matter is kept under review by the Department and devolved administrations as the gaps in the regulators' powers to protect the public and do so efficiently and effectively remain.

20. Annex 1: Index of regulated health and care professions

Regulator	Regulated 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
General Pharmaceutical Council	Pharmacists Pharmacy technicians
Health and Care Professions Council	Arts therapists Biomedical scientists Chiropodists Clinical scientists Dieticians Hearing aid dispensers Occupational therapists Operating department practitioners Orthoptists Orthotists Paramedics Physiotherapists Podiatrists Practitioner psychologists Prosthetists Radiographers Social workers in England Speech and language therapists
Nursing and Midwifery Council	Nurses Midwives
Pharmaceutical Society of Northern Ireland	Pharmacists

21. Annex 2: Our Standards of Good Regulation

Introduction

21.1 Our *Standards of Good Regulation* cover the regulators' four core functions. These are:

- Setting and promoting guidance and standards for the profession(s)
- Setting standards for and quality assuring the provision of education and training
- Maintaining a register of professionals
- Taking action where a professional's fitness to practise may be impaired.

21.2 The *Standards of Good Regulation* are the basis of our performance review process. They describe the outcomes of good regulation for each of the regulators' functions. They also set out how good regulation promotes and protects the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession.

Using the *Standards of Good Regulation* in the Performance Review

21.3 We ask the regulators to submit evidence on whether they meet the standards and how they have evaluated the impact of their work in promoting and protecting the public and maintaining public confidence in the profession. To help the regulators in drafting their submission we have suggested examples of the type of evidence that they could provide us with. We will also provide an evidence template for the regulators to complete. The suggested evidence may change over time.

21.4 Once we have received the regulators' evidence, we assess their performance against the standards by:

- Identifying each regulator's strengths
- Identifying any areas for improvement
- Identifying good practice and excellence.

21.5 We also ask the regulators at the beginning of their evidence (Section 1) to comment on their overall performance by answering a set of questions.

22. Section 1: Overview

Introduction

22.1 This section covers general issues relating to the regulators' performance, including how they have responded to last year's review, how they comply with the principles of good regulation and their liaison with other bodies.

Response to last year's performance review

- What consideration have you given to issues raised in the previous year's performance review report including the adoption of any good practice?
- How have you addressed the areas for improvement identified in your individual performance review report?
- Where has your performance improved since last year?
- What areas for concern have you identified in each of the four functions and how have these been addressed?
- What areas of good practice have you identified in each of the four functions?

Responding to change, learning and information

- How is learning from the following five areas taken into account in each of the functions:
- Other areas of your work such as fitness to practise, policy development or quality assurance of educational institutions
- Organisational complaints
- The outcomes of the Authority's work
- Feedback from stakeholders from the four UK countries
- Public policy programme reports from the four UK countries
- How have you addressed information, other than formal fitness to practise complaints, which you may have received from other sources on possible failures in performance of organisations or individuals?
- How have you responded to changes in regulation or forthcoming changes in regulation?

Liaison with other bodies

- How have you worked with service regulators, other regulatory bodies or other bodies with shared interests to:
  - Ensure that relevant intelligence is shared, within legislative requirements, on individuals or organisations?
  - Ensure that cross regulatory learning is shared?

23. Section 2: Guidance and standards

Introduction

23.1 All of the regulators are responsible for publishing and promoting standards of competence and conduct. These are the standards for safe and effective practice which every health and care professional should meet to become registered and to maintain their registration. They set out the quality of care that patients and service users should receive from health and care professionals.

23.2 Regulators also publish additional guidance to address specific or specialist issues. These complement the regulators' standards of competence and conduct.

The standards of good regulation relating to guidance and standards

- Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient safety and patient-centred care
- Additional guidance helps registrants apply the regulators' standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient-centred care
- In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulators' work
- The standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed.

How does good regulation through standards and guidance promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Provides a clear framework that health professionals in the UK and social workers in England should meet when providing care, treatment and services to patients and service users
- Provides a clear framework so that members of the public, service users and patients can hold registrants to account by raising concerns when the standards and guidance are not followed
- The standards and guidance meet the needs of relevant stakeholders.

What evidence could be provided?

23.3 We need to know:

- How the regulators have met the *Standards of Good Regulation*
- How they have evaluated the impact of their work in this area.

23.4 The following evidence could be provided:

- The standards of competence and conduct and information on how they reflect up-to-date practice and legislation, prioritise patient safety and patient centred care
- Guidance produced or being developed and how this will help registrants apply the regulators' standards of competence and conduct to particular issues
- Plans for reviewing or developing guidance and standards, including what stakeholders were approached and how their views and experiences were taken into account alongside external events and learning from other areas. The outcomes of the revision or development and how the learning from this work is used within and outside of the standards and guidance function
- Details of how the regulators ensure that the documents are understandable and accessible. For example, publication in different languages, easy read, plain English and circulation in GP practices and Citizen Advice Bureaux
- Evidence of work undertaken to take account of the developments in European and international regulation
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

24. Section 3: Education and training

Introduction

24.1 The regulator has a role in ensuring that students and trainees obtain the required skills and knowledge to be safe and effective. They also have a role in ensuring that, once registered, professionals remain up to date with evolving practices and continue to develop as practitioners.

24.2 As part of this work, the regulators quality assure and, where appropriate, approve educational programmes which students must complete in order to be registered. Some also approve programmes for those already on the register who are undertaking continuing professional development, a particular qualification or specialist training.

The standards of good regulation relating to education and training

- Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process
- Through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise
- The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration
- Action is taken if the quality assurance process identifies concerns about education and training establishments
- Information on approved programmes and the approval process is publicly available.

How does good regulation through education and training promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that those who are registered have and/or continue to meet the regulator's standards
- Assures the public that those providing education and training to students, trainees and professionals give them the required skills and knowledge so that they can practise safely and effectively
- Effective stakeholder involvement in the education and training process increases everyone's trust, confidence and knowledge of health professional regulation in the UK and the regulation of social workers in England.

What evidence could be provided?

24.3 We need to know:

- How the regulators have met the *Standards of Good Regulation*
- How they have evaluated the impact of their work in this area.

24.4 The following evidence could be provided:

- The standards to be met by students and how they link to the standards of competence and conduct for registrants
- Where available, evidence of the regulator's mechanisms, which enable them to be aware of action taken by training establishments against students on fitness to practise issues and a system for learning from these outcomes. For example, are outcomes taken into account in the quality assurance process and revision of standards?
- The standards to be met by education and training providers, how these reflect patient and service user centred care and protect the public, and how they link to standards of competence and conduct for registrants
- Guidance given to education and training establishments to help ensure that disabled students do not face unnecessary barriers to successful careers in health in the UK or careers in social work in England
- The plans for reviewing or developing standards for students and education and training providers, including what stakeholders were approached, how their views and experiences and other areas of learning are taken into account. The outcomes of this work and how the learning from this work is used within and outside of the education function
- Details of the monitoring and approval processes for the education and training providers including how the views and experiences of stakeholders and other quality assuring bodies are taken into account
- Details of how many assessments were undertaken, how many concerns were identified through the quality assurance process and what action was taken to address these concerns
- Details of how stakeholders can access the regulator's final assessments of education and training providers and the regulator's approval process, for example, through publication on its website
- Details of the regulator's revalidation proposals
- Details of how the regulator ensures that continuing professional development is targeted towards the professional developing their skills and knowledge in their areas of practice and that public protection is prioritised. For example, how many audits were carried out, were issues identified and how were these addressed?
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

25. Section 4: Registration

Introduction

25.1 In order for a health professional to practise legally in the UK, and for social workers to practise legally in England, they must be registered with the relevant regulator. The regulators only register those professionals who meet their standards. The regulator is required to keep an up-to-date register of all the professionals it has registered. The register should include a record of any action taken against a professional that limits their entitlement to practise.

The standards of good regulation relating to registration

- Only those who meet the regulator's requirements are registered
- The registration process, including the management of appeals, is fair, based on the regulators' standards, efficient, transparent, secure, and continuously improving
- Through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice
- Employers are aware of the importance of checking a health professional's registration in the UK or a social worker's registration in England. Patients, service users and members of the public can find and check a health professional's registration in the UK or a social worker's registration in England
- Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

How does good regulation through registration promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that professionals are regulated and are required to meet certain standards before they are able to provide care, treatment or services to them
- Informs the public of any limits imposed on the way a registered professional is allowed to practise
- Helps the public and others to identify and report those who practise illegally.

What evidence could be provided?

25.2 We need to know:

- How the regulators have met the *Standards of Good Regulation*
- How they have evaluated the impact of their work in this area.

25.3 The following evidence could be provided:

- Details of the checks carried out by the regulator to ensure that only those who are fit to practise are registered including revalidation/CPD checks
- Details of the registration process, including the management of appeals and how the regulator ensures that applications are processed efficiently
- Evidence of activity undertaken to ensure that only EEA and international registrants that meet the regulators' standards, within the legal framework, are registered
- The number of registration applications considered
- The number of appeals considered
- The number of appeals upheld
- How the case management system/process enables the collection and analysis of reliable data to ensure that there is no bias in the process, with evidence of this testing being carried out by the regulator
- How the processes and procedures in place are fair, objective and free from discrimination
- The level of detail included on the register and the reasons for this, for example, a council decision, legislation, rules or the regulator's disclosure policy
- Evidence of the regulator's compliance with its information security policies and with the relevant legislation. The number of data loss/breach incidents which have occurred
- The activities undertaken to communicate to employers the importance of checking that a professional is registered. Evidence of employers informing the regulators that a professional is no longer registered or not registered
- How the regulators make their registers available to the public, service users and patients. Evidence of the amount of contacts from public, service users and patients about the regulators' registers
- Activities undertaken to identify non-registrants using a protected title or undertaking a protected act. Details of proportionate and risk-based action taken to reduce the risk of harm to the public and damage to public confidence in the profession of non-registrants using a protected title or undertaking a protected act. For example, increasing public awareness of the importance of health and care professional registration and regulation, sending 'cease and desist' letters, and fostering relationships with organisations that have a shared interest in preventing title misuse
- The mechanisms used by the regulator to assess how it is performing and how it uses the results to improve their practices.

26. Section 5: Fitness to practise

Introduction

26.1 Anyone, including members of the public, employers and the regulators themselves, can raise a concern about a registered professional's conduct or competence that calls into question their fitness to practise. The regulators are required to take action under their fitness to practise procedures where they receive such concerns. This can lead to a variety of outcomes including no further action, a registered professional being prevented from practising or restrictions being imposed on their practice.

The standards of good regulation relating to fitness to practise

- Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant
- Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks
- Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation
- All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel
- The fitness to practise process is transparent, fair, proportionate and focused on public protection
- Fitness to practise cases are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients. Where necessary the regulator protects the public by means of interim orders
- All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process
- All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession
- All final fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders
- Information about fitness to practise cases is securely retained.

How does good regulation through fitness to practise promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that action is taken against those professionals whose fitness to practise is impaired
- Assures the public that those whose fitness to practise is impaired are not able to continue practising or practising unrestricted
- Helps the public to understand why action is and is not taken to limit a health professional's practice in the UK or a social worker's practice in England
- A joined up approach to fitness to practise mitigates the risk to public protection from regulators working independently of each other
- Effective involvement of all parties in the fitness to practise process increases trust, confidence in and knowledge of health and care professional regulation.

What evidence could be provided?

26.2 We need to know:

- How the regulators have met the *Standards of Good Regulation*
- How they have evaluated the impact of their work in this area.

26.3 The following evidence could be provided:

- Activities undertaken to publicise how all individuals, including those with particular health or language needs, and organisations can raise concerns about the fitness to practise of health and care professionals and the evaluation of this work. For example, publication of public information/employer leaflets, information available via the telephone or email and liaison with other organisations
- Examples of where the regulator has raised and taken forward a fitness to practise concern itself. For example, the number of cases taken forward and the reasons for this
- Examples of the regulator's work with other relevant bodies on when to refer fitness to practise complaints. For example, evidence of liaison with other organisations and feedback from those organisations on the effectiveness of this help
- Examples of information that has been shared between the regulators and other relevant bodies, within legal requirements, on the fitness to practise of individuals and the results of this work. For example, exchange of information through memoranda of understanding and, where possible, discussion on what use was made of this data
- Examples of where serious cases have been identified, prioritised and, where possible, referred to an interim orders panel. For example, the number of cases identified and the process for how this is carried out

- Examples of how the case management system and case management process helps prevent excessive delay and manages identified delays. Information on current timeframes and/or delays in the system
- Examples of how the regulator ensures that all parties are regularly updated on progress of the fitness to practise case. How many complaints were received about lack of update notification?
- How the case management system/processes enables the collection and analysis of reliable data to ensure that there is no bias in the process, with evidence of this testing being carried out by the regulator
- How the processes and procedures in place are fair, objective and free from discrimination
- Activities undertaken to meet the individual needs of parties to the fitness to practise process, particularly those who are vulnerable, and the outcomes of this work. For example, use of video link facilities, witness support arrangements, participant feedback surveys and numbers of complaints from participants about lack of support
- The appointment and appraisal process for committee members, panellists and advisors to fitness to practise cases. Relevant training, guidance and feedback provided to committee members, panellists and advisors to fitness to practise cases. How this has helped improve decision-making
- Evidence of steps taken to identify and mitigate risks in fitness to practise decisions, for example, outcomes of the regulator's quality assurance of decisions, number of appeals and their outcomes. How learning from this process is used to improve decision-making
- The regulator's disclosure policy in relation to fitness to practise proceedings and the disclosure of fitness to practise information to third parties
- The regulator's information security policies and compliance with the relevant legislation. The number of data loss/breach incidents which have occurred
- The mechanisms used by the regulator to assess how they are performing and how they use the results to improve their practices.

27. Annex 3: Third party feedback

27.1 As part of this year's performance review, we wrote to a wide range of organisations who we considered had an interest in how the regulators performed against the Standards of Good Regulation, and to our public and professional stakeholder networks. We invited them to share their views with us on the regulators' performance in relation to the standards. We explained that we would use the information provided to challenge the regulators' evidence to ensure that we had a more rounded view of the regulators' performance. We also placed a general invitation to provide views on the regulators' performance on our website.

27.2 Below is a list of the third party organisations whose feedback we took into account:

- British Chiropractic Association
- Care Council for Wales
- Council of Deans of Health
- Dental Protection Limited
- Independent Midwives UK
- Medical Protection Society
- NHS Education for Scotland
- Royal College of Midwives
- Royal College of Nursing
- Royal College of Radiologists
- Royal Pharmaceutical Society
- Scottish Government
- Unison
- 91 individuals.

www.tso.co.uk

Published by TSO (The Stationery Office) and available from:

Online
www.tsoshop.co.uk

Mail, Telephone, Fax and Email
TSO
PO Box 29, Norwich NR3 1GN
Telephone orders/General enquiries: 0870 600 5522
Order through the Parliamentary Hotline Lo-Call 0845 7 023474
Fax orders: 0870 600 5533
Email: customer.services@tso.co.uk
Textphone: 0870 240 3701

The Parliamentary Bookshop
12 Bridge Street, Parliament Square
London SW1A 2JX
Telephone orders/General enquiries: 020 7219 3890
Fax orders: 020 7219 3866
Email: bookshop@parliament.uk
Internet: http://www.bookshop.parliament.uk

TSO@Blackwell and other Accredited Agents

ISBN 978-0-10-298261-9