

Council 18 September 2012

CHRE performance review 2011 – 2012

Executive summary and recommendations

Introduction

In June 2012, the Council for Healthcare Regulatory Excellence (CHRE) published its 2011 – 2012 performance review of the regulatory bodies, including its performance assessment of the HCPC. This paper discusses the outcomes of the 2011 – 2012 performance review, providing a summary and discussion of the CHRE's assessment of the HCPC's performance and highlighting other areas of interest.

Fitness to practise continues to be a focus for the CHRE 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 Council for Healthcare Regulatory Excellence performance review 2011 – 2012: Fitness to practise.

Appendix B: The Council for Healthcare Regulatory Excellence, performance review report 2011 – 2012

Date of paper

6 September 2012

The Council for Healthcare Regulatory Excellence performance review 2011 – 2012

1. Introduction

- 1.1 This paper summarises and discusses the Council for Healthcare Regulatory Excellence's (CHRE) performance review of HCPC for 2011 – 2012.¹ 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 CHRE 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 CHRE's assessment of our performance, identifies issues of common interest across the regulators and sets out areas of ongoing work.
- 1.4 The CHRE'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 CHRE is required by law to assess the performance of each of the regulators and to publish a report of its findings each year. The CHRE base the performance review process on a self-assessment carried out by each regulator against the CHRE's standards of good regulation.
- 1.6 The CHRE 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 CHRE 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 CHRE then assesses the material provided by the regulators the public. The CHRE 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

¹ CHRE will be renamed the Professional Standards Authority for Health and Social Care during 2012. In addition, the Health Professions Council was renamed the Health and Care Professions Council in August 2012. This paper uses the abbreviations CHRE and HCPC throughout.

² For example, Council considered a paper on last year's performance review at its meeting on 20 October 2011, hcpc-uk.org/aboutus/committees/archive/index.asp?id=538

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.

2. Overview of HCPC performance review 2011 – 2012

- 2.1 The HCPC received a positive performance review report this year. The CHRE notes that the HCPC has ‘continued to perform as an effective regulator across each of the regulatory functions for the diverse range of professions it regulates’. The CHRE comment that this was particularly notable given the significant work HCPC had undertaken in preparation for the regulation of social workers and herbal medicine practitioners (paragraph 16.1).
- 2.2 This section provides a brief overview of the CHRE’s assessment of our performance for 2011 – 2012. It also identifies key pieces of work that are ongoing into 2012 – 2013 or provides a commentary on a particular piece of work where helpful to the Council’s discussions.

Guidance and standards

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

Area of work	HCPC comments
Analysis of methods of involving service users in consultations about guidance and standards	This is an ongoing piece of work for 2012 – 2013. See section four of this paper for more information.
Commissioning research on attitudes towards and awareness of the HCPC	HCPC commissioned research by IPSOS Mori on registrant and public attitudes towards and awareness of the HCPC. The Communications Committee discussed a draft of this research at their strategy meeting in November 2011.
Working to build good relationships with the social care regulators in other countries in the UK	We have now published a memorandum of understanding with the other social care regulators, setting out the working relationship between ourselves and the other regulators.

Education and training

- 2.4 The CHRE considers that we continue to meet most of the standards of good regulation for education and training, apart from the standard requiring the quality assurance process to take account of the views of patients, students and trainees (paragraph 16.5).

Area of work	HCPC comments
Service user involvement in education and training programmes	These are ongoing piece of work for 2012 – 2013. See section four of this paper for more information.
Pilot of lay visitors on approval panels	
Multi-variant analysis of CPD audit data and fitness to practise data	

Registration

- 2.5 CHRE considers that we continue to meet the standards of good regulation for registration.
- 2.6 Each year, as part of the performance review, CHRE undertake a check of regulator's registers, where a registrant has had a sanction imposed. As part of that check, they identified one situation where a registrant's interim conditions of practice did not show on their entry on the publicly available Register (paragraph 16.11).
- 2.7 We conduct a monthly review of the register to check that fitness to practise sanctions have been appropriately applied against an individual registrant. Unfortunately, CHRE's review of our register took place before the check for the relevant month, which would have identified this issue. However, we quickly took steps to address this issue.

Fitness to practise

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

The regulators in numbers

- 2.9 Section 8 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.
- 2.10 As the CHRE identify (paragraph 8.2) 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.
- 2.11 Members of the Executive and Council have previously discussed the issues around comparing this data with the CHRE.

3. Good practice and issues common to all regulators

- 3.1 This section of the paper sets out some overall recommendations the CHRE makes to all regulators. It also identifies any areas of good practice amongst other regulators that may be of relevance to work we are undertaking. The recommendations and areas of good practice are both drawn from section 7 of the performance review.

Guidance and Standards

- 3.2 The CHRE have identified the General Medical Council's (GMC) commissioned research on the factors that influence doctors' decisions on whether or not to follow guidance (paragraph 7.23) and the barriers that may prevent them from doing so. This research, once published, may be of relevance to our review of the standards of conduct, performance and ethics, which we have recently started.³

Registration

Audit of registration decisions

- 3.3 The CHRE identify steps taken by both the GMC and General Dental Council to audit applications for registration as examples of good practice that other regulators should adopt (paragraph 7.23).
- 3.4 In the last few years, we have made a number of changes to our processes for verifying an applicant's identity, professional experience and education. In addition, we have worked with NHS Counterfraud to identify whether any international applicants applied to the Register with fraudulent qualifications.
- 3.5 We will continue to review our processes in this area, so that we can protect against fraudulent or erroneous entry to the Register.

Information security

- 3.6 The CHRE reported on four information security breaches in their performance review report for 2011 – 2012. As a result, they encourage all regulators to review their information security arrangements (paragraph 7.22).
- 3.7 We recognise the importance of robust information security procedures to maintain public confidence. Our internal auditors carried out an external assessment of our information security regime in 2011 – 2012, which showed that we are managing and controlling risks around data protection and information security.⁴ We have also recently taken all employees through information security training, which they were required to pass.

³ Standards of conduct, performance and ethics review – workplan, paper for Council, www.hcpc-uk.org/assets/documents/10003B13enc05-standardsofconductperformanceandethicsreview.pdf

⁴ Internal audit report, information security/data protection, paper for Audit Committee, www.hcpc-uk.org/assets/documents/100036EAaudit_committee_20110929_enclosure06_internal_audit_report_information_security.pdf

4. Performance review 2012 - 2013

4.1 A number of areas highlighted in the CHRE's performance review report are ongoing pieces of work that we have continued in 2012 – 2013. In addition, the CHRE identified several areas of work they would like us to cover in our submission for 2012 – 2013. This section provides a summary of those areas and updates the Council on our progress, where relevant. Any ongoing areas of work for the fitness to practise department are addressed in Appendix A.

Area of work	HCPC comments
<p>Transfer of the regulation of social workers in England (an area of work CHRE would like to be updated on in the 2012 – 2013 performance review)</p>	<p>We took over the regulation of social workers in England on 1 August 2012. We undertook a range of activities in the months leading up to the transfer to make sure that the transfer happened smoothly. Those activities included liaising with the General Social Care Council (GSCC) about outstanding applications to the register and conduct cases, holding events for social workers, employers and educators, making changes to the NetRegulate system to incorporate social workers and writing to all social workers on the GSCC register.</p> <p>The GSCC held a register of student social workers. As part of our preparations for the transfer, we consulted on the issue of student fitness to practise and student registration more broadly.</p>
<p>Regulation of practitioners of herbal medicine (an area of work CHRE would like to be updated on in the 2012 – 2013 performance review)</p>	<p>In 2010, the government announced that HCPC would regulate practitioners of herbal medicine.⁵ The Department of Health in England is leading on this project and discussing the proposal with the governments in Wales, Scotland and Northern Ireland.</p> <p>Once the governments have agreed the proposals, they will jointly consult on the legislation necessary to regulate these practitioners. We are currently awaiting that consultation. In the meantime, we have been discussing the proposals with the Department of Health and relevant stakeholders.</p>

⁵ Enabling Excellence: Autonomy and Accountability for Health and Social Care Staff, Department of Health, www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_124359

<p>Service user involvement in consultations (ongoing work)</p>	<p>In 2012 – 2013, the Communications department will be undertaking work to map UK-wide advocacy and patient groups (as part of broader stakeholder mapping work) and will start work to develop a toolkit for employees on service user engagement.</p> <p>We have also recently begun a review of our standards of conduct, performance and ethics. Part of that review will involve engaging with groups of service users and members of the public, so that we can make sure the standards reflect the public's expectations of health and care professionals.</p>
<p>Service user involvement in education and training programmes (ongoing work)</p>	<p>We have recently launched a consultation seeking the views of stakeholders on a proposal to amend our standards of education and training and supporting guidance to require the involvement of service users in approved programmes.⁶</p> <p>The consultation closes in early December 2012. Once the consultation has closed, we will analyse the responses and publish a document setting out the decisions we are making following the consultation. We expect to publish the outcomes of the consultation in spring 2013.</p>
<p>Pilot of lay visitors on approvals panels (ongoing work)</p>	<p>In the 2011/2012 academic year, we undertook a pilot to look at the benefits of lay visitor involvement in the approval process. The Education and Training Committee considered the outcomes of that pilot at a meeting in March 2012.⁷ The pilot found that there was no clear evidence that a lay visitor from an education background benefitted the visit process.</p> <p>The Committee agreed that the role brief for a lay visitor should be amended to remove the requirement for an education background and so that the role could incorporate a service user perspective. A second pilot of lay visitors with a service user perspective might then be considered in light of the proposals to amend the SETs to make service user</p>

⁶ Consultation on service user involvement in education and training programmes, www.hcpc-uk.org/aboutus/consultations/

⁷ Lay visitor pilot, paper for Education and Training Committee, www.hcpc-uk.org/assets/documents/100038FE11-layvisitorpilot.pdf

	<p>involvement a specific requirement for approved programmes.</p> <p>The Executive will present a further paper on this issue at a future meeting of the Education and Training Committee.</p>
<p>Continuing fitness to practise (an area of work CHRE would like to be updated on in the 2012 – 2013 performance review)</p>	<p>The CHRE have indicated that they will monitor the regulators developments in this area and intend to review progress in next year’s performance review (paragraph 7.10). The CHRE are in the process of putting together a policy paper on this area and have recently met with the Executive about this.</p> <p>The Executive provided an update about its work on revalidation at the Council meeting in March 2012.⁸ A small number of pieces of research work are on-going, including multi-variant analysis of fitness to practise data. The report is currently being finalised with the researcher and we anticipate Council might consider the paper at the December meeting.</p>

⁸ Revalidation, paper for Council 29 March 2012, www.hpc-uk.org/aboutus/committees/archive/index.asp?id=606

Appendix A

The Council for Healthcare Regulatory Excellence performance review 2011 – 2012: Fitness to practise

1. Introduction

- 1.1 This paper looks at and comments on the recommendations and conclusions made by CHRE about fitness to practise across all the regulators.
- 1.2 It takes a thematic look at the good practice and risk identified by CHRE, setting out HCPC's current practice and looking at ways that HCPC can develop its processes. It then sets out how the areas of work that CHRE 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. The abbreviation 'CMS' is used throughout to refer to the case management system. References in brackets to paragraph numbers are references to the performance review.

2. CHRE assessment of the regulators and HCPC comments

Theme and summary of CHRE assessment of the current situation across the regulators	HCPC current practice	HCPC developments
<p>Accuracy of the Register</p> <p>The public must be able to trust the integrity and accuracy of the information on the regulators registers. CHRE supports processes, like our monthly register check, to ensure the accuracy of the Register.</p> <p>(paragraph 7.11)</p>	<ul style="list-style-type: none"> • We carry out a monthly check of all cases where there is a status change, or where new statuses are applied following FtP activity, and any issues are flagged and rectified. We monitor and investigate any deviations. • Regular random monthly file audits are performed, with feedback to teams on findings 	<ul style="list-style-type: none"> • We will extend the existing file audits to include a further check of register status and data completeness of the CMS system.
<p>Timeliness</p> <p>Some regulators are still struggling to achieve timeliness in the progress of fitness to practise cases.</p> <p>(paragraph 7.15)</p>	<ul style="list-style-type: none"> • 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. • We use fourteen day and twenty-eight day chaser actions through CMS to support effective case management. • A range of case management techniques are in place to help to ensure the timeliness of hearings and cases. • We use disposal by consent in appropriate cases. • Since January 2012, we have held Case Progression monthly meetings to identify ways to progress older cases. 	<ul style="list-style-type: none"> • We are planning further development of the reporting drawn from CMS, to allow us to monitor outstanding actions on cases more accurately. • We plan to develop the case management techniques further in autumn 2012. • We are developing further the use of management commentary. This improved management information capability will help to identify trends that can be incorporated into training or system development, and ease the resource implications of production of committee papers, the Annual Report or the CHRE Performance Review data.

	<ul style="list-style-type: none"> • Monthly management commentary summarises current performance and anticipated future activity. This assists budget and resource planning. 	
<p>Legally Qualified Chairs</p> <p>Some regulators are introducing legally qualified panel chairs as alternative to using legal assessors and lay chairs in each case. We look forward to seeing any assessment of the impact of this measure, in particular on the effective management of hearings and reduction of costs.</p> <p>(paragraph 7.17)</p>	<ul style="list-style-type: none"> • HCPC use separate legal assessors and panel chairs. • We have taken the view that the benefits of not having a legally qualified chair outweigh any advantage. Chairs should focus on ensuring hearings progress swiftly and not be drawn into legal disagreements. Legal assessors are able to talk to both parties in advance of proceedings starting and will often facilitate common points of opinion to be agreed. As legal assessors are independent, they can intervene when appropriate. For a panel chair to be involved in these types of issues, it could easily lead to impressions being made that their opinions were biased towards one party or another. 	<ul style="list-style-type: none"> • We are awaiting the outcome of the work by the Law Commission and do not currently plan to make any changes in this area.
<p>Case Examiners</p> <p>Many regulators are introducing (or planning to introduce) case examiners as an alternative to all decisions being taken by an investigating committee. Case examiners will become involved after initial assessment by a case worker, and will have a range of powers including for example to conclude a case with no further action; issue a warning letter; request an</p>	<ul style="list-style-type: none"> • HCPC do not use case examiners. Case Managers decide, following agreed policy, whether a case meets the standard of acceptance for an allegation. The Case Manager investigates the case, independently from the Investigating Committee. Once the investigation is complete, the information gathered is presented to an Investigating Committee panel. The Committee's role is to assess the information gathered and 	<ul style="list-style-type: none"> • We do not plan any changes in this area, but we may review this decision if the caseloads change.

<p>assessment of health or performance; or refer cases for an interim order applications. This move potentially offers significant benefits in terms of improving the timeliness of resolving the majority of fitness to practise cases, as well as in reducing the costs of doing so.</p> <p>(paragraph 7.18)</p>	<p>the investigative efforts of the Executive to determine whether there is adequate information to make a decision and, if so, whether there is a case to answer. In a small number of cases, the Committee may ask for further information in order to come to a final decision (3% of cases in 2011-12).</p> <ul style="list-style-type: none"> • There are a number of reasons why we do not use case examiners, including¹: <ul style="list-style-type: none"> • It may be difficult for us to find case examiners, particularly amongst the smaller professions. We find Investigating Committee panels useful as panel members used for the purposes of Investigating Committee panels can also sit on Conduct and Competence and Health Committee cases (although not for the same case). This provides the flexibility required and enables us to engage appropriate individuals from a small pool for a range of activities. The use of the same chairs and lay panel members in cases involving different professions ensures consistency in approach. • We do not consider that the use of case examiners would reduce the length of time taken for a case to 	
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¹ There is more information about why we do not use case examiners in our response to the Law Commission's consultation on the regulation of health and social care professionals. Our response is available here: <http://www.hcpc-uk.org/aboutus/consultations/external/index.asp?id=145>

	<p>reach an Investigating Committee once an allegation has been made. Currently, the median time taken is 5 months. We would need to carry out the same level of investigation to decide whether the case should proceed to a hearing. The delays that can occur during the process are often due to the registrant requiring additional time to respond to the allegation. This is an important element of the process and must be safeguarded.</p> <ul style="list-style-type: none"> • Moving away from Investigating Committee panels towards case examiners and other systems of engaging professional input could be more costly and would be harder to budget for. The costs of operating Investigating Committee panels are relatively fixed and we can budget for them reasonably accurately. The panels consider a number of cases in a day and are scheduled a number of months in advance. We use teleconferencing for smaller professions where there are few cases. 	
<p>Initial handling of potential fitness to practise allegations</p> <p>We would encourage all the regulators to review their processes and staff guidance</p>	<ul style="list-style-type: none"> • There is existing operating guidance for staff (FOGs) which covers all 16 professions. This guidance maintains a consistent approach between team members handling of cases, and ensures 	<ul style="list-style-type: none"> • There is a programme of review of operating guidance and practice notes. • The FTP workplan includes all improvement activities for the year

<p>about the handling of initial enquiries and the identification of those enquiries that may raise concerns about a registrant's fitness to practise, in order to ensure that they are protecting the public from registrant's fitness to practise, in order to ensure that they are protecting the public from registrants whose fitness to practise may be impaired, and that they are doing so at the first available opportunity</p> <p>(paragraphs 7.19-7.22)</p>	<p>any trigger points for additional input are identified and acted on.</p> <ul style="list-style-type: none"> • We use the case management system to record all cases received even when the case does not constitute an FTP matter. This ensures that we can link previous concerns to future cases where appropriate. 	<p>and we will keep improvement activities under review. The Assurance and Development team will ensure control and consistency through their compliance and development work. This will help to ensure greater monitoring, feedback, training and system development.</p> <ul style="list-style-type: none"> • As part of phase 2 of the CMS project (which will start in late 2012), we will assess whether we should develop online submission of fitness to practise cases.
<p>Information Security</p> <p>We encourage all regulators to review the security of their arrangements in order to identify any weaknesses.</p> <p>(paragraph 7.22)</p>	<ul style="list-style-type: none"> • HCPC has had a small number of information security issues, due to human error or system failure. The safeguards in the CMS reduces the risk of sending the wrong information to the wrong person, and identifying what has happened in cases of error, but we continue to develop our processes. • We have operating guidance covering confidentiality and information security, which we use to train new staff and refresh existing team members. 	<ul style="list-style-type: none"> • This is a key part of the Assurance and Development programme for the next 12 months, including CMS system improvements and refresher training for staff. • We will continue to investigate any breaches or potential near misses and identify lessons learnt.
<p>Providing support to witnesses; providing care before and after hearings</p> <p>CHRE have identified that HCPC's witness support systems are a model of good practice.</p>	<ul style="list-style-type: none"> • We offer support through regular telephone contact with witnesses to ensure we address any questions or anxieties, manage expectations and to seek feedback on their experience of the process. • We have improved the waiting area facilities for all parties. 	<ul style="list-style-type: none"> • This is a key feature of our workplan each year and we continue to seek feedback from witnesses on how we can improve our processes, systems or training for staff. • Future work will focus on ensuring the experience of the fitness to practise process is good, even if the

<p>The GOC have developed a standard operating procedure with input from Victim Support. The GOC's external lawyers must conduct a witness needs assessment both on the first contact with each witness and prior to any hearing to make sure the witness' needs are understood taken into account. The GMC has introduced a needs assessment for witnesses who are referred to the witness support service.</p> <p>The GMC has reviewed its expenses policy to improve provision for witnesses with caring responsibilities and to speed up payment.</p> <p>(paragraph 7.23)</p>	<ul style="list-style-type: none"> • We complete vulnerable witness assessments for all cases and where necessary use preliminary hearings to ensure special measures such as screens or video evidence are requested. • We expedite payment of expenses for witnesses and carers. 	<p>outcome is not the desired one for the individual.</p> <ul style="list-style-type: none"> • We will deliver further customer service training in early 2013 to the FtP teams to ensure we provide a high quality service to all those who interact with the FtP process. This training will cover a range of areas including interpersonal behaviour, recognition of the emotions associated with our stakeholders, and timeliness. • We are also exploring self-directed learning modules for team members and at telephone monitoring to assess quality of live call handling.
<p>Providing support to witnesses, training from experts in managing vulnerable witnesses</p> <p>The GPhC has commissioned training by the Samaritans for caseworkers on how to deal with vulnerable witnesses and published a witness care leaflet.</p> <p>(paragraph 7.23)</p>	<ul style="list-style-type: none"> • MIND has trained all FtP employees in handling vulnerable or demanding parties. • 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 and we review them regularly. 	<ul style="list-style-type: none"> • This programme will be reviewed and developed in order to provide refresher training to FtP employees
<p>Learning from the fitness to practise process</p> <p>The GMC is working with the Royal College of Anaesthetists and with the Royal College of Psychiatrists by providing</p>	<ul style="list-style-type: none"> • We hold regular meetings with professional bodies, employers and unions. These meetings give useful stakeholder feedback on HCPC processes and responsiveness. • We use feedback and analysis from 	<ul style="list-style-type: none"> • These activities will continue in the coming year.

<p>data and information to them about fitness to practise complaints against anaesthetists and psychiatrists. The Royal Colleges are using this information to explore the reasons behind these complaints.</p> <p>(paragraph 7.23)</p>	<p>cases to assess whether we should amend current processes, standard directions or documentation.</p> <ul style="list-style-type: none"> • We review each CHRE performance review to identify any learning points for the department. • We regularly review ICP decisions and final hearings. This helps to support panel members and employees to develop and assess allegations. • The Policy and Standards department carries out an independent audit of findings and present the findings to the Fitness to Practise Committee. • We conduct induction and refresher training for panel members annually and use learning points from the CHRE as case studies. • We use case progression conferences to help plan more complex cases. We share learning across teams and include it in departmental guidance where appropriate. 	
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3 Ongoing areas of work

- 3.1 In the CHRE's comments regarding our individual performance in FTP (which begins on page 70 of the report), the CHRE comment that they would like to review four areas of work. Those areas of work are set out below.

The implementation of the new case management system

- 3.2 The CHRE frequently comment on the need for regulators to have an electronic case management system. HCPC's case management system went live in April 2012. We plan to continue to develop the system through a process of annual system developments. We initiated phase two of the CMS project in September 2012. We hope to enhance the automation of certain functions. This will also further improve our use of reporting and will feed into the further development of the employee and partner training programme.
- 3.3 We also have a rolling programme of refresher training for FTP employees. The department provides team members who require extra support on the use of the system with additional training as required.

The pilot of mediation as alternative mechanisms to resolve disputes

- 3.4 Council approved the development of a pilot model at its meeting in October 2011. Work is currently underway to develop that pilot and we expect that preparatory work will be completed by April 2012

Outcomes into the research HPC is undertaking about the treatment of registrants who have criminal convictions/cautions

- 3.5 This forms part of a wider piece of work we are undertaking to look more widely at understanding of the concept of public protection.
- 3.6 One strand of this work is a research piece, which we have just commissioned, to look at public understanding of public protection. Other strands include data analysis of those registrants who are subject to more than one allegation, the approach other regulators take to those who are convicted of drug and alcohol related offences and a review of the changing societal approach to what is felt to be criminal behaviour.

A review of other adjudication models

- 3.7 Work continues in looking at other models of adjudication as per the FtP work plan for 2012-13. This includes further development of our processes to dispose of cases via consent and discontinuance.

The Council for Healthcare Regulatory Excellence

Performance review report

2011/12

Annual report volume II





The Council for Healthcare Regulatory Excellence

Annual report volume II: Performance review report 2011/12

(Associated with this document is the Annual report volume I:
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About CHRE

The Council for Healthcare Regulatory Excellence promotes the health and well-being of patients and the public in the regulation of health professionals. We scrutinise and oversee the work of the nine regulatory bodies¹ that set standards for training and conduct of health professionals.

We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals. We are an independent body accountable to the UK Parliament.

Our aim

The Council for Healthcare Regulatory Excellence works to raise standards and encourage improvements in the registration and regulation of people who work in health and social care. We do this in order to promote the health, safety and well-being of patients, service users and other members of the public.

Our values

Our values and principles act as a framework for our decision-making. They are at the heart of who we are and how we would like to be seen by our partners. We are committed to being:

- focussed on the public interest
- independent
- fair
- transparent
- proportionate

Our values will be explicit in the way that we work; how we approach our oversight of the registration and regulation of those who work in health and social care, how we develop policy advice and how we engage with all our partners. We will be consistent in the application of our values in what we do.

We will become the Professional Standards Authority for Health and Social Care during 2012.

¹ General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health Professions Council (HPC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI)



Contents

1.	Chief Executive's foreword	1
2.	Executive summary	2
3.	What does the Council for Healthcare Regulatory Excellence do?	5
4.	Who are the health professional regulators?	5
5.	What is the performance review?	6
6.	Our approach to regulation	8
7.	How are the regulators performing against the Standards of Good Regulation?	9
8.	The regulators in numbers	16
9.	The individual regulators' performance review reports	20
10.	The General Chiropractic Council (GCC)	20
11.	The General Dental Council (GDC)	25
12.	The General Medical Council (GMC)	35
13.	The General Optical Council (GOC)	43
14.	The General Osteopathic Council (GOsC)	51
15.	The General Pharmaceutical Council (GPhC)	57
16.	The Health Professions Council (HPC)	65
17.	The Nursing and Midwifery Council (NMC)	72
18.	The Pharmaceutical Society of Northern Ireland (PSNI)	88
19.	Conclusions and recommendations	94
20.	Annex 1: Index of regulated health professions	96
21.	Annex 2: The Standards of Good Regulation	97
22.	Section 1: Overview	98
	Section 2: Guidance and standards	99
	Section 3: Education and training	100
	Section 4: Registration	102
	Section 5: Fitness to practise	104
23.	Annex 3: Third party feedback	108



1. Chief Executive's foreword

In this annual review of the performance of the nine health professional regulators we have tried to report clearly and concisely on their performance against the Standards of Good Regulation. We have changed and we hope improved the structure of our report to make it clearer when a regulator does or does not meet a standard.

In line with right-touch regulation we continue to try to concentrate on the outcome of regulatory activity in protecting patients and providing assurance to the public. Along with the regulators we recognise that this is not always easy. The distance between a regulatory action and its effect on an individual's behaviour is considerable. It is therefore inevitable that in regulation inputs often become proxies for outcomes as sometimes that is the best we can do. I have suggested elsewhere this year that we oversell regulation if we claim it can or indeed should be responsible for controlling individuals². It is the task of professional regulation to set the framework of behaviours within which people take responsibility for their own judgements and actions. It is a fundamental quality of being a professional that you are responsible for your own conduct.

Patients' and service users' safety and the protection of the public should be the unrelenting focus of the regulators. If they are, then public confidence in regulation and respect for the professions will be enhanced. Each of the governing Councils of the regulators need to assure itself that that task is indeed at the heart of their work and that resources are directed to its cost-effective execution.

The changes that are taking place in the organisation of the Health Service in England and the growing difference in approach between the four countries of the UK will require regulators to be forward thinking and ready to anticipate change. There will also be changes to the size of councils and a new system of oversight of appointments to them. There are already discussions taking place about improving the exchange of information and intelligence about complaints between system and professional regulators and between them and the UK Ombudsmen. As the new scheme for accreditation of voluntary occupational registers comes into being the boundaries of statutory regulation may shift and the final recommendations of the Law Commissions combined with continuing financial pressures will inevitably concentrate attention on impact and cost effectiveness.

We hope that all Councils will read and formally consider this report, particularly those aspects directed to their own performance but also the general lessons to be learned from the good practice of others.

This performance review is the product of much effort by the staff of the regulators as well as by our Scrutiny & Quality and Standards & Policy teams. I am grateful to them for their attention to detail, insight, thoroughness and care. We aim to report accurately, fairly, and concisely. I hope we have done so.



Harry Cayton
Chief Executive

2 CHRE 2011 Letter to Ann Milton MP
https://www.chre.org.uk/_img/pics/library/pdf_1311776896.pdf

2. Executive summary

- 2.1 This report contains the findings from our performance review of the health professional regulators. We assessed their performance against the Standards of Good Regulation which are reproduced at Annex two.
- 2.2 The report contains both an overview of general findings about the performance of the regulators, and our individual detailed reports on the performance of each of the regulators against the Standards of Good Regulation. We have summarised our findings below.

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

- 2.3 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 also identified that:
- Eight of the regulators either do not meet one or more of the standards; or
 - We have concerns about the consistency of their performance against one or more of the standards

This relates to performance in education and training, registration and fitness to practise. We note that the regulators are already taking action to address our findings.

- 2.4 Failure to meet one standard in a particular area may not be significant but instead reflect a regulator's developing policy position - this is the case in relation to those who do not currently have a system to ensure registrants' continuing fitness to practise. However, a failure to meet some other standards may have more serious implications for public protection, 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. The individual reports for each regulator expand further on our concerns about the regulator's performance against certain standards.
- 2.5 In relation to our general findings of the regulators' performance in the four regulatory functions which the Standards of Good Regulation cover, we have found the following:

Guidance and standards

- 2.6 The Standards of Good Regulation in this area are being met by all of the regulators. Some regulators are leading the field by showing how this area of their work can improve and develop. We have identified the GMC's work in this area as excellent because of its focus on understanding doctors' engagement with the standards, and why doctors do/do not follow guidance and/or raise concerns.

Education and training

- 2.7 The Standards of Good Regulation in this area are generally being met, with a few exceptions, mostly in the area of continuing fitness to practise. We recognise that this is a work in progress, and that schemes to demonstrate registrants' continuing fitness to practise are at different stages of development. We welcome the efforts that are being made across the board to improve the effectiveness of continuing professional development (CPD), and registrants' compliance with CPD requirements.

Registration

- 2.8 We are pleased to see the improvements that the regulators are making to improve the accessibility of their registers and the level of information about registrants' current and historic fitness to practise status shown on the registers, the ongoing development of online methods to make registration a quicker, more straightforward and timely process, and increased audit of registration processes and decisions. We are aware of a range of different approaches being taken to deal with Lapsed Registrations, and we intend to look more closely at this area of practice as a project in 2012-13.

Fitness to practise

- 2.9 We have observed the greatest variation in the regulators' performance in the area of fitness to practise. Some regulators are managing their caseloads effectively, supported by robust case management systems. However others are still working to achieve effective control of the core elements of an effective fitness to practise framework, including timely and robust investigation and decision-making. We have provided specific comments on timeliness, legally qualified chairs, case examiners, initial handling of potential fitness to practise allegations, and information security.

Conclusions and recommendations

- 2.10 This year's performance review has shown that the regulators are generally fulfilling their statutory responsibilities and are focussed on public protection. However, we have recommended some actions for the regulators, have highlighted areas of work that we will take forward as well as encouraging the Department of Health, Social Services and Public Safety Northern Ireland to continue implementing Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012.

For the regulators

- 2.11 We recommend that the regulators should:
- Address the areas of concern highlighted in their individual reports
 - Review this document as a whole, taking account of our views, and consider whether they can learn and improve from the practices of the other regulators
 - Ensure that their Councils review and discuss the performance review report in a public Council meeting.

For CHRE

- 2.12 We will review the different approaches taken to dealing with Lapsed Registration by the regulators to ensure that the public are protected through the registration decisions made by the regulators.
- 2.13 We will continue to review and refine the approach we take to undertaking the performance review process.

For the Department of Health, Social Services and Public Safety Northern Ireland

- 2.14 We hope that progress will continue to be made on implementing the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 and associated regulation.

3. What does the Council for Healthcare Regulatory Excellence do?

- 3.1 CHRE promotes the health, safety and well-being of patients and other members of the public through our scrutiny and oversight of the nine health professional regulators. 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 whether the decisions they make protect the public
 - We examine final decisions made by the regulators' fitness to practise panels about whether health professionals 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
 - We keep up to date with European and international policies to improve our policy decisions on regulation of health professionals in the UK. We inform colleagues in other countries of the outcome of our policy projects that might be relevant to them.

4. Who are the health professional regulators?

- 4.1 The nine health professional regulators 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 Professions Council (HPC)
 - 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 one.

4.3 The 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
- 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 some cases they set standards for those who continue to train and develop as health professionals.

5. What is 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 and 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 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 do not set out how they should do it. *The Standards of Good Regulation* can be found at Annex two.

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

- 5.6 The performance review took place between October 2011 and May 2012. 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 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 three.

6. Our approach to regulation

- 6.1 In 2010 we published *Right-touch Regulation*.³ 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 healthcare 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 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.

3 CHRE, 2010. *Right-touch Regulation*. London: CHRE.

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

7.1 The Standards of Good Regulation, against which we assess the performance of the regulators, are grouped under four headings reflecting the regulators' core functions: guidance and standards, education and training, registration, and fitness to practise. There are 24 standards in total across the four regulatory functions. In this section, we reflect on the regulators' general performance in relation to each of these core functions. The standards are set out in full at Annex two.

7.2 In summary, 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 also identified that:

- Eight of the regulators either do not meet one or more of the standards; or
- We have concerns about the consistency of their performance against one or more of the standards

This relates to performance in education and training, registration and fitness to practise. We note that the regulators are already taking action to address our findings.

7.3 Failure to meet one standard in a particular area may not be significant but instead reflect a regulator's developing policy position - this is the case in relation to those who do not currently have a system to ensure registrants' continuing fitness to practise. However, a failure to meet some other standards may have more serious implications for public protection, 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. The individual reports for each regulator expand further on our concerns about the regulator's performance against certain standards.

7.4 In relation to our general findings of the regulators' performance in the four regulatory functions which the Standards of Good Regulation cover, we have found the following:

Guidance and standards

7.5 We are pleased that in relation to the guidance and standards function all of the regulators are meeting all of the Standards of Good Regulation. Some regulators are also leading the field by showing how this area of the regulators' work can further develop and improve. This is being achieved through the continuous improvement of guidance provided to registrants, continuous efforts to engage an ever wider range of stakeholders in its production, and external audit of consultation processes. Several regulators are exploring the potential for engagement with their registrants through social media. We welcome the work being done by the HPC to build relationships with the social care regulators in Scotland, Northern Ireland and Wales as it prepares to assume responsibility for the regulation of social workers in England. We also welcome initiatives to read across from other functions which inform reviews of standards, such as the GOsC's adverse events research projects and the GDC's exercise to review Investigating

Committee decisions. We look forward to reviewing the progress of PSNI's plans to establish a voluntary register for pharmacy technicians.

- 7.6 We have identified the GMC's approach in this area as excellent because of its focus on understanding doctors' engagement with the standards, and on understanding the factors involved in why doctors follow guidance and/or raise concerns. This is complementary to work that CHRE is taking forward to research the factors that influence registrants' behaviour, and to scope the potential of the behavioural sciences to suggest ways to enhance the impact of regulatory interventions⁴. The achievement of the regulators in meeting the standards in this area is a strong position from which to move to a greater focus on the impacts of standards and guidance on registrants' behaviour. This focus should lead to regulatory interventions which more effectively ensure continued compliance with regulatory standards and guidance, and therefore better protection of the public.

Education and training

- 7.7 The standards in this area are widely being met, with a few exceptions which are mostly in the area of continuing fitness to practise. We recognise however that continuing fitness to practise work is work in progress, with schemes to demonstrate registrants' continuing fitness to practise currently at different stages of development. We also acknowledge that a range of different approaches is emerging, with some regulators enhancing existing systems for continuing professional development, while others are exploring ways in which fitness to practise can be more actively tested and demonstrated.
- 7.8 While we think that an approach involving more active testing and demonstration of fitness to practise could provide greater assurance than enhanced continuing professional development (CPD), we acknowledge that any scheme must be proportionate in terms of cost and benefits achieved. We also appreciate that the detail of schemes will differ across the regulators because of the different working environments in which their registrants work and the different levels and types of risk being managed by their registrants, amongst other factors. However, the outcome of the schemes must be the same – that registrants can demonstrate to the public and their regulator that they are safe and fit to practise, however long it is since they first registered.
- 7.9 The GMC plans to introduce its revalidation scheme from the end of 2012, with revalidation decisions supported by periodic recommendation from a locally-based responsible officer. This system, once implemented, will mark a positive step change in the relationship between the regulator, the registrant, the employer and most importantly the public. An important learning point that has arisen is the importance of seeing revalidation as a co-production between the different people and organisations involved, rather than a regulatory demand, because to be successful revalidation will rely on the active co-operation and participation of registrants and their employers amongst others.

4 <http://www.chre.org.uk/policyandresearch/466/>

- 7.10 Continuing fitness to practise will continue to be underpinned by CPD whichever approach is taken, and we welcome the efforts the regulators are making across the board to improve CPD's effectiveness and registrants' compliance with it. We look forward to monitoring ongoing developments and reviewing progress in next year's performance review.

Registration

- 7.11 We are pleased to see: regulators continuing to improve the accessibility of their registers and the level of information about registrants' current and historic fitness to practise status shown on the registers; the ongoing development of online methods to make registration a quicker, more straightforward and timely process; and increased audit of registration processes and decisions, leading to improvements in performance. It is important that the public can trust the integrity and accuracy of the information on the regulators' registers, so we support steps being taken to ensure this, for example, the HPC's monthly check that the register provides accurate information about fitness to practise outcomes. We are therefore concerned that in a number of cases our annual check of the regulators' registers revealed avoidable errors; however, we are assured that steps are now being taken to address any system weaknesses.
- 7.12 We note that the GDC has established a registration audit team, and that the GMC has also continued to perform registration application audits. We provide further information on this work below in the good practice section, and in the individual reports.
- 7.13 We welcome initiatives to support compliance with registration requirements, for example, the NMC's practice of contacting the employers of nurses whose registration has lapsed, to remind them of their responsibility to check the registration status of employees and prevent people working while unregistered. We are aware, however, that there is range of different approaches taken to dealing with lapsed registration; we intend to look more closely at this area of practice as a project in 2012-13. We also welcome measures taken to make registration processes more easily understood, such as producing clearer explanations of what is involved in making an appeal against a registration decision.

Fitness to practise

- 7.14 It is in fitness to practise where we have observed the greatest variation in performance. Most of the regulators are managing their caseloads effectively, supported by robust case management systems. In the case of the GMC and the HPC, this is being achieved by regulators who are working in highly complex environments and throughout a period of major change. The GMC has maintained its performance during a time of substantial process reform; similarly the HPC has maintained its performance while preparing for the transfer of the regulation of social workers in England (who will become the H(C)PC's largest registrant group)⁵. In general, we note that the most effective regulators in this area challenge their fitness to practise models and processes and explore alternatives, in order to

5 The Health Professions Council will become the Health and Care Professions Council later this year as a result of the Health and Social Care Act 2012.

continuously improve their performance. Other regulators are still working to achieve effective control of the core elements of an effective fitness to practise framework, including timely and robust investigation and decision-making.

Timeliness

- 7.15 We are very concerned that some regulators are still struggling to achieve timeliness in the progress of fitness to practise cases. We appreciate, of course, that in some cases timeliness is impeded by external factors beyond the regulator's control, and that the year on year increase (for some regulators) of fitness to practise referrals presents an additional challenge. We also acknowledge the work that is being done across the sector to implement improved case management systems. However, the regulators have been aware of the need to '*set clear and challenging targets and make sure that their cases are monitored closely*', for several years, as highlighted in our performance review for 2007/2008. All the regulators should now be in a position where they can accurately monitor how the case progresses through the fitness to practise process through the use of stage-specific performance indicators, so that they can make operational adjustments as necessary when delays start to occur. It is disappointing that some regulators are still working on how best to achieve this.
- 7.16 We acknowledge that for some the number of fitness to practise referrals is increasing significantly each year, and we welcome their work to understand the reasons for the increase in referrals, in addition to putting more resource into their fitness to practise functions in order to deal with increases where they are occurring.

Legally qualified chairs

- 7.17 Some regulators are introducing legally qualified fitness to practise panel chairs as an alternative to using legal assessors and lay chairs in each case (we note that legally qualified chairs have been in place within the GPhC and its predecessor regulator for several years). We look forward to seeing any assessment of the impact of this measure, in particular on the effective management of hearings and the reduction of costs, and will follow this up with the relevant regulators in our performance review next year.

Case examiners

- 7.18 Many regulators are introducing (or planning to introduce) case examiners as an alternative to all decisions being taken by an investigating committee, using a similar model to that which the GMC has successfully operated for several years. Case examiners will become involved after initial assessment by a caseworker, and will have a range of powers including for example to conclude a case with no further action; issue a warning letter; request an assessment of health or performance; or refer cases for an interim order application. This move potentially offers significant benefits in terms of improving the timeliness of resolving the majority of fitness to practise cases, as well as in reducing the costs of doing so, and we look forward to monitoring its development and its impact on the quality of decision-making at this stage of the fitness to practise process. We will follow this up in next year's performance review.

Initial handling of potential fitness to practise allegations

- 7.19 All the regulators have frameworks in place to ensure that once a 'complaint' (or other information) is identified as being relevant to a registrant's fitness to practise, it is handled appropriately. We audit the regulators' compliance with their frameworks for handling fitness to practise concerns during our initial stages audits.
- 7.20 However, there is a crucial stage that occurs beforehand - the regulators' decision-making about which complaints/ enquiries/information should be treated as potentially raising concerns about a registrant's fitness to practise, and the action the regulator takes as a result of that decision. It is important that the regulators, in line with their overriding statutory duty to protect the public, take active steps to establish whether or not enquiries/concerns which they receive raise concerns about their registrants' fitness to practise, particularly as many complainants may be unfamiliar with the regulatory process and may not use the term 'complaint' or identify that they are raising a 'fitness to practise' concern on first contact with the regulator. Similarly, and as highlighted by the report of the Health Select Committee in 2011, it is important for public protection that the regulators proactively investigate potential fitness to practise concerns that they become aware of (e.g. through media reports) even where no 'complaint' as such is made to them⁶.
- 7.21 The GCC has alerted us to the discovery of a significant number of fitness to practise complaints (or complaints that might have become fitness to practise cases) that had not been properly addressed upon receipt, demonstrating problems with the initial handling stage of its fitness to practise processes. We acknowledge the work that is being taken forward by the GCC to address this situation. This highlights the need to ensure that all potential fitness to practise complaints are handled appropriately upon receipt, so that the regulator can ensure that any risks to the public are properly addressed. We would encourage all the regulators to review their processes and staff guidance about the handling of initial enquiries and the identification of those enquiries that may raise concerns about a registrant's fitness to practise, in order to ensure that they are protecting the public from registrants whose fitness to practise may be impaired, and that they are doing so at the first available opportunity.

Information security

- 7.22 We have reported on failures to protect information about fitness to practise cases at four of the regulatory bodies during this performance review period. Information security breaches can cause harm to individuals, can lead to action being taken by the Information Commissioner, and can damage public confidence that the regulatory system will keep personal or sensitive data safe. We encourage all regulators to review the security of their arrangements in order to identify any weaknesses. We look forward to seeing demonstrable improvements in next year's performance review.

6 House of Commons, 2011. Health Committee seventh report annual accountability hearing with the Nursing and Midwifery Council. 19 July 2011 and House of Commons, 2011. Health Committee eighth report annual accountability hearing with the General Medical Council. 19 July 2011.

Good practice examples

- 7.23 We have identified some areas of good practice which we recommend that the regulators consider adopting or adapting to fit the circumstances of their organisation. These are spread over the four regulatory functions and are as follows.

Guidance and standards

Evaluating the effectiveness of regulators' standards

- The GMC has commissioned research concerning the factors that influence doctors' decisions on whether or not to follow guidance and/or raise concerns where patient care or safety may be at risk, and the barriers that prevent them from doing so. The outcomes of the research will inform decisions about the future formats of guidance and learning materials. It will also help the GMC develop its approach to promoting awareness and use of the guidance, by both patients and colleagues. We consider that the outcomes of this research will be useful for the other regulators in understanding the behavioural impact of their guidance.

Education and training

Responding to complaints about education providers

- The GDC and the GOsC have both taken steps to publicise the process that they will use to address any concerns or complaints raised about education providers and programmes either during or outside of a quality assurance visit. The process is brought to the attention of the teaching staff, students, trainees and patients as part of the regulators' quality assurance visit so that those individuals understand that they can make complaints and how these complaints will be dealt with.
- The GMC has established specific teams to enhance its ability to respond promptly and take appropriate action to protect patients or trainees if serious concerns are raised about education and training providers.

Preparedness for practice

- Both the GOC and the GOsC have recently undertaken work on understanding whether recently qualified optical professionals/osteopaths feel prepared for practice. The results indicated that students generally felt that on completion of their courses they had been sufficiently prepared to enter practice. However, areas for improvement were identified, such as ensuring that students deal with a wide range of conditions and patient interactions as part of their education.

Registration

Audit of registration decisions

- The GDC has established a registration audit team, which audits a minimum of 15% of applications per month per team (the teams being: UK registration, non-UK qualified dental care professionals and EEA qualified dentists). The GDC reports that the registration audit team has helped it to identify areas for improvement, by alerting it to a number of both non-critical and critical errors. The GMC has also conducted registration application audits, which have led to improvements being made. Both the GMC and the GDC have found such analysis very helpful in identifying areas for improvement within their processes and training for staff. We recommend that other regulators consider introducing similar rigorous audit of registration processes where they do not already undertake this.

Seeking evidence of indemnity insurance cover

- The GOsC has agreed with professional indemnity insurance providers that they will electronically confirm the insurance status of applicants for registration/those renewing their registration. This will increase the GOsC's confidence in the data that it holds. Providers will also inform the GOsC of any in-year lapses in registrants' insurance cover. Both these measures should improve patient protection.

Fitness to Practise

Providing support to witnesses: providing care before and after the hearing

- The HPC has enhanced its witness support system to ensure that witnesses are willing and able to participate in current and future hearings. The telephone call made to each witness before a hearing now aims to address any anxiety the witness has about the hearing and to check what assistance they may need on the day. The HPC is also piloting a system of debriefing witnesses after the hearing if they have expressed anxiety or if their experience of giving evidence has been either lengthy, particularly difficult, or emotional. Hearings Officers have received training from MIND to help them with this work. This personal approach to managing witnesses should foster good relationships between the regulator and witnesses.
- The GOC and the GMC have introduced formalised approaches to identifying, assessing and managing witness needs. At the GOC, a standard operating procedure developed with input from Victim Support, requires the GOC's external lawyers to conduct a witness needs assessment both on first contact with each witness and prior to any hearing to ensure their needs are understood at an early stage and taken into account. The GMC has introduced a needs assessment for witnesses who are referred to the witness support service, and plans to extend this to witnesses more generally within the fitness to practise process.

- The GMC has reviewed its expenses policy in order to improve provision for witnesses with caring responsibilities and to expedite payment. This should make it easier for some witnesses to attend hearings and provide their evidence.

Providing support to witnesses: training from experts in managing vulnerable witnesses

- The GPhC has commissioned training by the Samaritans for caseworkers on how to deal with vulnerable witnesses. The aim of the training was to improve the customer service provided to vulnerable witnesses, so that they remain willing and able to participate in fitness to practise proceedings. The GPhC has also published a witness care leaflet which provides information on what happens before and at a fitness to practise hearing.

Learning from the fitness to practise process

- The GMC is working with the Royal College of Anaesthetists and with the Royal College of Psychiatrists by providing data and information to them about fitness to practise complaints against anaesthetists and psychiatrists. The Royal Colleges are using this information to explore the reasons behind these complaints - to inform further research and potentially to develop training and guidance to help their members reduce the risk of fitness to practise complaints being made against them. We support the use of fitness to practise data to help identify areas of risk in this way, and to help regulators to target their guidance and standards to registrants.

8. The regulators in numbers

- 8.1 In this section, we provide some basic numerical data on the regulators' performance. The data provides some context on the size of the regulators in terms of the number of professions and professionals that they regulate, and the size of their workloads.
- 8.2 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 which some of the data relates to is not directly comparable, as it is only for part of the financial year 2011/12.

Data relates to the financial year 2011/12 unless otherwise stated in the notes.	GCC	GDC	GMC	GOC	GOsC	GPhC	HPC	NMC	PSNI
REGISTRATION ACTIVITY									
Number of registrants	2,700	99,518	246,075	23,935 1,548 bodies corporate	4,585	66,179 13,850 premises	219,918	672,095	2098 (190 students) (13)
Number of new initial registration applications received	154	10,957	22,648	2191 91 bodies corporate	266	10,490 877 premises	14,473	23,455	207
Number of registration appeals received and concluded and the outcomes of the appeals	0	9 received 2 refused 1 granted 2 withdrawn	38 received 14 refused 1 granted	4 received, 2 refused 2 granted	2 received 1 refused 1 withdrawn	5 received 2 refused	48 received, 20 granted 29 refused 4 remitted to E and T cttee, 5 withdrawn	38 received 4 closed, 4 granted	0
Median time taken to process initial registration applications for :									
• UK graduates	7 days	9 days	1 day	2 days	2 days	Unable to provide in this form (10)	7 days	2.7 days	1 day
• International non-EU graduates	63 days	39 days	23 days	2 days	69 days	Unable to provide in this form (10) "	3 months	1.2 days	None received
• EU applicants	70 days	32 days	24 days	1 day	38 days	Unable to provide in this form (10) "	3 months	1.4 days	1 day
Annual retention fee	£800 practising (1) £100 non-practising	£576 dentists £120 DCPs (2)	£390 with licence to practise £140 without licence	£270 (optometrists, dispensing opticians, bodies corporate) £20 students (6)	Yr 1 - £375 Yr 2 £500 After - £750 (9)	Pharmacists - £267 Pharmacy technicians - £120 Premises - £221	£76	£76	£372
EDUCATION ACTIVITY									
Number of educational institutions the regulator is responsible for quality assuring	3	52	54 (4)	16	11	59	128	82	2
FITNESS TO PRACTISE ACTIVITY									
No of cases <u>considered</u> by an investigating committee	29	996	1,993(5)	230 (7)	20	143	516	3596	20
No of cases <u>concluded</u> by an investigating committee	24	518	1,770(5)	168(7)	18	97	498	1175	16
No of cases <u>considered</u> by a final fitness to practise committee	8	104	208	29(7)	10	103	405	791	5
No of cases <u>concluded</u> by a final fitness to practice committee	7	71	208	21(7)	10	101	287	650	5

	GCC	GDC	GMC	GOC	GOsC	GPhC	HPC	NMC	PSNI
The median time taken from receipt of initial complaint to final fitness to practise hearing determination:									
• Median time taken to conclude	71 weeks	81 weeks	82 weeks	95 weeks(7)	65 weeks	29 months (126 weeks)	15 months (65 weeks)	30 months (130 weeks)	119 weeks
• Slowest case to conclude	107 weeks	223 weeks	300.4 weeks	270 weeks(7)	150 weeks	71 months (308 weeks)	69 months (299 weeks)	110 months (477 weeks)	201 weeks
• Quickest case to conclude	42 weeks	35 weeks	24.7 weeks	60 weeks(7)	27 weeks	4.5 months (19 weeks)	5 months (22 weeks)	13 months (56 weeks)	84 weeks
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	30 weeks	23 weeks	28.4 weeks(5)	28 weeks(7)	15 weeks	15 months (65 weeks)	7 months (30 weeks)	9 months (39 weeks)	46 weeks
• Slowest case to conclude	113 weeks	124 weeks	473.3 weeks(5)	157 weeks(7)	36 weeks	60 months (260 weeks)	37 months (160 weeks)	101 months (438 weeks)	96 weeks
• Quickest case to conclude	12 weeks	4 weeks	1.57 weeks(5)	10 weeks(7)	7 weeks	5 months (22 weeks)	2 months (9 weeks)	2 months (9 weeks)	9 weeks
The median time taken from final investigating committee decision to final fitness to practise hearing decision	30 weeks	50 weeks	38.7 weeks(5)	57 weeks(7)	46 weeks	21 months (91 weeks)	8 months (35 weeks)	11 months (48 weeks)	25 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	6 weeks	11 weeks(3a)	9.1 weeks	39.5 weeks(7)	3 weeks	70 days (10 weeks)	38 days (5.4 weeks)	28 days (4 weeks) (12)	n/a(14)
• Receipt of information	6 weeks	30 weeks (3b)	2.7 weeks	6 weeks(7)	3 weeks	Not collected (11)	15 days (2.1 weeks)	11.75 weeks (12)	n/a(14)
Number of open cases that are older than:									
• 52 weeks	0	133	590	18(7a)	2	120	97	1246	9
• 104 weeks	0	53	217	10(7a)	0	63	15	366	4
• 156 weeks	0	55	73	5(7a)	0	25	2	199	0
Number of registrant/CHRE appeals against final fitness to practise decisions:									
• Registrant appeals	0	3	30	0(7)	1	2	0	20	0
• CHRE appeals	0	1	0	0(7)	0	0	1	1	0

Notes

- (1) Reduced from £1,000 with effect from 1 January 2012
The fitness to practise figures provided by the GCC do not include the complaints which were identified by the GCC as not being appropriately handled (please see paragraph 10.12 for further information).
- (2) Increased from £438 for dentists and £96 for Dental Care Professionals from 1 July 2011.
- (3a) These are cases referred via the Registrar
- (3b) These are cases referred via the Investigating Committee
- (4) 32 medical schools and 22 deaneries
- (5) These numbers reflect the number of cases considered by the Case Examiners at the GMC rather than the Investigating Committee
- (6) Fully qualified registrants were able to apply for a reduced fee of £170 if their income within the year was less than £12,000
- (7) Figures provided are for end of calendar year 2011.
- (7a) Figures provided for end of October 2011
- (8) Figures in the section below are for end of October 2011.
- (9) For overseas and non-practising osteopaths the figures are 2nd year £250, subsequent years £375
- (10) The GPhC has informed us that for applications which were complete and where there were no fitness to practise matters, the following timescales were met between 01/04/2011 and 31/03/2012:
 - Applications for first registration (other than European applications and 'grandparented' pharmacy technician applications) processed within 14 days
 - European automatic applications for registration processed within fourteen days of receipt
 - European applications via the comparative assessment route processed within four months of receipt
 - Applications for overseas pharmacists assessments programme (international) (OSPAP) processed within 6 weeks of receipt
 - Pharmacy technician applications with new qualifications processed within 28 days
 - Applications for restoration to the register processed within 28 days of receipt and payment
- (11) The GPhC has informed us that they do not collect this data but the hearings team will schedule an interim order hearing usually within two weeks of receipt of the application for an interim order.
- (12) The NMC has specified that the median of 28 days is from receipt of referral following the initial assessment in screening to imposition of an Interim Order. The median of 11.75 weeks is for an Interim Order imposed at a later stage (by investigating committee, health or conduct committees) resulting from ongoing risk assessment throughout the life of the case.
- (13) Figures provided as of December 2011.
- (14) The PSNI does not currently have powers to impose interim orders (please see paragraph 18.13 for further information)

9. The individual regulators' performance review reports

- 9.1 Our individual performance review reports for the regulators state our views on whether we consider the regulators' have:
- Met or excelled against the 24 Standards of Good Regulation which cover the four regulatory functions, and how they have demonstrated this.
 - Not met any of the 24 Standards of Good Regulation and our evidence for this.
 - Serious weaknesses in their performance against any of the 24 Standards of Good Regulation about which we are concerned and will want to see evidence of improvement in next year's review.

10. The General Chiropractic Council (GCC)

Overall assessment

- 10.1 The GCC has met the majority of the Standards of Good Regulation. However we have concerns about weaknesses in its performance which we consider have impacted on the GCC's ability to consistently comply with or meet all the Standards of Good Regulation during 2011/12. Our concerns relate to:
- The management of risks associated with the practice of chiropractic by non-registrants.
 - The historic handling of initial enquiries about potential fitness to practise. Complaints; and initial fitness to practise complaints.
 - The timely dissemination of Investigating Committee decision letters.
 - The security of its fitness to practise data.

The GCC has confirmed that it is currently taking steps to address our concerns.

- 10.2 We note that the previous Chief Executive and Registrar (CE) left the GCC in March 2011. The new permanent CE did not commence their role until 14 November 2011, taking over from an interim postholder. While the interim CE was in post, a review of the GCC's regulatory activities was initiated, in order to assess whether the GCC's regulatory model is fair, proportionate and delivers efficiencies in terms of costs and speed. That review is ongoing as of May 2012. We report on some of the changes that have occurred as a result of this review in the fitness to practise section of the report.

- 10.3 We acknowledge that the GCC has been taking steps to strengthen its framework for reporting to its Council, in order to enhance the Council's oversight of the effectiveness of the GCC's work. However, we think that the GCC needs to do further work to improve its key performance indicators, and we encourage it to review the KPIs that are used by other regulators⁷.
- 10.4 We should also note that during 2011/2012 despite the inevitable challenges arising from a change in permanent CEs, the GCC managed to conclude the remainder of the large volume of cases that were initiated in 2009 and 2010 following receipt of complaints about the contents of a large number of chiropractors' websites.

Guidance and standards

- 10.5 During 2011/2012 the GCC made no changes to either its *Code of Practice* (CoP) or its *Standard of Proficiency* (SoP). These documents are reviewed every five years, and the current versions became effective in June 2010. The GCC also did not issue any additional guidance during 2011/2012. On the basis that the GCC has continued in 2011/2012 to undertake the activities we have described in previous performance review reports, we consider that the GCC has maintained its performance and that it meets the Standards of Good Regulation for guidance and standards.
- 10.6 We look forward to seeing the outcomes of the guidance and standards work for which plans have been put in place by the GCC during 2011/2012 - to review its existing supplementary guidance on advertising chiropractic services; and to publish referral criteria, standard operating and audit procedures specific for the chiropractic profession in relation to the Ionising Radiation (Medical Exposure) Regulations 2000.

Education and training

- 10.7 We consider that the GCC has continued to meet the Standards of Good Regulation for education and training by continuing to undertake the activities we have described in previous performance review reports, as well as by:
- Ensuring the capture of any learning arising from the first use (in May 2011) of the revised Degree Recognition Criteria in the recognition of a MSc (Chiropractic) course. Feedback provided by the visitor panel and the education provider led to minor amendments being made to the criteria.
 - Reviewing the decision that was taken in 2010/2011 not to proceed with the development of a scheme which would be used by the GCC to assure itself of its registrants' continuing fitness to practise⁸. The GCC has confirmed that it does now plan to introduce a continuing fitness to practise scheme, which will provide assurance that its registrants remain fit to practise, and which will fulfil

7 We note that the GCC has introduced more challenging performance targets in the fitness to practise area from March 2012.

8 We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

the key principles set out by the working group for non-medical revalidation⁹. The GCC plans to carry out some quantitative and qualitative research in order to: identify patients' expectations about chiropractic; produce an overview of the risks of chiropractic practice; identify and describe the stages of the continuing fitness to practise process; and produce a detailed plan for the development, consultation, testing and implementation of a continuing fitness to practise scheme.

- Beginning a review of its current mandatory continuing professional development (CPD) scheme and commissioning two studies in order to inform that review. One study is an analysis of 2010 CPD activities, aimed at identifying any trends in the CPD being undertaken by GCC registrants. The other study is a qualitative analysis of the learning cycles being undertaken by registrants undertaking CPD. The learning gained from this work will inform both the GCC's CPD scheme and its plans for a scheme which it will use to assure itself of the continuing fitness to practise of its registrants.

10.8 In next year's review we look forward to seeing the outcomes of the GCC's work that is currently underway on:

- Developing guidance on student fitness to practise, and on the principles of treating patients and students of the same and different sexes to take account of patient safety and cultural and religious differences.
- Reviewing its CPD scheme.
- Developing a scheme which it will use to assure itself of the continuing fitness to practise of its registrants.

Registration

10.9 The GCC continues to meet the Standards of Good Regulation for registration, by maintaining the activities we have previously reported on. However, we do have some concerns about two aspects of its performance which we consider impact on its ability to meet the standard '*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*'.

10.10 Our first concern about this relates to the GCC's activities in relation to individuals who practise chiropractic without being registered with the GCC. We previously reported that the GCC sends 'cease and desist letters' to such individuals, and that it then checks that any unlawful practice has ceased. The GCC has informed us during this year's performance review that it has no formalised or recorded process for sending out and following up 'cease and desist letters', and therefore that such activity has not been carried out consistently throughout 2011/2012. The GCC has confirmed that it will be considering its management of complaints about misuse of title complaints, including reviewing how it should follow up on 'cease and desist letters'.

9 Department of Health, 2008. Principles for revalidation: report of the Working Group for Non-medical Revalidation; Professional Regulation and Patient Safety Programme. London: Department of Health

- 10.11 Our second concern relates to the absence of a formal process to be used by the CE when considering a registration application from an individual who appears to have practised chiropractic whilst unregistered. The GCC recognises that matter raises issues of public protection, and intends to draft such a process, for consideration by its Council.
- 10.12 We note that the GCC has made two changes which should enhance the effectiveness of its registration function:
- The GCC has extended its online retention process (which is currently used by 74% of its registrants) to include an online payment facility. This should improve the speed of the application process.
 - The GCC has revised its registration renewal application form with the aim of making it clearer and easier to complete.
- 10.13 We are pleased to note that the GCC has recently agreed to seek a legislative amendment to remove the current requirement for a health report from a registered doctor to be provided by all applicants for registration. This change will bring the GCC in line with the recommendation we made in last year's performance review report.

Fitness to Practise

- 10.14 We have a number of concerns about the GCC's performance in this area during 2011/2012:
- The GCC has alerted us to its discovery in early 2012 that a significant number of fitness to practise complaints (or enquiries that might subsequently have become formal complaints) had not been appropriately managed and progressed, over a period of three years. We consider that the GCC's administration of and approach to handling initial enquiries/complaints may have discouraged complainants from pursuing complaints and may have hindered the progression of complaints as well as the GCC's ability to identify the risks related to the fitness to practise of individual chiropractors and to consider the need for an interim order where necessary. The GCC has taken immediate action to assess the extent of the problem and to investigate the cause(s). It is taking prompt remedial action in relation to the relevant complaints/enquiries, where it remains possible to do so. It has also reviewed its case management and oversight procedures, in order to ensure that a similar situation will not recur again. We welcome the GCC's transparency about this issue, and the swift, pragmatic and proportionate action it has taken in response, to ensure that the public is protected. Nevertheless, the discovery of this matter raises serious concerns about the past effectiveness of the GCC, and we recognise that public confidence in the GCC may be damaged as a result. As a result of these problems, we consider that the GCC does not meet the first and fourth Standards of Good Regulation in fitness to practise. These concerns also impact on the GCC's ability to consistently comply with the sixth Standard of Good Regulation.

- We are concerned about the delays by the GCC in the communication of the outcomes of Investigating Committee meetings (as identified in our Fitness to Practise Audit 2011). Such delays are likely to be unacceptable to both registrants and complainants. In our view, if significant delays occur on a widespread basis, confidence in the regulatory process may be undermined as a result. This issue impacts upon the GCC's consistent compliance with the seventh Standard of Good Regulation in fitness to practise.
- We consider that there are weaknesses in the framework that the GCC currently has in place to ensure the security of fitness to practise data. Although we are not aware that any data losses/breaches have resulted, we consider that the GCC should ensure that appropriate policies are in place to: protect the security and confidentiality of fitness to practise information when GCC staff store, share or destroy it; ensure that the staff have been fully trained about these matters, and that they comply with the policies. The current weaknesses in this area mean that the GCC does not meet the tenth Standard of Good Regulation in fitness to practise.

10.15 The GCC is taking steps to address these weaknesses, and we look forward to seeing evidence of the impact of the improvements it is making in future audits and performance reviews.

10.16 During 2011/2012 the GCC has undertaken activities to assure itself of the quality of its Investigating Committee and Professional Conduct Committee's decisions. It is also taking steps to improve the timeliness and transparency of its processes. Examples of this work include:

- An external audit of the Investigating Committee and Professional Conduct Committees' decisions concluded that they were informative, consistent and generally of a good quality.
- The publication of an information booklet for registrants which explains: what happens when a fitness to practise complaint is made; the types of complaints the GCC considers; what happens during the investigation and adjudication stages of the process; and what happens after a final decision has been made.
- A review of the standard letters that the GCC sends out at the initial stages of the fitness to practise process has resulted in the GCC changing its practice, so that it now requests various pieces of information at the same time early on in the process (rather than sequentially). The GCC has also improved the content and tone of the letters that are sent out at the early stages of the fitness to practise process – complainants are now given their individual caseworker contact details, and registrants are notified at an earlier stage (and in less bureaucratic language) of the existence of a complaint about them.
- The introduction of better oversight processes in order to improve the GCC's ability to monitor the timeliness at each stage of the fitness to practise process.

10.17 In next year's performance review, we will want to see the outcomes of the following areas of ongoing work:

- The outcome of the work that is already under way to address the weaknesses described above.
- The outcome of the root and branch review of the fitness to practise process which is currently in progress (including a review of all the GCC's documentation, processes and legislation).
- The redevelopment of the GCC's website to enable fitness to practise complaints to be made online.
- The introduction of feedback forms for all parties to the fitness to practise process (currently only complainants' feedback is sought following a Professional Conduct Committee hearing).
- The development of support processes for witnesses. We would recommend that the GCC considers the work undertaken by other regulators in relation to this area of work.

11. The General Dental Council (GDC)

Overall assessment

- 11.1 During 2011/2012 the GDC has continued with its programme of modernisation across each of its regulatory functions. It has made a number of changes to its established processes, as well as introducing new processes, policies and systems to enable it to become a more effective regulator. The extent of the change programme has been particularly apparent in the fitness to practise function. We have yet to see evidence that these changes have improved the outcomes achieved by the fitness to practise function, but we do consider that the GDC's activities should deliver significant benefits. We will look for evidence of the improvements achieved during our next audit of the initial stages of the GDC's fitness to practise process, which is due to be completed in June 2012.
- 11.2 We will shortly publish our advice to the Secretary of State for Health following our investigation into the allegations made by the former Chair of the GDC following her resignation. We will set out our advice on whether the GDC has failed to deliver its statutory functions as a result of the failings alleged by the former Chair and whether there are any individuals on the Council whose actions should be brought to the attention of the Appointments Commission. Our full report will be available on our website¹⁰.
- 11.3 The GDC has met all except two of the Standards of Good Regulation during 2011/2012. The standards that have not been met relate to its fitness to practise function: specifically the timeliness of case progression, and the quality of fitness to practise decisions. We consider that evidence provided by the GDC indicates that the timeliness of its case progression is slowly improving, but that its performance does not yet reach the standard that we expect. Our audit of the initial stages of the

10 www.chre.org.uk

GDC's fitness to practise process in 2011 identified that the quality of decisions recorded at the initial stages of the fitness to practise process continued to require improvement. We also have some concerns about the consistency of the GDC's performance in its information gathering at the initial stages of the fitness to practise process (as set out in our Fitness to Practise Audit report in March and September 2011) and in its ability to ensure that all its fitness to practise information is disseminated to the correct individuals.

Guidance and standards

11.4 We consider that the GDC continues to meet the Standards of Good Regulation for guidance and standards. It has demonstrated this by:

Continuing to revise its core standards documents: 'Standards for Dental Professionals' and 'Scope of Practice' to ensure that they reflect up to date practice and are easy to understand

- The GDC has continued to employ various mechanisms to ensure that a wide range of stakeholders' views help to shape its review of its document 'Standards for Dental Professionals'. During 2011/2012 it held registrant events in the four UK countries, conducted patient and public surveys and arranged public focus groups and workshops for employers, educators and dental commissioners. We have seen third party evidence that the participants found those events useful and informative. The GDC has also taken steps to ensure that learning from its own work informs the revisions to the *Standards for Dental Professionals* – for example it reviewed all Investigating Committee decisions that were taken between January to June 2011 and as a result of that review, it identified the need to strengthen the standards relating to communication. We note that in 2012 the GDC intends to run a pilot study to review the proposed revised *Standards for Dental Professionals* with patients and registrants to ensure that they are fit for purpose and easy to understand.
- The GDC has undertaken an initial review of the 'Scope of Practice' guidance, taking into account the views of GDC stakeholders. Further work on this review is now being done under the supervision of the GDC's Policy Advisory Committee (PAC), to ensure that any revisions are consistent with the new standards and to consider the implications for educational learning outcomes. The revised guidance is due to be considered by the PAC in August 2012. We look forward to reviewing progress with this work in next year's performance review.
- The GDC has also taken the opportunity to review its dissemination of key messages to registrants about its standards. It has published a number of relevant articles, as well as relaunching its newsletter for registrants (the 'Gazette') in order re-emphasise to registrants the areas covered by the GDC's standards and guidance, and the importance of compliance.

Issuing additional guidance in response to identified risks

- During 2011/2012 the GDC published guidance on the '*Principles of Ethical Advertising*'. This new guidance should help to provide clarity to the dental profession on what should and should not be included in any promotional material, and thereby help to ensure that such material is not misleading to patients or the public. In addition the GDC has reminded registrants of their responsibilities to comply with its standards when participating and advertising in on-line discount schemes.
- In response to concerns that were raised by the Independent Healthcare Advisory Service about inappropriate remote prescribing by GDC registrants, the GDC also published guidance clarifying that registrants should not prescribe remotely in relation to cosmetic procedures such as the prescription or administration of Botox or injectable cosmetic medicinal products. This mirrors the guidance already provided by the GMC and NMC to their registrants, and we consider that it has obvious benefits for patient safety.

Developing its working relationship with the Care Quality Commission (CQC)

- Dental practices in England are now regulated by the Care Quality Commission (CQC) (April 2012). As we reported in last year's performance review, a Memorandum of Understanding has been put in place between the GDC and the CQC to assist them in operating their co-regulatory role. The GDC has reported that it is currently working with the CQC to refine the information-sharing mechanisms that are in place in order to ensure that there is timely and effective knowledge exchange, to avoid duplication of work, and to minimise the risk that any patient safety concerns might be overlooked.

11.5 In next year's performance review we will expect to see evidence of the outcomes of the following ongoing work that the GDC is conducting in relation to guidance and standards:

- The proposed pilot study of the revised '*Standards for Dental Professionals*' which is scheduled for 2012.
- The development of a system to evaluate the level of registrant awareness of and the impact of any new GDC standards and guidance.
- Work that is currently under way to assess whether direct access to dental care professionals should be allowed (currently patients can only access the services of dental hygienists and dental therapists on referral from a dentist).

Education and training

11.6 We consider that the GDC continues to meet the Standards of Good Regulation for education and training. It has demonstrated this by:

Implementing outcomes-focused learning outcomes ('Learning Outcomes for the Dental Team') which prioritise patient safety

- The GDC has approved and disseminated its learning outcomes-based curricula for all members of the dental team. These curricula will begin to be implemented by education providers during the 2012-13 academic year. The GDC reports that the curricula have been designed to enable the educational institutions to have a clearer focus on students' abilities and clinical competence upon completion of their education and training, which should provide additional assurance that only those students who are fit to practise become GDC registrants. We note that the GDC is surveying educational institutions to ascertain when they will deliver the first cohort of students demonstrating the new learning outcomes.
- The GDC held workshops in February 2012 with dental educators and awarding bodies to discuss (i) how 'difficult' learning outcomes could be assessed; (ii) the draft standards for education (which will be applied across all stages of the quality assurance process); (iii) a risk-based approach to quality assurance of education and training; and (iv) to ensure that there is a shared understanding of the requirements of the outcomes and the timeframe for implementation before the start of the 2012-13 academic year.

Continuing with its quality assurance (QA) work and taking steps to align the quality assurance process currently used with its new outcomes-focused learning outcomes

- During 2011/2012 the GDC conducted 22 quality assurance visits across 15 programmes, nine of which (in relation to four programmes) were triggered by specific concerns that were either raised during the course of scheduled inspections or as a result of individuals contacting the GDC about their concerns. The GDC reports that it has undertaken follow up work with the relevant education providers/awarding bodies to ensure that the required improvements were implemented, and that it will continue to carry out such follow up work.
- The GDC has published online a new policy for dealing with concerns and complaints about educational programmes that arise from a range of sources (including whistleblowing). The policy takes account of the GDC's previous experiences in dealing with such concerns and complaints, and is aimed at encouraging those with genuine concerns to bring them to the GDC's attention, and at ensuring the transparency and consistency of the GDC's processes for dealing with such matters.
- The GDC has undertaken an initial evaluation of the impact of its student fitness to practise guidance, through the annual monitoring exercise it carries out (this is the process used to monitor education providers between quality assurance visits). The GDC reports that this evaluation has demonstrated that

education providers are actively following the GDC's student fitness to practise guidance, and that a thorough approach is taken in each case. We understand that a full review of the guidance is planned to take place following finalisation of the new standards for dental professionals in early 2013. We look forward to reviewing progress in next year's performance review.

- The GDC has revised its webpages on education and training in order to ensure that its learning outcomes are transparent. We understand that a comprehensive review of the website is planned in early 2013.

Maintaining its approach to Continuing Professional Development (CPD) and developing a scheme which it will use to assure itself of the continuing fitness to practise of its registrants¹¹

- The GDC has undertaken an audit of all dentists' CPD portfolios for the years 2005-2009 and found 99% of the portfolios were compliant with the GDC's CPD standards.
- The GDC has initiated a fundamental review of its CPD scheme, starting with a literature review. The review will culminate with a full consultation on a revised CPD scheme in 2012. The GDC's aim is to ensure that its CPD scheme effectively supports registrants in maintaining their fitness to practise, and that the CPD scheme dovetails with any future continuing fitness to practise scheme.
- The GDC states that it is committed to developing a continuing fitness to practise scheme for dentists which is workable, cost-effective, proportionate and evidence-based. In order to achieve that aim, the GDC plans to undertake a range of research in 2012, including an evaluation of risk in dentistry, and research into the range of QA and performance management systems in existence in dentistry. It will also undertake a costs-benefits analysis of any proposed scheme in late 2012/early 2013. The outcomes of this work, the CPD review, and the responses to its previous consultation in this area will be taken into account before the GDC reaches a decision about the final model for its continuing fitness to practise scheme.

11.7 In next year's performance review we will wish to see evidence of the outcomes of the GDC's work in the following areas:

- A review that is being undertaken of its specialist lists. The GDC has begun work on this review by undertaking a benchmarking exercise, a patient and public survey on the use of its registers, and a registrant survey about how useful the GDC's specialist lists are in terms of referrals to an appropriate specialist.
- The outcomes of the GDC's fundamental review of its CPD scheme, as well as the further development of its continuing fitness to practise scheme.

¹¹ We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

- The revision of the GDC's QA scheme to align it with the GDC's new approach of focusing on learning outcomes. As the learning outcomes-based curricula have now been published, we will look to see evidence that the GDC's review of the quality assurance processes (including the annual monitoring process) progresses without undue delay.

Registration

11.8 We consider that the GDC continues to meet the Standards of Good Regulation for registration. It has achieved this by continuing the activities we have previously reported on, and by making enhancements, which should improve the transparency, effectiveness and timeliness of its registration function. Examples include:

- An improvement plan that was implemented by the Customer Advice and Information Team which led to changes being made to the GDC's online registration guidance and forms, as well as to the production of a guidance document addressing the queries most frequently raised by applicants. The GDC reported that these activities have resulted in an overall 16% reduction in the calls received by the team during the period from January to September 2011 when compared to the same period in 2010. Similarly, the GDC reported that other improvements it has made (e.g. improvements it has made to the forms and guidance notes for temporary registration applications) have also resulted in a 10% reduction in the volume of queries received about temporary registration alone during the period identified above.
- The launch of new registration webpages which channel those seeking restoration to the register to an area of the website that is targeted at their needs, rather than at the needs of those applying for registration for the first time. The GDC has reported that its website analysis shows a high volume of use of this online function.
- The revision of the GDC's registration appeals guidance, to ensure that those whose applications for registration have been rejected are provided with clear information about the appeals process, as well as to facilitate the timely provision of information by those appealing a registration decision. Registration appeal decisions are now published on the GDC's website, which represents an improvement in terms of the transparency of its decision-making.
- A reduction in the number of administrative lapses from the register, which the GDC believes has resulted from its actions in sending an additional reminder to registrants about the need to renew their registration, and in improving the clarity of the information that is included in the annual retention fee reminder letter that the GDC sends to registrants about what they are required to do in order to renew registration, as well as about the relevant timelines.
- Improvement made to the GDC's website to make the 'search the register' function more prominent, allowing for easier navigation and within the first six months of the new registers being active, there was a 16% increase in use. The GDC has also implemented a number of other significant improvements to the information available from its website, including: expanding the information included in the online register to include information about

individuals who have been struck off its registers, for five years from the date of striking-off; implementing a 'sounds like' search facility; improving the search facility so that users can now search both dentist and dental care professional registers at the same time; expanding the information provided about fitness to practise sanctions so that users have a greater understanding of what a sanction means, have direct access to the determination, and its duration.

- Successful prosecutions in two cases of illegal practice by non-registrants, as well as assisting a number of other organisations with their prosecutions of unregistered dental professionals.

11.9 We note that the GDC has made a number of changes to the administration of the Overseas Registration Examination (ORE) including: the introduction of clearer standard operating procedures for checking applicants' identity and qualifications at the point of application to sit the ORE and when processing the application; increasing the size of the question banks in order to prevent collusion between sittings; implementing a new process to disseminate exam results – in order to prevent a similar information breach to that which we reported last year; and the introduction of an automated online booking system for the ORE which is open to all to use. The GDC has told us that a procedure has been put in place to ensure that those who are approaching the expiry date for completing the ORE will be given priority in booking their place to sit the ORE. The GDC has also told us that it hopes to reduce the backlog of applicants awaiting an opportunity to sit the ORE by 2013. We would suggest that the GDC keeps this booking system under review, to ensure that it is effective and that it is operated fairly.

11.10 The GDC has established a registration audit team, which audits a minimum of 15% of applications per month per team (the various teams being: UK registration, non-UK qualified dental care professionals, and EEA qualified dentists). The GDC reports that the registration audit team has helped it to identify areas for improvement, by alerting it to a number of both non-critical and critical errors. Such errors are assessed as a matter of urgency to determine any risk they present to patient safety. The errors that were identified as a result of the work of the registration audit team were not serious enough to result in the GDC revoking any individual's registration due to concerns over public protection. The GDC has confirmed that changes made to its assessment documentation and staff training have resulted in a reduction in such errors.

11.11 We intend to follow up in next year's performance review a number of areas of work that the GDC plans to undertake during 2012:

- Developing new guidelines on temporary registration (to be presented to Council for approval during 2012).
- The implementation of the new registrations IT system (to facilitate online registration applications)
- The publication of the GDC report on the 'in training' provision for dental care professions following the identification of a risk of misuse of this provision, which permits them to continue to undertake activities that are reserved for GDC registrants on the basis that they are 'in training' although they do not have any intention to qualify.

- The change of the GDC's registration rules to implement a change in GDC policy relating to the process for declaring ill-health conditions.

Fitness to practise

11.12 The GDC has demonstrated that it meets most of the Standards of Good Regulation for fitness to practise. However, we consider that it has not demonstrated that it meets the following two standards:

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

11.13 Between January and October 2011, the median time taken for a case to progress from receipt to the final fitness to practise determination was 81 weeks. In our view, that demonstrates a failure to progress cases as quickly as possible, as required by the standard. However, we note that the GDC has successfully taken action during 2011 to decrease the volume of cases awaiting either consideration by the Investigating Committee or (to a less marked extent) a final fitness to practise panel hearing. As at February 2011, 301 cases were awaiting consideration by the Investigating Committee, whereas by September 2011 the number of such cases had reduced to 162, with a further reduction to 139 cases reported as at the end of March 2012. Similarly, the number of cases awaiting a final fitness to practise hearing decreased between February 2011 (when 148 cases were awaiting a hearing) and September 2011 (when 138 cases were awaiting a hearing) with a further reduction to 136 reported as at the end of April 2012. We also note that there has been an improvement in the time taken for an interim order to be imposed where necessary. We would urge the GDC to continue to take steps to improve its performance in this area.

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.

11.14 In our 2011 audit of the initial stages of the GDC's fitness to practise process we found examples of letters setting out the Investigating Committee's decisions that either did not fully address all the issues, or did not properly explain why the GDC would not be taking further action. We note that during 2011 the GDC has taken steps to improve the quality of the Investigating Committee's recorded decisions (as referred to below).

11.15 Our 2011 audit also highlighted concerns about apparent weaknesses in the GDC's information-gathering during the initial stages of the fitness to practise process, as well as in relation to record-keeping. We found several examples of the GDC failing to gather sufficient information to inform its view about the risks involved in the relevant cases. We also identified examples of poor record-keeping. We note that during 2011 the GDC has taken steps to improve its information gathering and record-keeping, which we outline below.

11.16 It has come to our attention during the course of our work that a former Investigating Committee Chair had been sent copies of Investigating Committee papers in error. We were told that the error appeared to have resulted from caseworkers using outdated lists of Investigating Committee members. The GDC

self-reported to the Information Commissioner and notified the parties involved of the breach. We note that former Investigating Committee members and Chairs are required to maintain confidentiality even after they have ceased to work for the GDC, which provides some additional assurance that the data that was inadvertently disclosed to one of them will not have been disclosed onwards. However, we consider that this error demonstrates inconsistent compliance with the tenth Standard of Good Regulation for fitness to practise and would suggest that the GDC keeps under review how it maintains its performance in this area.

11.17 We are encouraged by the significant amount of work that has been undertaken by the GDC to address the general weaknesses in its fitness to practise function which we reported in our performance review for 2010/2011 and in our 2011 audit reports of the initial stages of the GDC's fitness to practise process. We also note that the GDC plans to make further improvements during 2012/2013. We look forward to seeing evidence of the impact of the improvement work that the GDC has undertaken in next year's performance review and in our 2012 audit of the initial stages of the GDC's fitness to practise process.

11.18 During 2011 the GDC has made a number of changes to the initial stages of its fitness to practise process in order to address the weaknesses in its performance in this area. It has introduced:

- A triage system (using specified criteria) to facilitate the prompt identification of high risk cases, cases requiring fast tracking, and cases requiring clinical input
- A system for obtaining expert clinical input, prior to the Investigating Committee's consideration of a case, about whether particular clinical treatment was within acceptable parameters. This should enable the GDC to make an early assessment of the seriousness of individual cases involving allegations about clinical matters, and to take appropriate decisions about the progression of such cases.
- A process for notifying employers at an early stage about allegations against registrants that they employ (once the GDC has received consent and the registrant has provided their employer details). The employer will be asked to comment on the registrant's practice in relation to the current allegation, and to notify the GDC of any other fitness to practise concerns. This information from employers should be of benefit to the GDC in considering what further action should be taken.
- A process of seeking health reports in relation to all registrants who have received a criminal conviction or caution for offences involving alcohol or drugs. The introduction of such a process had been recommended by us as an important safeguard for public protection.
- A protocol for engagement with third parties (for example, employers) who may be required to provide information to assist in the GDC's investigations. The aim of such a protocol is to secure such information more quickly.

- The introduction of legally-qualified Investigating Committee Secretaries¹² to provide support to the Committee at meetings (including advising on the Committee's powers under the relevant legislation, as well as providing support in drafting fully-reasoned decisions), to address case-related queries outside of meetings, and to arrange training.

11.19 The GDC has also made changes to its handling of the adjudication stage of its fitness to practise process in order to address various identified weaknesses. It has:

- Established a pre-hearing case management team which organises case conferences in order to ensure that as many technical issues are resolved as possible in advance of hearing, thereby reducing the number of hearings that have to be adjourned as well as the length of hearings.
- Arranged resources so that it holds five concurrent hearings a day.

11.20 The GDC has also made other changes to improve its overall delivery of its fitness to practise function. It has:

- Redrafted its operational guidance and standard operating procedures, and introduced a programme of induction and ongoing training and development for all casework staff, fitness to practise panellists and Investigating Committee members, in order to improve the consistency and quality of casework and decision-making.
- Introduced routine performance management of investigation work, in order to ensure that casework is progressed in a timely manner and to a high standard.
- Developed and implemented a new casework management system (this has been in place since April 2012) which will enable staff to carry out case management in a systematic manner, with set timeframes being scheduled into the system.
- Established a compliance team which is responsible for carrying out a risk-based audit of closed cases and which has begun auditing Investigating Committee decisions and triage decisions. The team assesses the quality of casework, the timeliness of casework, the quality of customer service and decisions made at key points in the process (those key points being: initial case assessment; decisions made by the Investigating Committee and any fitness to practise panel) against defined criteria. Learning from this work will be used to improve the GDC's performance.

11.21 In next year's performance review we would like to consider the outcomes of (or the progress made in relation to) the following areas of ongoing work to improve the GDC's delivery of its fitness to practise function:

- Evidence of the actual impact of each aspect of the improvement work that the GDC has undertaken during 2011, as set out above.

¹² Our understanding is that by "legally qualified" the GDC means individuals who have a legal qualification, rather than those who are currently entitled to practise as solicitors/barristers

- Progress in planning for the introduction of case adjudicators in place of the Investigating Committee, which the GDC considers will make the initial stages of its fitness to practise process more effective and timely.
- The impact of the introduction of a case review team to monitor conditions of practice (in conjunction with other individuals/organisations involved in a registrant's remediation) to ensure that appropriate action is taken if the conditions are breached and to ensure there is sufficient evidence available for the purposes of the review hearing.
- Progress in the introduction of in-house investigation for some cases (from April/May 2013).
- The introduction of a Witness Support Officer who will act as the main point of contact and support for all witnesses both prior to and on the day of the hearing.

12. The General Medical Council (GMC)

Overall assessment

- 12.1 The GMC has maintained and in many ways improved its performance as an effective regulator across all of its regulatory functions. Whilst it does not yet meet the standard *'through the regulator's continuing professional development (CPD)/revalidation systems, registrants maintain the standards required to stay fit to practise'* it has made significant progress in developing its revalidation scheme and in reviewing its approach to CPD. The GMC's good performance is notable given the extensive work it has undertaken in preparation for the launch of its revalidation scheme and the major programme of review of its fitness to practise function which is under way and which we describe in this report.

Guidance and standards

- 12.2 We consider that the GMC continues to meet the Standards of Good Regulation for guidance and standards and that it has also demonstrated excellence by:
- Ensuring that standards of competence and conduct for doctors (along with any supporting or additional guidance) continue to prioritise patient safety, address areas of current concern in doctors' practice, reflect current issues and are easily accessible to stakeholders.
 - Assessing the value and relevance of its guidance material, with a view to continuous improvement.
 - Maintaining and expanding its avenues of engagement with a wide variety of stakeholders to encourage their involvement in developing and revising GMC guidance and standards.

12.3 Examples of the above are:

- Publication of updated guidance for doctors relating to raising and acting on concerns about patient safety. Work has also continued on other guidance for doctors covering issues such as child protection and good practice in prescribing medicines and devices. These guidance documents will be published later in 2012. New guidance documents about: making and using audio/visual recordings of patients; and leadership and management for all doctors were produced during 2011/2012.
- The continued use of case studies and e-learning modules aimed at maintaining awareness of GMC guidance. The GMC has introduced a micro-site aimed at helping doctors address the requirements of patients who have learning disabilities. The site provides links to further sources of information and support. These materials will be supplemented by a resource pack for trainers. We welcome the GMC's approach to recognising and supporting the health needs of this particularly vulnerable section of society.
- The five year cyclical review of the GMC's core standards, '*Good Medical Practice*' (GMP). GMP will be reissued in late 2012. The need for additional/amended standards has also been driven by external factors including: the emerging findings from the Robert Francis inquiry into care provided at The Mid Staffordshire NHS Foundation Trust; new uses of technology in society such as social media sites; the Health Service Ombudsman's annual report¹³ (which highlighted concerns about the difficulties in managing breakdowns in patient/GP relationships); and the impact on GPs of the changes in commissioning of healthcare that will be introduced as a result of the Health and Social Care Act 2012. The revised GMP will address these emerging matters by: placing greater emphasis on all doctors' responsibilities to ensure that the basics of care such as eating, drinking and washing are adequately met; and highlighting that doctors must not allow their personal, financial or commercial interests to affect the way they, treat, refer or prescribe for patients. This last issue was something that we raised as an area of concern in last year's performance review.
- The GMC's review of its guidance material is continuing, and previous research to establish registrants' views and opinions on it is being evaluated. Further research has been commissioned concerning the factors that influence doctors' decisions on whether or not to follow guidance and/or raise concerns where patient care or safety may be at risk, and the barriers that prevent them from doing so. The outcomes of the research will inform decisions about the future formats of guidance and learning materials. It will also help the GMC develop its approach to promoting awareness and use of the guidance by both patients and colleagues.

¹³ Health Service Ombudsman. 2011. Listening and Learning: the Ombudsman's review of complaint handling by the NHS in England 2010-11. Health Service Ombudsman. London

- The considerable efforts that the GMC has made to involve a wide variety of stakeholders in the development of its guidance and standards during 2011/2012. Notably the consultation on GMP was tailored to encourage responses from stakeholders based on their knowledge of and/or involvement with the issues. We view this targeted approach to consultation as representing good practice. Similarly, we consider that the external audits that the GMC has conducted of its consultation process demonstrate good practice.

12.4 In next year's performance review we will be interested to hear about the outcomes of the GMC's further research into the factors that influence doctors' decisions to follow the GMC's guidance and standards and the barriers there are that prevent them from raising concerns where patient care or safety may be at risk.

Education and training

12.5 We consider that the GMC continues to meet all but one of the Standards of Good Regulation for education and training. It does not yet meet the standard *'through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise'*. However we note that during 2011/2012 the GMC has continued its work to develop its revalidation model. The GMC has demonstrated that it meets the majority of the standards for education and training by continuing with its previous activities and by:

Ensuring that its standards for education are consistent

- The GMC has amalgamated its various standards documents: *'Generic standards for specialty training'*; *'Standards for deaneries'*; and *'The New Doctor'*; so that there is one set of standards which apply to postgraduate medical education and training, from entry onto the foundation programme through to specialist registration.

Disseminating its advice and guidance as well as taking steps to help medical schools operationalise that advice and guidance

- The development and publication of supplementary advice, in response to the requests made by medical schools for such advice in order to assist them in their preparation of students for clinical practice and for entry onto the foundation programme. The documents provide advice for medical schools about: clinical placements for medical students; assessment in undergraduate medical education; patient and public involvement in undergraduate education; and developing teachers and trainers in undergraduate education.
- Providing additional assistance to education providers, in the form of two conferences that addressed: methods of involving patients and the public in education and training; and identifying the threshold for student fitness to practise.

Undertaking quality assurance (QA) visits across deaneries and medical schools in line with its quality assurance cycles and taking steps to continue to improve its approach to quality assurance of medical schools and deaneries

- The establishment of specific teams to enhance the GMC's ability to respond promptly and take appropriate action to protect patients or trainees if serious concerns are raised about education and training providers. At the same time the GMC has been encouraging medical schools and deaneries to communicate openly about any concerns about education quality.
- Piloting the use of a student survey, prior to the GMC's quality assurance visit to the medical school. The purpose of the survey was to allow the GMC to gather a wide range of views from the students prior to its visit. This information enabled the GMC to target its discussions with students during the QA visit more effectively.
- Establishing a Quality Scrutiny Group (including lay members) to oversee all aspects of the GMC's quality assurance work in education, including inspections, reports and surveys.
- The introduction of regional reviews which bring together undergraduate and postgraduate inspections into a single co-ordinated visit should enable the GMC to gain a better understanding of the continuum of education in specific areas of the country, and in particular about how well the transitions between different stages are working.

Sharing the learning from its work with others

- In 2011 the GMC published the publication of '*The State of Medical Education and Practice in the UK: 2011*' reporting on 'how effectively the current medical education and training system equips doctors to provide a safe, high quality service that responds to society's needs and values'. The report uses GMC and other data to identify trends, challenges and opportunities that affect the quality of medical education and practice in the UK, which it will use to inform its policy and operational decision-making. This work is likely to be of use not just to the GMC but also to the medical profession, medical education providers and the wider healthcare system.

12.6 The GMC has continued with its work on revalidation. Revalidation will be based on a periodic recommendation from a Responsible Officer, relying on local systems of appraisal and clinical governance. The GMC has stated that it is confident that revalidation will be implemented by late 2012. Work that the GMC has undertaken on its revalidation scheme in this performance review period includes:

- Ensuring that key elements needed to support the process of revalidation are in place, such as the publication of guidance to inform doctors about the supporting information that they should bring to their appraisals; and supporting organisations in developing, administering and implementing colleague and patient feedback.
- Assessing the maturity of and developing the policies, processes and systems that need to be in place at the GMC and across the four countries, as well as the degree to which users can engage with these systems.

- Ensuring that the GMC has appropriate governance arrangements in place to enable effective joint strategic management of revalidation across all of its delivery partners. For example, the GMC has strengthened its processes for monitoring and reporting on progress and actions taken.

12.7 The GMC has also continued with its programme of work around CPD. The GMC has consulted on draft CPD guidance, it has conducted a literature review of standards and quality assurance processes for CPD used in other jurisdictions, and it has commissioned research to assess whether CPD improves performance and practice. We were told early in 2012 that the GMC is due to publish revised CPD guidance in June 2012.

12.8 In next year's performance review we will consider the progress the GMC has made on:

- Implementing revalidation.
- The work that the GMC is undertaking about its role in overseeing CPD.
- The review that is under way of its approach to quality assurance.
- The impact of the new teams that have been introduced to enhance the GMC's ability to respond promptly to concerns about education and training providers.

Registration

12.9 We consider that the GMC continues to meet the Standards of Good Regulation for registration. During 2011/2012 it has continued to make enhancements to its registration function, including enhancements identified as a result of its registration application audits and its consideration of customer complaints. We consider that these changes should enhance the transparency and effectiveness of the registration function, as well as improving the time taken to process application forms. Examples of the enhancement work that the GMC has carried out include:

- Launching online guidance about the registration appeals process, together with an online appeal form. The GMC has also published a leaflet that accompanies all appeal hearing notices which provides information about the hearing process.
- Revising the online registration application form in order to make application processing more timely.
- Improving its guidance for applicants for registration about the registration process and the circumstances in which applications are likely to be accepted or refused. The GMC has told us that these enhancements have resulted in a reduction in the frequency of applications containing significant errors.
- Reviewing the accessibility of the online systems (including the register). The review identified that the online systems had a poor level of accessibility for users with disabilities. As a result, the GMC initiated a project to deliver improvements, and a subsequent assessment confirmed that the changes had resulted in better accessibility for users with disabilities.

12.10 The GMC has also implemented changes to provide further assurance to the public that its registrants are appropriately qualified and skilled to practise in the UK. These changes include:

- Reviewing the language testing requirements for International Medical Graduates (IMG) who wish to register with the GMC. Most IMGs undertake the International English Language Test (IELTS). However for those IMGs who do not, the GMC has changed its process and now requires them to have a primary medical qualification which was taught and examined solely in English, as well as requiring that at least 75% of any clinical interaction that formed part of the course of study was undertaken in English.
- Following the measures announced by the Secretary of State for Health in the autumn of 2011, the GMC continues to work closely with UK Government officials and their lawyers on changes to the Medical Act to provide powers to check the language skills of EEA qualified doctors seeking to practise in the UK. Separately the Department of Health (England) is consulting on a statutory duty for responsible officers across England to check the language skills of all overseas doctors before they are employed. Discussions are ongoing with the relevant departments in Scotland Wales and Northern Ireland to see if similar arrangements might be of value.
- The GMC has carried out work aimed at preventing misuse of provisional registration. Doctors are granted provisional registration in order that they can undertake an acceptable programme (the first year of the Foundation Programme) which is normally completed within 12 months. The GMC wrote to all doctors who had held provisional registration for more than two years, reminding them of the purpose for which provisional registration is permitted and asking them to contact the GMC in the event that they were working in posts that were not appropriate to their registration status. The GMC also: updated the relevant guidance on its website; created a declaration that applicants for provisional registration are now required to complete, stating that they are fully aware of the scope of their registration; and communicated with employers to ensure they were aware that they should not be recruiting doctors who hold provisional registration into posts which require full registration. As a result of that action, a small number of doctors were asked to stop working in such posts. The GMC also improved the clarity of its registration status descriptor on the online register.

12.11 The GMC has set out a number of areas where it plans to make further improvements. We intend to follow up on progress in the following areas in next year's performance review:

- Progress of the independent review that the GMC has commissioned into the Professional and Linguistic Assessments Board (PLAB) test¹⁴. The purpose of the review is to ensure that the PLAB test remains fair and objective and fit for purpose as a means of assessment.

¹⁴ The PLAB test is one of the main ways for doctors who qualified outside the EEA to demonstrate that they have the knowledge and skills necessary for medical practice in the UK.

- The development of guidance for registrants on the requirement to maintain adequate and appropriate indemnity insurance.
- A review of the information that the GMC collects, retains and publishes about registered doctors.

Fitness to practise

12.12 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, whilst undertaking enhancement work. During 2011/2012 the GMC has demonstrated its compliance with the standards by:

Improving its customer service and enhancing the support available to witnesses and doctors prior to and during fitness to practise panel hearings

- A customer service project has been initiated to review and improve how complainants access the GMC's fitness to practise process and the GMC's communication with them. The project will include improving accessibility for complainants with disabilities, and working with complainant advocacy groups to improve their knowledge of the GMC. The GMC is also carrying out a survey of complainants and registrants in order to establish a baseline for its measurement of satisfaction with its customer service. We welcome the GMC's continued focus on making its processes accessible.
- The GMC has extended its witness support programme to include witnesses who are called to give evidence by the registrant, as well as those called to give evidence by the GMC. A needs assessment has been introduced for witnesses who are referred to the witness support service. The GMC plans to extend this to witnesses generally within the fitness to practise process. It has reviewed its expenses policy in order to improve provision for witnesses with caring responsibilities and to expedite payment. It has also provided training for its fitness to practise panellists about the aims of the witness support programme. These activities should ensure that witnesses are better-supported to participate in fitness to practise hearings.

Reviewing its processes for dealing with health cases in order to ensure that they are proportionate and fair, whilst protecting the public from any potential risk

- The GMC has launched a microsite named '*Health Matters*' which is intended to provide information about how it deals with health cases. The GMC has taken various measures to improve its performance in this area, including: revising the guidance that GMC decision-makers use in assessing risk in health cases, with the aim of improving the consistency and transparency of their decisions; and introducing a health assessment template report together with a process for quality assurance of such reports. The GMC is in the process of commissioning research to improve its knowledge about the outcomes for doctors who have been through the fitness to practise process as a result of their ill-health.

Using learning from its work to improve its performance, as well as sharing it with others

- The GMC has designed a programme of research to improve its understanding of the apparent correlation between registrants with an overseas qualification and more serious fitness to practise outcomes. As part of this research the GMC will be considering whether the decisions reached are consistent with the guidance the GMC provides for its decision-makers, as well as reviewing the guidance itself and assessing whether the way in which allegations are framed has unintended consequences for doctors who have qualified overseas. As a result of quality assuring its decisions, the GMC has implemented a number of changes to the guidance it provides for its decision-makers, in order to enhance the consistency of their decision-making as well as to provide absolute clarity about the need for their decisions to maintain confidence in the profession and in the regulator.
- The GMC is working with both the Royal College of Anaesthetists and with the Royal College of Psychiatrists by providing data and information to them about fitness to practise complaints against anaesthetists and psychiatrists. The Royal Colleges are using this information to explore the reasons behind these complaints, in order to inform further research and potentially to develop training and guidance to help their members reduce the risk of fitness to practise complaints being made about them.

12.13 The GMC's continued good performance in its fitness to practise function is particularly impressive given that it occurs against the background of a major reform programme that is currently under way. In next year's performance review we will want to review:

- Any changes that the GMC introduces to its handling of fitness to practise cases at the end of the investigation stage of the fitness to practise process, following the outcome of the currently planned pilot of a process of offering meetings to doctors at which they may be given an opportunity to agree to the GMC's proposed sanction and avoid the need for a hearing to take place. The GMC also plans to pilot a process of offering meetings to complainants at both the outset and after the conclusion of a case to ensure that complainants have a clear understanding of the process and, in due course, the outcome.
- The outcome of the establishment of the Employer Liaison Service across the UK. It is hoped that the recently appointed GMC Advisers will both facilitate a two way exchange of information about underperforming doctors, and increase Medical Directors' understanding of when to make a referral to the GMC. This should build on the benefits identified from the GMC's pilot of the scheme in 2010/2011.
- The outcome of the GMC's pilot of a support process for doctors who are the subject of fitness to practise hearings (in the form of ongoing telephone support, familiarisation visits to the hearing centre, and providing individual support for the first two days of the hearing).

- The work that the GMC has undertaken to establish the Medical Practitioners' Tribunal Service (MPTS). To date the GMC has appointed the Chair of the MPTS, it has relocated the adjudication function from London to Manchester, and it has commenced recruitment of panellists. The MPTS was formally launched on 11 June 2012.

12.14 The GMC expects this ongoing work to assist in improving the time taken for cases to progress through the fitness to practise process and to increase public confidence in panel decisions. We support these aims and will continue to monitor their achievement as well as the other impacts of the changes the GMC intends to implement.

13. The General Optical Council (GOC)

Overall assessment

13.1 The GOC has generally performed well and has met the majority of the Standards of Good Regulation. It has also taken a lead in initiating collaborative projects with some of the other regulators, such as exploring the possibility of co-locating office and hearing space. We consider that this is a good example of regulators working together to improve the costs and quality of operations.

13.2 However, we have concerns relating to:

- The time taken by the GOC to schedule final fitness to practise hearings.
- The lack of progress that the GOC has made in ensuring that the appropriate framework is in place to reduce the risk of information breaches in its fitness to practise function.

13.3 Consequently we consider that the GOC has demonstrated inconsistent compliance with the sixth Standard of Good Regulation for fitness to practise and has not met the tenth Standard of Good Regulation for fitness to practise. We note that the GOC is already taking appropriate action to address these concerns.

Guidance and standards

13.4 We consider that the GOC continues to meet the Standards of Good Regulation for guidance and standards. It has demonstrated this by:

- Producing new guidance that is targeted at specific stakeholder groups in order to support and supplement the *Codes of Conduct* and the *Competency Framework* that were introduced in April 2010.
- Reviewing how it publishes standards, to ensure that both GOC registrants and patients clearly understand what is expected of registered optical professionals.

- Increasing the involvement of patients and the public in the development of standards and guidance, by means of obtaining increased input from its Stakeholder Reference Groups (SRG).

13.5 Examples of this work are given below.

- The GOC has added to its range of existing guidance by publishing the following: 'Buying cosmetic contact lenses - A guide for patients', 'Fitness to Practise - Guidance for Employers', and 'Registering with the GOC- A guide for students'.
- The GOC's Council has considered other health professions regulators' approaches to the development and publication of professional standards. Drawing on examples of good practice from this work, the GOC's intention for the future is to continue to develop evidence-based standards, and also to align its standards with those of the other regulators, both in terms of format and terminology and also in terms of identifying common standards that apply across the health professions. As part of this work, the GOC intends to consider the role that the regulator should play in producing guidance to support its standards, as well as the role to be played by the professional optical bodies in producing such guidance.
- The GOC has taken steps to ensure that both the public and professional SRGs are involved in the review of its standards and other areas of its work whenever possible. For example, in November 2011 these groups considered the principles applying to the registration of students and businesses. Their feedback is being used, firstly to inform the GOC's wider review of its *Code of Conduct* and guidance documents as well as to further the GOC's consideration of the most appropriate regulatory model for optical businesses and trainee optical professionals registered by the GOC.

13.6 In next year's performance review we will wish to see evidence of the outcomes of the GOC's work in the following areas:

- The GOC's review of its processes for setting, developing and publishing its standards of competence, conduct and performance
- The work that the GOC plans to undertake to assess how it should evaluate the effectiveness of its standards, and the role of the SRGs in this evaluation.

Education and training

13.7 The GOC continues to meet the Standards of Good Regulation for education and training. It has demonstrated this by continuing to maintain its performance of the activities we have previously reported on, as well as by:

Undertaking work to help students enter into careers as optical professionals

- During 2011/2012 the GOC produced guidance specifically aimed at encouraging students with disabilities to become optical professionals. The feedback about this guidance indicates that it has been particularly useful for education providers in their consideration of applications made by prospective

students with disabilities who wish reasonable adjustments to be made that would permit them to undertake the relevant courses.

- The GOC has undertaken its research on whether students feel prepared for practice once they are fully qualified and registered with the GOC. The results indicate that students generally felt that on completion of their courses they had been sufficiently prepared to enter practice. However the responses also identified areas in which the education providers could do more to support students' transition to practice, for example by further development of education modules related to clinical scenarios, and by increasing students' exposure during training to unusual ocular conditions through the use of additional hospital placements.

Progressing its proposals for a revised continuing education scheme (CET) scheme, the use of which will enable the GOC to assure itself of its registrants' continuing fitness to practise¹⁵

- The GOC has an established CET scheme. It has been reviewing this scheme in order to further develop it so that it will comply with the principles set out by the working group for the revalidation of non-medical healthcare professionals and be an effective mechanism for assuring a registrant's continuing fitness to practise¹⁶. Registrants will be able to demonstrate their continuing fitness to practise through: the completion of CET across all of the relevant competencies; participation in peer discussion on relevant topics; undertaking peer review; and completion of a reflective statement linking learning to practice. The GOC reports that the revised CET scheme will be ready for implementation by January 2013. The GOC plans to audit each registrant's CET portfolio once every three years. In preparation for implementation of this revised scheme, the GOC has during 2011/2012:
 - Carried out work to identify the risks in registrants' practice, based on research (which is available on its website) as well as analyses of the data from the GOC's fitness to practise and education quality assurance processes.
 - Undertaken a cost/benefit analysis of its revised CET proposals.
 - Designed an IT system that will allow registrants to: capture patient and colleague feedback; plan their CET so that it is linked to their scope of practice; and capture peer review information on areas of risk which have been identified as applying to all registrants, such as record-keeping, decision-making, and ethical and conduct issues.
 - Started to implement a communications strategy to explain to registrants what the revised CET scheme will require of them.

15 We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

16 Department of Health, 2008. Principles for revalidation: report of the Working Group for Non-medical Revalidation; Professional Regulation and Patient Safety Programme. London: Department of Health

- Started to put in place support for registrants, including: piloting peer review; developing toolkits; arranging workshops for registrants to build on their understanding of what the revised CET scheme will mean for optical professionals; and developing a new area of its website to be devoted to its revised CET scheme.
- Concluded its consideration of whether or not the proposed revised CET scheme should include a clinical skills assessment every six years. The Council decided that this assessment should not form part of the revised CET scheme.

Undertaking quality assurance visits (QA) and improving its QA processes

- The GOC used its new QA processes in the four QA visits it carried out in 2011/2012 and was satisfied that the changes listed below resulted in improvements in both timeliness and quality of outcomes:
 - Building in the use of other agencies' reports and action plans (in order to avoid duplication, and therefore making the GOC process less burdensome for the providers).
 - Targeting visits at areas of perceived risk, based on the available information, including that provided in the annual monitoring form (this change has led to the length of the GOC QA visits reducing from three and half days to two days).
 - Using a pro-forma report template which ensures that the evidence base for decisions is fully recorded, including the reasons for any conditions/recommendations that are imposed.
 - Embedding patient and public involvement within its QA visits and checking that education providers involve patients and the public in the development and delivery of education programmes. For example, the GOC uses both questionnaires and focus groups with patients, students, employers and supervisors as part of its QA visit process; and the panels who conduct the visits on behalf of the GOC include lay (either patients or people with regulatory experience) participants (and in the near future such panels will always have a lay chair).

Improving the transparency of its work in education and training, and identifying more opportunities to share learning from its work

- The GOC held a workshop for education and training providers workshop aimed at helping them to understand the requirements of the new competency frameworks and QA processes. The GOC plans to hold similar workshops in future, addressing topical issues (including any issues identified through its review of the education providers' annual reports to the GOC on their performance).
- The GOC held a workshop with education and training providers aimed at identifying future challenges it will face in ensuring that its quality assurance process is sufficiently agile to deal with the increased diversity in education and training programmes (which is likely to result from funding changes) as well as the emergence of UK and overseas provider partnerships.

- 13.8 In next year's performance review we will consider what progress the GOC has made in terms of its plans for its revised CET scheme.

Registration

- 13.9 The GOC continues to meet the Standards of Good Regulation for registration. It has demonstrated this by maintaining the activities we reported on in last year's performance review, as well as by undertaking further work to improve the effectiveness and transparency of its registration processes. Examples of this include:

The implementation of its online system for renewal of registration

- 97% of the GOC's optical professional registrants, 97.5% of its student registrants and 93% of its corporate registrants have used its online system for renewal of their registration¹⁷. Feedback from users indicates that the online system has reduced the burden on registrants as well as improving the timeliness of processing.
- The GOC also believes that implementation of the online system has resulted in fewer students failing to renew their registration on time than was the case in previous years. Only 217 students were removed from the registers in 2011 as a result of having failed to renew their registration on time, compared to a figure of 386 in 2010. This has a direct impact on the registrations team's workload, as it means there is a corresponding reduction in the number of additional applications that have to be processed.
- Online processing of renewal applications has provided the GOC with more time to perform additional checking where there is a concern about an individual's registration status. For example, the GOC checks with each education institution that all individual students on the institution's class lists are correctly registered with the GOC.

Changes to the process for considering health and character declarations

- All individual applicants for registration, restoration or retention on the GOC's registers must make a self-declaration detailing any health or character issues that might impair their fitness to practise. In November 2010 the GOC changed its procedure for processing such self-declarations. Since that time, self-declarations are processed by the registrations team rather than the fitness to practise team. During the period from November 2010 – March 2012, the GOC processed 251 such self-declarations without making any referrals to the fitness to practise committee. In contrast during 2009/2010, 18 applications were referred to the fitness to practise committee. The change in process has resulted in an improvement in timeliness, achieving a reduction in the average processing time from 20 days (in 2010) to 13 days (in 2011).

¹⁷ Fully qualified registrants have been able to use the online retention system since January 2011 and students since April 2011. The online retention system has been available to bodies corporate since January 2012.

- The GOC has also taken steps to improve the transparency of the process, by developing detailed guidance for its Registrar to use in deciding on the outcome of such self-declarations. The draft guidance will be shared with the GOC's Council and the optical professional bodies in the second quarter of 2012, before being publicly consulted upon.

Improvements to the online registers

- The GOC has made its public-facing online registers more accessible and user-friendly by adding extra functions. Register searches can now be carried out in a variety of different ways: using a 'sounds like function'; and by reference to the professional's specialty.
- The GOC has also made improvements in terms of transparency by: including within the online register details of the practising status of registrants who have been suspended or had conditions imposed upon their practice, as well as attaching the relevant decision documents; and by producing a new guide to using the online registers, which includes a statement that the details of those registrants who have been struck off are not listed on the registers.
- The GOC plans to consider how best to display historical fitness to practise information once its new IT system is in place.

Dealing with misuse of title and unregistered practice

- The GOC has worked with the optical professional bodies to jointly communicate with the optical profession to ensure that those registrant dispensing opticians who dispense contact lenses are registered on the GOC's specialty list. As a result of this work a small number of individuals who were not previously registered on the GOC's specialty list have applied for such registration. This work helps to ensure that only those with the correct qualifications carry out such work.
- The GOC has undertaken a significant amount of work to prevent/address complaints about misuse of title and illegal practice, both on its own and collaboratively with trading standards officers, PCTs and others. It has created a dedicated unit for the management of illegal practice complaints, and has revised its current protocol for the investigation and prosecution of suspected criminal offences, as well as resuming the consideration of allegations of illegal contact lens sales. The GOC has successfully persuaded several retailers to stop the unlawful and potentially dangerous sales of zero-powered cosmetic contact lenses.

13.10 The GOC has indicated a number of areas in which it plans to make further improvements. We intend to follow up in next year's performance review on any progress the GOC has made in:

- The implementation of the GOC's new IT system which should enhance its management of its registration processes.
- A planned review of the effectiveness and timeliness of the GOC's registration application processing.

- Planned work with insurance bodies on how best to share information to enable the GOC to introduce a proportionate and risk-based approach to the proactive checking of individual registrants' indemnity insurance cover.
- The development of a formal independent QA monitoring process in relation to the registration function.
- A planned review of the requirements for student and corporate registration with the GOC.
- A planned review of the GOC's approach to working with employers.

Fitness to practise

13.11 The GOC has demonstrated that it meets the majority of the Standards of Good Regulation for fitness to practise. However we have concerns about its performance in progressing cases in a timely manner at the adjudication stage of the process (in compliance with the sixth standard of Good Regulation in fitness to practise) and in ensuring the security of its fitness to practise information (in compliance with the tenth standard).

13.12 Our concerns relate to:

- The time taken to conclude final fitness to practise hearings. We have been told that during the calendar year 2011 the median time taken from receipt of an initial complaint to the final fitness to practise hearing determination was 94.5 weeks, and the quickest case to conclude took 60 weeks. The point of the process at which the timeframe appears to lengthen is the scheduling of a fitness to practise hearing following referral by the Investigating Committee. This is evident from the median time taken from the final Investigating Committee decision to the final Fitness to Practise Committee decision – which was 57 weeks during 2011). As a consequence of this, we do not consider that the GOC has been able to demonstrate consistent compliance with the sixth Standard of Good Regulation for fitness to practise during 2011/2012. Delays in scheduling final fitness to practise hearings can impact upon the quality of the evidence that is available to be considered at those hearings, as well as upon public protection and public confidence in the regulator. We are pleased to note that the GOC has already taken action that will address our concerns by increasing the number of hearing days to 10 days per month from January 2012. We also note that the actions reported in paragraph 13.14 should assist the GOC to improve the overall timeliness of its adjudication processes. We look forward to seeing the impact of these changes in helping the GOC to achieve consistent compliance with this standard in next year's performance review.
- The occurrence of a small number of information breaches in 2011/2012 at the adjudication stage of its fitness to practise process. As a result of this the GOC is now reviewing its processes for preparing and dispatching hearing documents. It is also planning a review of all its information governance procedures and systems during 2012/2013, in order to ensure that there is an appropriate framework in place to support staff who are handling sensitive data and to reduce the risk of breaches, as well as to facilitate proper reporting of any breaches that do occur so that the organisation can both take

appropriate action and learn from such incidents. Whilst we note that the action the GOC is taking, we still consider that it has not met the tenth Standard of Good Regulation in the performance review reporting period.

13.13 Aside from these concerns about the GOC's performance, we consider that it has maintained its performance against the remaining standards and that it has undertaken a number of activities which should improve the effectiveness and transparency of its work. Examples of this include:

- The appointment of a clinical adviser to provide clinical advice at an early stage of the process. The GOC has reported that this has enabled caseworkers to understand the seriousness of a case at an earlier stage in the process, and therefore facilitated the taking of appropriate action.
- The development (with input from Victim Support) of a standard operating procedure (SOP) to support and formalise the responsibilities of the GOC's external lawyers in relation to witness liaison. The SOP requires the GOC's external lawyers to conduct a witness needs assessment both on first contact with each witness and prior to any hearing to ensure that their needs are understood at an early stage and taken into account. We note that the GOC generally receives positive feedback from its witnesses. It appears likely that its recent work in this area will further enhance witnesses' experience.
- The approach taken to achieving continuous improvement within the fitness to practise function. The GOC quality assures its committees' and panels' decisions, it reviews complaints about decisions made by the Investigating Committee, it reviews the outcomes of CHRE's work, and it seeks to share the learning it derives from these sources across the teams working within the various regulatory functions. As a result of its identification of learning from such sources the GOC has recently initiated a number of improvements to its processes: a 'tone of voice' review of its standard letters; the production of guidance for those registrants who act as expert witnesses; and the inclusion of further detail in Investigating Committee decision letters about the documentation and/or guidance considered by the Committee when reaching its decision.
- The publication and dissemination of guidance for employers to assist their understanding of: fitness to practise; the investigation process; and when and how to contact the GOC about a concern. The guidance also includes a template letter that employers can use to request further information about a fitness to practise investigation. We welcome the GOC's commitment to address the difficulties in proactively sharing information with employers, Primary Care Trusts or locum agencies that arise because the GOC does not hold information about whether a registrant is registered on ophthalmic performers' lists.
- The changes the GOC has made to its website so that information about which registrants are subject to a sanction and the relevant fitness to practise panel decisions are all available on the one page. This enables patients, the public, employers and others to quickly identify whether a registrant has had a sanction imposed on them, and the reasons for that action.

13.14 We note that the GOC has performed well generally in its fitness to practise function during 2011/2012, and that it has also achieved significant improvements particularly in the investigation stage of the fitness to practise process. In next year's performance review we will consider the progress that has been made by the GOC in:

- The implementation of the case management system (due to take place in September 2012). The new system will form part of an integrated system providing a single point of access for all data the GOC holds about its registrants. It should improve the GOC's ability to manage its fitness to practise caseload effectively and efficiently, and to share information between the registration and fitness to practise functions.
- The introduction of case examiners, and the associated support framework to enable the case examiners to produce good quality and consistent decisions¹⁸. This change should also help to improve the timeliness of the fitness to practise process.
- A review of the adjudication function that is aimed at identifying any improvements that can be made.
- Considering requiring registrants who have been convicted or cautioned for alcohol or drug-related offences to undergo health assessments.
- Its review of its information governance systems and procedures.

14. The General Osteopathic Council (GOsC)

Overall Assessment

- 14.1 The GOsC has continued to perform effectively against the Standards of Good Regulation across all four of its regulatory functions and is now taking the opportunity brought about by the *'Enabling Excellence'* agenda to review its role in the development of the profession (the second of its statutory duties)¹⁹.
- 14.2 The GOsC recognises that there is more work to do to bring the osteopathic profession to a point where it can sustain its further development without the level of involvement currently provided by the regulator. The GOsC is therefore initiating a debate within the profession which will look at three related questions:
1. How should the osteopathic profession develop over the next decade?
 2. What needs to be done to facilitate that development?
 3. Who should lead the different aspects of that development?

¹⁸ The case examiners will replace the Investigating Committee as the main decision-makers at the investigation stage of the fitness to practise process.

¹⁹ Department of Health, 2011. Command Paper: Enabling Excellence: Autonomy and accountability for healthcare workers, social workers and social care workers. London: Department of Health.

- 14.3 We look forward to seeing the progress of this work in the next few years. We consider that it would be beneficial to both the profession and to the GOsC if the balance of responsibility for developing the profession was more clearly defined, allowing the GOsC to focus on its regulatory role.

Guidance and standards

- 14.4 We consider that the GOsC has continued to meet the Standards of Good Regulation for guidance and standards during 2011/2012. It has demonstrated this by:
- Continuing its work to ensure that its standards are up-to-date, that they reflect current practice, and that its registrants are aware of them.
 - Developing guidance for patients and the public about the action they should take if they wish to complain about a GOsC registrant.
 - Increasing its efforts to encourage wider stakeholder input into the development and revision of its guidance and standards.
- 14.5 Examples of this include:
- The publication of its new '*Osteopathic Practice Standards*' (OPS) which will replace the current '*Code of Practice*' and '*Standard of Proficiency*' from 1 September 2012. The new OPS places greater emphasis on osteopaths and patients working in partnership, stresses the importance of communication, and makes clearer connections between the standards of competence and the standards of conduct and ethics. The GOsC has publicised the new OPS (along with illustrative examples of practical application) widely, in order to ensure its registrants are aware of it.
 - The completion of the four 'adverse events' research projects that we referred to in our 2010/2011 performance review report. The conclusions of this work have fed into the revised OPS and have been disseminated to the profession through articles in *The Osteopath* and at various events. The final strand of this work will be to assimilate all the findings and recommendations from the four projects in order to provide a summary of the key implications for osteopathic practice and training by the end of 2012.
 - The publication of two additional guidance documents specifically targeted at patients '*What to expect from your osteopath*' and '*Standards of osteopathic care*'. These documents have been disseminated to osteopathic practices, for onward distribution to patients, and they are also available on the GOsC website. Both documents include information about how patients can raise concerns about GOsC registrants and/or the care that osteopaths provide. In a similar vein, the new OPS contains more detailed guidance for registrants about their duty to take action if they have concerns about fellow professionals.
 - The implementation of a new communications and engagement strategy. The GOsC reports visible benefits from this new strategy, including its receipt of a more diverse set of responses to its recent consultation on its draft student fitness to practise guidance than previous consultations have elicited. As part of its new strategy, the GOsC has been working hard to emphasise to

osteopaths the benefits of seeking patient feedback, and is also currently recruiting members for a Patient and Public Partnership Group. We acknowledge the difficulties that the GOsC experiences in recruiting patients and the public to contribute to its work, and are encouraged by its continued efforts to secure such contributions.

14.6 In next year's performance review we would like to learn about the outcomes of the GOsC's work in the following areas:

- The development of any supplementary guidance to complement the OPS.
- The results of the survey that the GOsC is undertaking to assess its effectiveness in engaging osteopaths in regulation development and compliance, and to gauge how such engagement might enhance registrants' understanding of their regulatory obligations.
- The development of the Patient and Public Partnership Group, as well as any impact it has had on stakeholder engagement.

Education and training

14.7 We consider that the GOsC continues to meet the Standards of Good Regulation for education and training. It has demonstrated its compliance with the standards by:

Developing guidance to help Osteopathic Education Institutions (OEs) and students

- The GOsC has developed guidance about student fitness to practise (targeted at both students and OEs) which emphasises the importance of teaching and learning professional behaviours. It has also developed guidance on the management of health impairments and disability (again targeted at both students and OEs) which aims both to ensure that people with disabilities are encouraged to consider osteopathy as a career, and to encourage innovation in the identification of reasonable adjustments that can be made by OEs to help students with health impairments and disabilities to meet the required standards.

Maintaining its system for continuing professional development (CPD) audits and continuing to develop the evidence base for the scheme that it will use to assure itself of the continuing fitness to practise of its registrants²⁰

- The GOsC has commenced a year long pilot study of its proposed continuing fitness to practise scheme, which is involving almost 10% of the osteopathic profession. The GOsC's intention is to develop a scheme that requires registrants to demonstrate that they are continually fit to practise, rather than simply demonstrating their fitness to practise at one point in time. The aim of the pilot study is to explore how osteopaths can demonstrate that they are fit to practise, given that they often work in an environment without teams or

²⁰ We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

employers to provide peer review or evaluation. The pilot study will therefore explore the use of tools such as clinical audit, patient feedback, feedback from colleagues, and structured reflection (including with and without colleagues)²¹. The results of the pilot study will be evaluated by an external firm, which will look at the costs and benefits as well as the risks and proportionality of the scheme.

- The GOsC has published a CPD Discussion Document based on its learning from the CPD audit scheme over the past five years, with the aim of generating debate within the profession about the CPD scheme and its relationship to a continuing fitness to practise scheme. The CPD Discussion Document discusses the aims of CPD, the weaknesses of the scheme, and how it might be improved to ensure that osteopaths' practice remains up-to-date.

Undertaking quality assurance (QA visits), taking action to address areas of concern, and revising its approach to QA to centralise the importance of patient safety and public protection and to move to outcomes- focused standards

- The GOsC has published revised QA handbooks which explicitly refer to the importance of patient safety and public protection. These handbooks will come into effect at the same time as the new '*Osteopathic Practice Standards*'. The importance of patient safety and public protection has also been emphasised in training sessions for visitors (those who carry out assessments of Osteopathic Education Institutions (OEIs)). Changes that have been made to the QA process include: requiring OEIs to demonstrate how patient feedback is used to enhance the quality of teaching and learning; formalising patient and public feedback as part of the QA visit; and requiring the QA visit to be publicised to patients, staff and students by the OEI.
- The GOsC has taken action to consider and address unsolicited concerns raised about an OEI. It has also revised its QA handbooks to set out the process that the GOsC adopts in addressing unsolicited concerns that arise during the QA process. It intends to bring this process to the attention of students and staff as part of the QA visit so that they are aware of how such concerns can be raised and will be dealt with. There is also a requirement in the QA process for the review to be publicised to patients, staff and students by the OEI so that they are aware of the opportunity to participate in the process.

Improving the transparency of its work in education and training, and taking opportunities to share with others the learning arising from its work

- The GOsC has published a summary overview of the QA process, it has produced ongoing information about how OEIs are responding to conditions that the GOsC has placed on their recognised qualifications, it has produced summary reports which analyse trends and general findings in education and training, and it has provided to OEIs collective and individual analysis of their Annual Reports.

21 In July 2011 the National Council for Osteopathic Research published an electronic first edition of an introductory handbook on clinical audit for practising osteopaths.

- The GOsC has also shared with osteopaths, OEs and students the emerging findings from its preparedness for practice research.

14.8 The GOsC is undertaking ongoing work the results of which we would like to follow up in next year's performance review:

- It is developing guidance on osteopathic pre-registration education, aimed at developing revised specific educational outcomes and guidance that will tie in with the new OPS.
- As noted above, it is undertaking a pilot study of its continuing fitness to practise scheme which is due to complete in December 2012.

Registration

14.9 We consider that the GOsC has demonstrated that it continues to meet the Standards of Good Regulation for registration. It has introduced a number of administrative changes which overall should enhance the outcomes of the work of its registration function.

14.10 Changes that the GOsC has made during 2011/2012 to improve the timeliness of the registration process include:

- The introduction of an online renewal system for registration. As at December 2011 36% of registrants had used the online registration renewal facility.
- Online verification of an applicant's criminal record at the point of registration. This online process is quicker than the previous paper-based process, which had the potential to delay the application process.

14.11 Changes that the GOsC has implemented during 2011/2012 to enhance the effectiveness of the registration process include:

- The GOsC has agreed with professional indemnity insurance providers that they will electronically confirm the insurance status of applicants for registration/those renewing their registration. This will increase the GOsC's confidence in the data that it holds. Providers will also inform the GOsC of any in-year lapses in registrants' insurance cover. Both these measures should improve patient protection.
- The GOsC has improved its internal management of protection of title prosecutions to enhance more effective case management as well as the provision of more detailed management information.

14.12 Changes that the GOsC has introduced during 2011/2012 to improve communications with applicants for registration/those renewing their registration include:

- Allowing final year osteopathy students access to the registrants' section of the GOsC's website which means that final year students will automatically have access to detailed information about the registration process, as well as other material to support them in their transition to practice.

- Producing a new guide to renewing registration for existing registrants, and reviewing the letters sent by the registrations department to ensure that they are clear and simple to understand.

14.13 We plan to review the outcomes of the GOsC's ongoing work in this area in next year's performance review:

- The GOsC is reviewing the appearance and functionality of its register.
- The GOsC is reviewing its approach to registration appeals (such a review was last carried out in 1998). We are encouraged that although the GOsC only receives a relatively small number of appeals (none of which have led to the identification of any significant problems in the GOsC's approach) the GOsC has recognised that it would be timely to undertake such a review in order to ensure that its processes are operating as effectively and efficiently as possible.
- The GOsC is surveying its registrants to explore their attitudes and actions on becoming aware that someone may be practising osteopathy without being registered with the GOsC. The GOsC says that it will use the outcomes of this survey to develop advice and guidance to support osteopaths in reporting concerns about unregistered practitioners.

Fitness to Practise

14.14 The GOsC continues to meet the Standards of Good Regulation for fitness to practise. The GOsC has continued to maintain its performance in its fitness to practise function as we have previously reported, and has taken steps to apply the learning it has gained through its activities both within and outside the fitness to practise function in order to improve its performance. Examples of this include:

- As a result of helping registrants to ensure that their websites are compliant with the Advertising Standards Authority's *Code of Advertising Practice* alongside its consideration of marketing websites offering discounted osteopathic consultations the GOsC identified a need to consider whether registrants' websites were also compliant with its Code of Practice. Advice has been provided to osteopaths about maintaining compliance with the Code which should help protect patients from the risk of inaccurate information being publicly available.
- Learning from the GOsC's fitness to practise cases, internal quality assurance and CHRE learning points has resulted in training being provided to:
 - Investigating Committee members on jurisdiction and screening issues, and interim suspension hearings and orders
 - Professional Conduct Committee (PCC) members on conditions of practice (CoP) orders and cases concerning ill-health
 - The guidance for assessors who conduct clinical competence assessments being updated²².

²² The assessors' principal activity is related to the GOsC's registration function, but they also conduct assessments in some fitness to practise cases.

We note that in response to third party feedback, the GOsC is planning the development of an appraisal process for its assessors (in addition to the plans it already had in place to develop a plan for their training). Although we are disappointed that an appraisal process was not already in place, we are pleased that plans to develop one are now under way. Systematic training and appraisal of the assessors should enhance the consistency of decision-making and therefore public confidence in the GOsC's decisions.

14.15 We would like to review the outcomes of the GOsC's ongoing work in the following areas in next year's performance review:

- The revision of the GOsC's Indicative Sanctions Guidance, as well as the development of guidance for the PCC to use when imposing CoP orders. These guidance documents are important in ensuring transparency and consistency in decision-making, as well as in ensuring public protection.
- Consideration by the Fitness to Practise Committee of whether or not to introduce mandatory health assessments for those registrants who have been convicted or cautioned for an alcohol or drug related offence. We have previously reported that we consider such mandatory assessments to be good practice.
- An audit that is being undertaken by the GOsC to ensure that PCC hearings are conducted in accordance with the GOsC's rules and policies as well as accepted good practice in hearings management.

15. The General Pharmaceutical Council (GPhC)

Overall assessment

15.1 The GPhC has met all of the Standards of Good Regulation apart from one, which relates to the timely progression of fitness to practise cases. However, we consider that it is taking appropriate action to improve its case progression. As the majority of the 'legacy' cases it inherited from the former regulator have now been concluded, we would expect the GPhC to be able to improve its case progression during the next performance review period. We also have concerns about the GPhC's performance in consistently complying with the second Standard of Good Regulation for registration, as it has not achieved timely registration of pharmacy technicians during 2011/2012. While we recognise that this was a one-off exercise, we recommend that the GPhC seeks to identify any learning that may be of future benefit either to the GPhC or to other health professions regulators.

Guidance and standards

15.2 We consider that the GPhC continues to meet the Standards of Good Regulation for guidance and standards. It has demonstrated this by:

Continuing to develop standards for retail pharmacy premises, taking account of the views of its stakeholders

- The Pharmacy Order 2010 introduced a new legal framework for the regulation of retail pharmacy businesses. During 2011/2012 the GPhC has been actively developing the relevant standards and guidance that will apply to retail pharmacy businesses. In developing these standards the GPhC had regard to learning identified from the work of other regulators including the Care Quality Commission and the Medicines and Healthcare Products Regulatory Agency, as well as having regard to learning from its own work in areas such as fitness to practise. The GPhC also held pre-consultation meetings and events in order to gather a range of views from pharmacy and other stakeholders (including patients and patient representative organisations) before the consultation commenced.
- From January– April 2012 the GPhC publicly consulted on: the registration criteria for retail pharmacy businesses; the standards for registered pharmacy businesses; compliance guidance for owners and superintendents of registered premises; and a decision framework setting out how the GPhC will apply its enforcement powers.

15.3 In next year's performance review we will wish to see evidence of the outcomes of the GPhC's consultation on these standards.

Publishing and disseminating additional guidance to complement its core standards for conduct, ethics and performance

- The GPhC has recently published new guidance across a range of areas that impact on patient care, namely guidance on: patient confidentiality; raising concerns; consent; and maintaining professional boundaries. We note that the GPhC did not conduct a 12-week public consultation on those guidance documents, in line with established good practice. However, it did take steps to maximise both the number and quality of responses received by publicising the consultation through both the traditional media and new media mechanisms, and by holding consultation events.
- The GPhC has launched a new registrant bulletin (sent to every registrant as well as other stakeholders) which includes learning points from the GPhC's fitness to practise cases. The GPhC is currently developing an additional interactive online tool which will feature case studies, aimed at raising awareness of key learning points from fitness to practise cases, assisting registrants in applying the standards of conduct, ethics and performance and encouraging registrant participation in online discussion and debate.
- The GPhC has also sought to use new online tools and social media to engage with registrants to find out their views about any other areas that might usefully be the subject of additional guidance. It intends to use such tools in future in order to gauge views on how useful its guidance is in day to day practice.

Education and training

15.4 We consider that the GPhC meets the Standards of Good Regulation for education and training. It has demonstrated this by:

Implementing its new accreditation framework and process

- The GPhC is using its new education standards as the basis for its accreditation of education providers. The education standards are aligned to the standards of conduct, ethics and performance and the code of conduct for students. The new standards state that students/trainees must not be awarded an accredited degree, nor pass the pre-registration training stage, if they might pose a risk to patients or the public.
- The GPhC has established a new accreditation cycle - with accreditation taking place once every six years (that period is aligned to the length of pharmacy training) and with an interim practice visit being undertaken every three years in order to review the teaching, learning and assessment being provided.
- The new accreditation process places greater emphasis on stakeholders' views. Student feedback is already gathered and considered by education providers during course design and development and reviewed by the GPhC during the accreditation visit process. As part of its new accreditation process, the GPhC plans to survey pre-registration trainees and recently-registered former students across all the education providers in order to obtain their reflections on their experiences of training. The GPhC plans to pilot such a survey during 2012. Visitors (those who carry out the accreditation process) will also be required as part of the process to gather the views of patients and the public about the degree being accredited as part of the visit.
- The GPhC has offered written guidance and workshops to those education providers who are about to start the re-accreditation process, in order to ensure that its standards and process are clearly understood.
- The GPhC has introduced a requirement for education providers to respond formally to final accreditation reports. Those responses are now made available on the GPhC's website.
- It has concluded the process for recognising providers of national qualifications for pharmacy technicians. Fourteen education providers have been reaccredited as a result of that process.

Taking action to address concerns

- The GPhC identified concerns about two support staff course providers' and one overseas provider's ability to meet its standards for education and training. It discussed its concerns with each provider, which resulted in all three providers withdrawing their applications for approval.
- We previously reported that the RPSGB/GPhC had worked with two education providers whose students had underperformed significantly in the registration assessment, in order to identify the causes of their poor performance. The

GPhC believes that this remediation work contributed to the subsequent 20% improvement in these two providers' students' registration assessment results.

- 15.5 The GPhC responded to a number of concerns that were raised about the registration assessment (for example, concerns about delays in the assessment commencing) by commissioning a report by the Board of Assessors. The report indicated that the difficulties that had been experienced by some candidates did not have an impact on the outcome of the assessment itself, but recommended a review of assessment venues and the registration process. The GPhC conducted such a review in September 2011 and is in the process of implementing its recommendations in time for the June 2012 exam.

Continuing with its Continuing Professional Development (CPD) audits²³ as well as continuing to develop a scheme which it will use to assure itself of the continuing fitness to practise of its registrants²⁴

- In July 2011 a new CPD framework and rules came into force. Registrants have one year to bring themselves into compliance. From July 2012, checks will be carried out to ensure that CPD entries are relevant to safe and effective practice, and that they are relevant to the scope of the individual registrant's practice. Under the new framework the GPhC has the power to remove a registrant from the register if they fail to submit a CPD record, following a call for review. The introduction of this power allows the GPhC to mitigate any risk to patient safety that might otherwise arise as a result of the inevitable delay in taking action against an individual's registration while the matter is investigated. However, the GPhC emphasises that 'the key component of the new framework and rules is that the focus of failure to comply with the CPD requirements will be remediation, with removal from the register seen as the last resort'. In next year's performance review we will want to review the outcomes of the new CPD checks, as well as the GPhC's use of its power to remove registrants for non-compliance.
- In January 2012 the GPhC agreed that it will develop a scheme which will focus on assuring the continuing fitness to practise of its registrants, rather than the assessment of its registrants' fitness to practise at a fixed point in time, as well as stating that the GPhC's scheme should be consistent with the principles established by the Department of Health's working group in relation to the revalidation of non-medical healthcare professionals²⁵. The GPhC is currently seeking views from its stakeholders about its views on the basic principles that will underpin the scheme. In next year's performance review we will want to see evidence of progress in the GPhC's development of its continuing fitness to practise scheme.

23 We note that there was a delay in the call and review of CPD records in 2011/12 due to other operational demands. The GPhC reports that this should not affect the quality of the review.

24 We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

25 Department of Health, 2008. Principles for revalidation: report of the Working Group for Non-medical Revalidation; Professional Regulation and Patient Safety Programme. London: Department of Health

Registration

- 15.6 We consider that the GPhC continues to meet the Standards of Good Regulation for registration. It has maintained the activities we reported on in last year's performance review, as well as undertaking activities to enhance the effectiveness of its processes. However, we did identify two concerns about its performance during 2011/2012.
- 15.7 First, we note with concern the difficulties that the GPhC experienced in processing applications for pharmacy technicians (under the 'grandparenting arrangements') in a timely fashion. We recognise that this was a one-off exercise and that the difficulties may have resulted in part from the GPhC's under-estimation of the number of applications it was likely to receive (4,500 more applications were received than the GPhC had anticipated – which may indicate that its extensive communication campaign about the need to register had had a positive impact) as well as the fact that a large number of applications (5,500) were received in the eight weeks before the final deadline (at the end of June 2011). However, the GPhC took a significant amount of time to process the applications and we recommend that the GPhC reviews its handling of this process in order to identify any learning that might be useful for its own purposes, or for sharing with other regulators. We consider that this demonstrates an inconsistent performance by the GPhC in complying with the second Standard of Good Regulation for registration.
- 15.8 Our second concern arises from the annual check of the regulators' registers that we conduct as part of the performance review process. When checking the GPhC's register we discovered one entry which did not attach the relevant fitness to practise determination, as required under GPhC policy. When we notified the GPhC about this error it took action to rectify it and cross-checked the register in December 2011 to ensure that entries relating to sanctions imposed since September 2010 (the date when the GPhC became the pharmacy regulator) are correct. It carried out a further cross-check in February 2012. No further errors were identified. The GPhC told us that the error occurred due to non-compliance with the procedure in place, and that staff have now been reminded about the procedure that should be followed. We are satisfied with the action the GPhC has taken to address this matter. Whilst we note the action taken by the GPhC we consider that this error means that the GPhC is unable to demonstrate 100% compliance with the third Standard of Good Regulation for registration.
- 15.9 We note that the GPhC has undertaken the following activities during 2011/2012 in order to enhance the effectiveness of its registration function:
- It has restructured and retrained teams so that they are multiskilled, this provides greater flexibility in deployment of resources to meet variable demands.
 - It has introduced a new customer service centre in order to improve the timeliness of call-handling. The new customer service centre means that trained advisers are available to offer advice on all aspects of the registration process.

- It has made improvements to the format of declarations that registrants make on renewing their registration, in order to ensure that registrants confirm that they have adhered to and that they will adhere to the requirement to undertake and record CPD. It has also improved the clarity of its renewal notices and letters.
- It has reviewed and made improvements to the management of its internet pharmacy logo. Updated logos have been issued to authorised holders that are linked to registered pharmacy premises. The security of the online links from the updated logos has also been improved.
- The format of the online register has been amended so that it now shows registration expiry dates. This enables employers and others to determine during the two months between the renewal deadline and expiry and prior to any removal of the registrant for non-renewal whether a registrant has successfully renewed. It has also introduced a subscription service for access to its registration database for employers. This service enables organisations to check the GPhC's registration data against their own databases.
- It has developed a prosecutions policy which indicates its approach to initiating either criminal or fitness to practise proceedings against a pharmacy professional or anyone else who has practised while not registered.

15.10 The GPhC has set out a number of further planned improvements which we will follow up in next year's performance review:

- Any reduction in the number of errors on Pharmacy Technician applications which results from the revision to the application form and guidance notes. In 2011/2012, approximately 33% of applications received under the 'grandparenting' arrangements contained errors, and approximately 40% of other applications contained errors. A reduction in errors would have a positive impact on the time it takes to process applications.
- Any progress in introducing a formal approach to quality assurance/audit of registration decisions.
- Any progress on the work being undertaken to change the requirement for European-qualified applicants to provide a health declaration that has been certified by a doctor – to bring that process into alignment with the self-declaration process that applies to UK applicants.

Fitness to Practise

15.11 The GPhC meets the majority of the Standards of Good Regulation for fitness to practise. However, we do not consider that its performance against the standard *'Fitness to practise cases are dealt with as quickly as possible, taking into account the complexity and types of case and the conduct of both sides'* is sufficient to enable it to meet that standard. We note that the majority of the legacy cases that it inherited from the former regulator have now been concluded (519 cases out of 589 as at the end of March 2012). We also note that the GPhC is continuing to undertake a number of activities to improve timeliness, including activities to improve its monitoring of its case progression. During 2011/2012 the GPhC has:

- Changed its investigation processes so that individual caseworkers maintain responsibility for cases, whilst information/evidence is gathered by the inspection team. This should improve oversight of case progression.
 - Increased the number of hearing days per month and reduced the length of hearings through effective use of case management directions.
 - The GPhC has continued its review of the previous regulator's case management system to see whether it is fit-for-purpose. In the meantime it has developed a new fitness to practise database to enable monitoring of caseload progression.
- 15.12 The GPhC reports that it does not wish to put in place stage-specific performance standards, choosing instead to focus on measuring and improving 'end to end' performance. Currently the GPhC reports to its Council on performance in its fitness to practise function under three headings: quality, timeliness and resources. The information reported to Council includes: the number of cases opened and closed at each stage of the process; updates on the number of 'legacy' cases which remain open; and an indication of the GPhC's performance against a general service standard requiring all cases to be concluded within 12-15 months. The GPhC says that as part of the next stage of development of its performance monitoring it wishes to identify a small number of qualitative and quantitative performance measures
- 15.13 The performance measures that are used in fitness to practise should be able to demonstrate convincingly to the GPhC's Council and other stakeholders that the current issues with timeliness of case progression are being addressed, as well as providing the management information which will identify accurately any part or parts of the process which are particularly problematic. While we understand the approach that is being taken, we are concerned that it may not be able to fulfil these requirements because it does not include stage specific performance indicators. Therefore we recommend that it is kept under close review, and that the GPhC considers other approaches being taken in the sector.
- 15.14 In meeting the other nine Standards of Good Regulation the GPhC has undertaken a number of activities which should improve the effectiveness and transparency of its fitness to practise processes. We are encouraged that a number of these activities have addressed issues that were highlighted to the GPhC in last year's performance review report. During 2011/2012 it has:
- Developed and published various guidance documents including: the Indicative Sanctions Guidance to be used by its fitness to practise committees; and the criteria to be applied by staff in making decisions about direct referrals to a final fitness to practise committee. These documents should help to improve the quality, consistency and transparency of decision-making, if the relevant decision-makers are trained in their use and if appropriate quality assurance of their decisions is carried out.

- Commissioned training by the Samaritans for caseworkers on how to deal with vulnerable witnesses. The aim of this training was to improve the customer service provided to vulnerable witnesses, so that they remain willing and able to participate in fitness to practise proceedings. The GPhC has also published a witness care leaflet which provides information on what happens before and at a fitness to practise hearing.
- Developed memoranda of understanding with other regulators in order to improve information-sharing as well as to provide opportunities for collaborative working and thereby reduce the burden of regulation.
- Introduced pro-active monitoring of registrant's compliance with restrictions imposed on their practice. A new postholder (the Monitoring Manager) liaises with third parties involved in remediation activity being undertaken by registrants, following the imposition of a restriction on their practice, and ensures that appropriate action is taken if any breach of conditions or undertakings occurs.
- Introduced a system of requesting that any registrant who is convicted/cautioned for a drink-drive offence undergoes a health assessment, in order to establish whether or not they have a health condition that may impair their fitness to practise. The GPhC plans to monitor the impact of this initiative on public protection. We have previously reported that we consider this to be good practice.
- Established an internal group to review decisions made by the Investigating Committee and the Fitness to Practise Committee in order to identify any learning for the organisation.
- Improved the accessibility and transparency of the information on its website. For example, there is now a dedicated hearings schedule page, which links to final fitness to practise determinations, and the online register now provides access to determinations of the former pharmacy regulator.

15.15 In next year's performance review we will want to review the outcomes of the following pieces of work that are currently under way:

- Progress on concluding the 'legacy' cases by the target date of September 2012 (519 cases out of 589 have been concluded as at the end of March 2012).
- Progress in implementing the planned quality assurance function within the investigation and case management and inspections teams so that quality assurance work is undertaken at each stage of the fitness to practise process and is used to identify problems and drive continuous improvement.
- The finalisation of a scheme of delegation for decision-making, to help staff understand the boundaries of their decision-making powers, and to enable managers to monitor the quality and consistency of decisions made.
- The development of: guidance for registrants who have a fitness to practise complaint made against them in order to inform and assist them through the process; a bulletin for statutory committee members to keep them updated on relevant matters between training sessions; and feedback forms for registrants and witnesses (currently only complainants are asked for feedback).

- Completion of the review of the former regulator's case management system, in order to assess whether it is fit-for-purpose for the GPhC.
- Progress in improving the performance data provided to its Council about fitness to practise case progression.

16. The Health Professions Council (HPC)

Overall assessment

- 16.1 The HPC has continued to perform as an effective regulator across each of the regulatory functions for the diverse range of professions that it regulates. This is particularly notable given the significant work it has undertaken in preparation for the transfer to it in mid-2012 of regulatory responsibility for social workers in England as well as the considerable planning that is under way for the assumption of responsibility for regulation of practitioners of herbal medicine. We will review the outcomes of this work in next year's performance review.
- 16.2 Whilst the HPC does not yet meet the standard *'the process for quality assuring education programmes ... takes account of the views of patients, students and trainees...'* we are encouraged by the steps that it has taken to review and consider its approach to incorporate service users' perspectives. In particular the HPC has decided to publicly consult on amending its standards of education and training, in order to make service user involvement an express requirement in the design and delivery of education programmes, and it has also decided to redefine the term 'lay visitor' to remove the requirement for visitors to have education experience.
- 16.3 We have also highlighted a concern about the consistency of the HPC's performance against the third Standard of Good Regulation for registration as we identified one entry from our review of a random sample of entries on its registers which was incorrect. The HPC has taken steps to address this error.

Guidance and standards

- 16.4 We consider that the HPC continues to meet the Standards of Good Regulation for guidance and standards. It has demonstrated this by:

Taking steps to continuously improve its Guidance and standards function.

- The HPC has analysed the methods of involving service users in consultations about guidance and standards that both it and other regulators have used in the past. As a result, the HPC plans to undertake several pieces of work during 2012/2013, including: mapping UK-wide advocacy and patient groups (as part of wider stakeholder mapping work); updating dedicated service user engagement pages on its website; and considering the development of a service user engagement toolkit for staff. The outcomes of that work will also inform the HPC's plans for the revision of its *Standards of Conduct, Performance and Ethics* during 2012/13.

- The HPC published '*General public and registrants' research 2011*', which explored attitudes towards and awareness of the HPC. The HPC intends to review the outcomes of that research in order to identify any improvements that could inform its consultation processes or its general communication mechanisms, and to identify whether other work to raise public awareness of the HPC (which will become in the future the Health and Care Professions Council (H(C)PC)) and its regulatory roles and responsibilities should be carried out in future.

Responding to registrants' concerns

- The HPC has provided additional guidance and information for its registrants about its standards, including articles about: scope of practice; the supply, administration and prescribing of medicines; the use of social networking sites; and maintaining confidentiality. These topics were selected because they are frequently raised by HPC registrants.

Developing relationships with the social care regulators in Scotland, Northern Ireland and Wales

- The HPC has been working to ensure that it builds good relationships with the social care regulators in Scotland, Northern Ireland and Wales in order to facilitate effective information-sharing and to assist in consistency of approach. The HPC has also been developing an approach to recognition arrangements that will permit social workers who are qualified or registered elsewhere in the UK to apply for registration in England, without unnecessary barriers, from the date of the opening of the H(C)PC's register for social workers in England.

Education and training

- 16.5 We consider that the HPC continues to meet most of the Standards of Good Regulation for education and training. It does not yet meet the standard which requires that '*the process for quality assuring education programmes ... takes account of the views of patients, students and trainees...*'. However during 2011/2012 the HPC has continued to make progress towards meeting this standard.
- 16.6 The HPC has progressed various research and pilot projects aimed at identifying whether there are benefits to incorporating service user perspectives into the education and training process, identifying what work is already being undertaken in this area by education providers. In March 2012 the HPC decided to publicly consult on amending its standards of education and training, to make service user involvement an express requirement in the design and delivery of education programmes. It also decided to redefine the term 'lay visitor' ('visitors' are those who carry out the quality assurance of education providers on behalf of the HPC) in order to remove the requirement for lay visitors to have education experience. This should widen the type of applicant that can apply to hold such a position. We are encouraged by these developments, which should broaden the type of service

users who can be involved in this work. We note that quality assurance visits usually involve meetings with students on the programme.

- 16.7 The HPC has demonstrated that it meets the majority of the standards for education and training by continuing with the activities that we have previously reported on and by undertaking the following activities:

Continuing with its quality assurance (QA) visit cycle and taking steps to improve the QA process

- The HPC has taken action during 2011/2012 to address failures to comply with its standards for education and training.
- The HPC has removed the option of awarding a commendation to an education programme, following feedback that indicated that there was a lack of clarity about the purpose of commendations, that they were not linked to the standards for education and training, and that there was a lack of consistency in the awarding of them. The HPC concluded that awarding commendations was not proportionate or directly linked to the regulator's role in assuring students' fitness to practise upon completion of an education programme.

Taking steps to make the HPC's education and training function more transparent

- The HPC has published and disseminated a document named '*An introduction to our Education Processes*' which provides an overview and introduction to its approach to education. We note that this document has received a 'crystal mark' indicating that it is clearly written.
- The HPC has hosted a series of education seminars focusing on practice placements, following a number of education providers having some difficulty meeting its standards in this area. The seminars also included a section on the HPC's published research into professionalism, as the HPC considers that there is a link between practice placements and professionalism, in that practice placements can help develop students' professionalism.

Continuing with its mandatory continuing professional development (CPD) audits and developing its plans for a scheme which it will use to assure itself of the continuing fitness to practise of its registrants²⁶

- The HPC has decided that the core component of its work on developing a scheme which will be used to assure itself of the continuing fitness to practise of its registrants should be to build an evidence base on 'professionalism'. That decision was taken following the HPC's analysis of its own and other data, which indicated that it is conduct rather than competence issues that form the focus of most fitness to practise concerns. The data that the HPC has gathered to date as part of its research project on professionalism have been widely disseminated.

²⁶ We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

- The HPC is currently undertaking a multi-variant analysis of CPD audit data, looking at correlations between outcomes of CPD audits and variables such as age, gender and place of registration. Alongside this work, it is carrying out a multi-variant analysis of data about registrants who have had a sanction imposed on them at a final fitness to practise hearing. The findings from this work will inform the HPC's proposals for a continuing fitness to practise scheme.

- 16.8 In order to prepare for the transfer of responsibility for regulating social workers in England the HPC has planned seminars that will take place before the its register of social workers opens, targeted at all current social worker education providers. The seminars will cover a range of topics including the HPC regulatory model, the standards for education and training and the HPC's approach to student fitness to practise. Further seminars will then be held in October/November 2012 aimed at those going through the approval process in that academic year (2012 - 2013). It is also working with the current regulator to ensure that it obtains accurate and up-to-date information about the education programmes they have approved previously, so that applicants who were not on the register on the day that responsibility for regulating social workers in England transfers, H(C)PC will be able to register in the future as it will have information on programmes that were previously approved by the current regulator. The need for this was identified from the HPC's previous work in assuming responsibility for practitioner psychologists.
- 16.9 The HPC has undertaken work to determine the threshold qualification for social workers' entry onto its register, once the responsibility for regulating social workers in England transfers. Following a public consultation, the Education and Training Committee agreed that the threshold qualification should be a bachelors' degree with honours.

Registration

- 16.10 We consider that the HPC continues to meet the Standards of Good Regulation for registration.
- 16.11 However, we identified one concern about the HPC's registration function in this reporting period. As stated earlier in this report, each year we carry out a registers check on a random number of registrants who have had a sanction imposed on their registration. When carrying out the HPC register check for the purpose of this performance review, we identified that there was one entry on the HPC's register in our random sample that appeared to be incorrect. The error we identified had potential implications for public protection as it involved a registrant's interim conditions of practice not being annotated on the public register. We acknowledge that the HPC conducts a monthly review of the register comparing registrants currently within the fitness to practise process or subject to a sanction against a list of those on the register with a fitness to practise status, and note that our check fell between two reviews. We also welcome the HPC's actions in taking steps to rectify the error and to ensure that it would not be repeated, once we brought the error to its attention. However as a result of our identification of that error, we consider that the HPC is unable to demonstrate 100% compliance with the third Standard of Good Regulation for registration.

16.12 It has demonstrated that it has met the Standards of Good Regulation by making enhancements to its registration function to ensure that it continues to be consistent, transparent and effective. Examples of the work the HPC has undertaken in 2011/2012 include:

- Improving the liaison between the fitness to practise (FtP) and registration departments in relation to registration appeals that do not originate from a decision by the registration panel. The FtP department refers such appeals to the registrations department, to consider whether any aspects should be referred back to the registration assessors to consider before progressing through the appeal process. The HPC has also introduced case conference meetings for registration appeal cases to ensure that early discussions take place about any issues that might arise at appeal hearings, and to identify any feedback for registration assessors. The HPC hopes that this will make the appeals process more timely as it enables issues that might be raised at appeal hearings to be dealt with in advance so that the hearing can focus on considering the appeal.
- Carrying out ongoing customer service research by asking a sample of registrants who have recently experienced different processes within the registration function for their feedback. The HPC is now collecting that feedback on a quarterly rather than an annual basis, which means the organisation can address any issues more promptly. The HPC has also made its service standard for responding to email enquiries addressed to the registrations department more challenging, following registrant feedback – reducing the time from five working days to two working days.
- Making ongoing improvements to the process for verifying an applicant's identity, professional experience and education, including: adjusting the application form that is completed by international applicants to require them to identify any relevant regulator that they have previously registered with; and carrying out improved checks on UK applicants who are seeking readmission to the HPC's register, having practised abroad in the period since they were previously registered with the HPC.
- Raising the HPC's profile amongst Citizens Advice Scotland (CAS) advisers by developing an online training module for them. The purpose of this work is to enable CAS advisers to share with members of the public accessing the CAS's service information about how to check the HPC's register, and how to raise a concern about an HPC registrant.
- Amending its registers to include information about registrants who have been suspended either at a fitness to practise hearing or on an interim basis. Although the HPC's registers still do not include information about individuals who have been struck off, the HPC has amended its website to make it clear that practitioners who have been struck off the register no longer appear on the online register. The register also provides a link to fitness to practise hearing outcomes, so that members of the public can check whether a particular individual has been struck off following a hearing.

- Improving the clarity of the register in terms of whether or not a registrant has any additional entitlements, e.g. for chiropodists and podiatrists the register shows whether they can legally administer certain local anaesthetics and now provides additional information explaining these entitlements.
- Improving access to the registers by launching an iPhone application to provide another route for individuals to use to check the registration status of individual practitioners.

16.13 The HPC has recently decided that it will not maintain a register of student social workers, following the transfer of responsibility for regulating social workers in England. We consider that this decision is in line with right-touch regulation.

Fitness to Practise

16.14 We consider that the HPC continues to meet the Standards of Good Regulation for fitness to practise. The HPC has maintained its performance whilst making a number of enhancements which will improve the effectiveness and transparency of its fitness to practise process.

Steps taken to improve the effectiveness of the process

- The introduction of the use of registrant assessors at fitness to practise committees, to ensure that the committees have the necessary information in cases where the registrant panellist may not have specialist knowledge in the particular area related to the allegation. This has been positively received by fitness to practise panellists.
- The introduction of a systematic approach to dealing with CHRE's learning points, which enables the HPC to assess whether any changes to its processes, guidance or training would mitigate any future risk of repetition of the issue. This work has also assisted the HPC in revising some of the practice notes used by its fitness to practise panellists (for example, the '*Drafting Fitness to Practise Decisions Practice Note*'). As a result, the HPC reports that it has observed an increase in the consistency of its panellists' decisions and a decrease in the number of learning points identified.
- Enhancing its witness support system to ensure that witnesses are willing and able to participate in current and future hearings. The telephone call made to each witness before a hearing now aims to address any anxiety the witness has about the hearing and to check what assistance they may need on the day of the hearing. The HPC is also piloting a system of debriefing witnesses after the hearing if they have expressed anxiety or if their experience of giving evidence has been either lengthy or particularly difficult/emotional. Hearings Officers have received training from MIND to help them with this work.
- Changes have been made to the Investigating Committee stage of the fitness to practise process. The HPC has introduced a case investigation report template for caseworkers to use when presenting a case to the Committee; a decision template for the Committee to use when recording its decisions; and the new role of Investigating Committee Co-Ordinator who acts as the secretariat for the Committee. The audits that the HPC has carried out of

decisions that have been made by the Investigating Committee since these changes were introduced indicate they have resulted in improved consistency of decision-making and the correct application of the realistic prospect test. The HPC has also published detailed guidance about the information that registrants may want to provide to the Committee, which it believes has resulted in more registrants providing observations to the Committee, thereby assisting the Committee in understanding the complaint, and making an informed and fair decision.

Steps taken to improve the transparency and accessibility of the fitness to practise process

- The HPC has published and disseminated an 'easy read' version of '*How to raise a complaint*' which should help both service users with communication or learning difficulties and those who work with them to engage with the fitness to practise process.
- The HPC has published a statement setting out the purpose of the fitness to practise process. This should help those who are already engaged or who are about to engage with the fitness to practise process to understand its scope. This statement is linked on the website to further information about the types of complaints that are relevant to the HPC's fitness to practice process. Providing clarity about the purpose of the fitness to practise process should assist the HPC in managing complainants' expectations from the start of their involvement.
- It has also published a summary of its '*Fitness to Practise Annual Report*', which contains key fitness to practise statistics. This summary should make information about the HPC's fitness to practise function more accessible to readers, and improve their understanding of it.

16.15 In preparation for the transfer of responsibility for regulating social workers in England, the HPC has carried out research on the current regulator's caseload, in order to ensure that the HPC has sufficient resources to manage the size and complexity of the social work caseload and to ensure a smooth transfer of the caseload. It has also communicated with the social work profession about the differences between the remit of the current regulator and that of the HPC for example, the HPC can consider complaints about misconduct, health and competence whereas the current regulator can only consider complaints about misconduct.

16.16 Alongside taking on the register of social workers in England, the HPC is taking forward four other key projects that we would also like to follow up in next year's performance review:

- The implementation of a new case management system, which will integrate the systems currently in place relating to ill-health and character, prosecution offences, appeals, and fitness to practise on one platform.
- A pilot of mediation as an alternative dispute mechanism. The outcome of this pilot will be used to inform the HPC's approach to the value of mediation to complainants, registrants and public protection.

- Outcomes of the research the HPC is currently undertaking about the treatment of registrants who have criminal convictions/cautions and how those convictions affect their fitness to practise. The HPC will use that research to inform its decision about whether or not to introduce mandatory health assessments for registrants who have been convicted or cautioned for an alcohol or drug related criminal offence. We have previously recommended this as good practice.
- A review of other adjudication models, in order to consider whether the HPC's adjudication function could become more independent.

17. The Nursing and Midwifery Council (NMC)

Overall assessment

- 17.1 Although the NMC has met most of the Standards of Good Regulation we are concerned that six of the standards have not been met, and that there are weaknesses in the NMC's performance when meeting a further two.
- 17.2 Our concerns relate to the NMC's education, registration and fitness to practise functions and specifically to:
- The slow progress being made on introducing a scheme which will enable the NMC to assure itself of its registrants' continuing fitness to practise.
 - The integrity of the NMC's online register of registered nurses and midwives.
 - The effective management of the NMC's registration workload.
 - The NMC's ability to prioritise, progress, and effectively monitor its caseload, particularly in relation to those cases that were initiated prior to January 2011.
 - The timeliness of the NMC's fitness to practise case progression.
 - The quality of the NMC's management information.
 - The quality of the decisions made and recorded by the NMC's Investigating Committee and fitness to practise committees.
 - The quality of customer service in the fitness to practise department.
 - The quality of record-keeping in the fitness to practise department.
 - The processes that the NMC has in place to enable it to learn from errors, such as its serious event review process.
 - The consistency of the ongoing monitoring of risk in fitness to practise cases.
 - The quality of the NMC's investigation of fitness to practise cases.
 - The ability of the NMC to keep its fitness to practise information secure.

- 17.3 We have also been disappointed by the NMC's failures during 2011/2012 to adopt good practice in relation to public consultation on a number of matters (including its consultations on student indexing and on the proposed changes to its fitness to practise rules). Our concerns relate to the short timeframes set for each consultation, the lack of notification to key stakeholders about the consultations commencing, and indications given in either the consultation documents or papers that were considered by the NMC's Council prior to the closing of the consultations that the NMC's plans were already well-developed and unlikely to be changed in the light of the feedback gathered through the consultation process. This is contrary to established good practice on public consultation, which indicates that a minimum of 12 weeks should be allowed for responses to consultations, and that consultation should be carried out at an early stage in policy development when there is a genuine chance of responses influencing the final outcome. We were also concerned about the NMC's failure to recognise that it would need to publicly consult on its revised Indicative Sanctions Guidance (the NMC only initiated a public consultation on the guidance after a third party stakeholder threatened legal action). The NMC has acknowledged these failures and has assured us that such errors will not recur.
- 17.4 We acknowledge that the NMC is going through a further period of transition following the resignation of the Chief Executive in January 2012, followed by the resignation of the Chair of Council in March 2012. We appreciate that it can be challenging to improve performance during such transitional periods. Alongside this, we are about to complete a Strategic Review of the NMC at the request of the Under Secretary of State, who asked for our advice on whether *'the way in which the NMC is structured, the manner in which it allocates its resources and its strategic leadership are aligned enable the organisation to deliver its core regulatory functions in a manner that is efficient, effective and in keeping with the principles of right-touch regulation'*. We recognise that our review has led to further changes to the organisational structure and we note that recruitment of a new Chief Executive and Chair has begun. Our interim report on the Strategic Review was published on 10 April 2012.
- 17.5 In our view, it is essential that significant improvement is achieved within the NMC's registration and fitness to practise functions as a matter of urgency. The weaknesses that we have identified have real and ongoing implications for public protection and public confidence in the NMC as a regulator, particularly given the history of ongoing problems within the NMC's fitness to practise function over the last four years. We are encouraged that the NMC has already recognised the need to focus on delivering real improvements in its core regulatory functions. In February 2012 it reviewed its current activities in order to consider whether there was sufficient evidence that each of them was necessary for public protection. Any activities that were not considered to be necessary for public protection were either deferred or stopped at that stage. We would recommend that the NMC Council takes urgent steps to ensure that it is provided with sufficient robust management information to enable it to monitor effectively the organisation's progress in achieving an acceptable standard in delivery of all its core regulatory functions. The maintenance of public protection must be the NMC's key objective in all of its work.

Guidance and standards

- 17.6 The NMC continues to meet the Standards of Good Regulation for guidance and standards. We note that the NMC has undertaken work during 2011/2012 on a number of projects in its guidance and standards function which have recently been stopped or deferred, following the Council's re-assessment and re-prioritisation of its work-streams in February 2012 in order to focus on its core regulatory functions. The following work-streams have been stopped:
- The development of additional material to support the NMC Code, covering areas such as the standards that apply to: nursing in secure environments; nursing in the armed forces; and leadership roles.
 - The development of standards around critical thinking, decision-making and record keeping.
 - The regulation of advanced practice.
 - The review of the specialist community public health nursing part of the register.
 - Development of critical intervention standards.
 - The publication of the quarterly journal '*NMC Review*'.
 - The establishment of the standards and ethics helpline. Instead, the NMC has told us that it will focus on providing an information and signposting service on its website, and that in addition a new approach to reviewing NMC standards and guidance was agreed by its Council in March 2012.
- 17.7 The following two workstreams have been deferred:
- A comprehensive review of the Code.
 - The development of standards for delegation has been deferred pending the outcomes of both our Strategic Review and the NMC's collaboration with Skills for Health on developing standards for healthcare support workers.
 - We note that a review of specialist practice qualifications will now form part of the NMC's work in developing a continuing fitness to practise scheme²⁷.
- 17.8 However, despite this change of focus, we consider that the NMC has demonstrated that it meets the Standards of Good Regulation in guidance and standards by continuing with the activities previously reported on and by:

Continuing to develop and publish additional guidance on issues specific to patient care and public confidence

- The revision of '*Midwives Rules and Standards*' has continued. Despite some delays the new '*Midwives Rules and Standards*' is due to be published by the end of 2012, and will supersede the current '*Midwives Rules and Standards*' (2004) and the '*Standards for the supervised practice of midwives*' (2007).

²⁷ We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

- The NMC published and disseminated new advice for registrants and students on how they can use social networking sites whilst still being compliant with the standards of conduct expected of them.

Continuing with its work to assist registrants and employers to understand its standards and guidance and what action should be taken action if they are not followed

- The NMC has secured the agreement of the Care Quality Commission (CQC) to make it a condition of CQC registration from April 2013 that GP practices demonstrate satisfactory processes for checking the NMC registration status of practice nurses, as well as their specialist qualifications. We consider that the NMC's approach to this issue is proportionate and in line with right touch regulation, as it has identified the issue, raised awareness, and identified the mechanisms that already exist to address the problem by collaborating with CQC and other regulators.

The implementation of quarterly performance monitoring of the local supervising authorities of midwives

- The quarterly monitoring tool was fully implemented from April 2011. The NMC has reported that it is proving to be an effective early warning system, alerting it to issues at a much earlier stage and that this has enabled it to take appropriate action. It has reported an example of this - the information gathered through the tool contributed to the NMC's decision to undertake an extraordinary review of the University Hospitals of Morecambe Bay Trust. The NMC reports that this tool has also led to improved collection and analysis of evidence relating to the effectiveness of the supervision of midwives.

17.9 In next year's performance review we would like to see evidence of the progress of the work undertaken by the NMC to review the impact of its standards, their contents and the way in which they are developed, maintained and evaluated.

Education and training

17.10 We consider that the NMC continues to meet most of the Standards of Good Regulation for education and training. It does not yet meet the standard *'through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise'*.

17.11 The NMC has continued to make slow progress in developing its scheme for assuring the continuing fitness to practise of its registrants²⁸. We recognise that it has undertaken a significant amount of stakeholder engagement so that it can understand the views of its registrants and others about the aims of such a scheme and how those aims should be achieved. We also recognise the work that has been done to strengthen the governance of the programme, to collate an evidence base, to analyse fitness to practise data, and to introduce regular random audits of compliance with the existing post-registration standards. However, we are

28 Please see above footnote.

concerned that little work has been undertaken to establish the risks involved with nursing and midwifery. As illustrated by the work that other regulators have undertaken, understanding risk is an important part of the development process for non-medical continuing fitness to practise schemes.

- 17.12 The NMC reports that it is not yet clear what its continuing fitness to practise model will look like, but it anticipates that it will be based on revised post-registration education and practice (Prep) requirements. The NMC intends to revise the current Prep requirements so that they are clearly focused on outcomes and require registrants to undertake learning which is relevant to their current area of work and scope of practice and which will lead to improved practice. A risk-based audit process will be introduced, which will work in a similar manner to the CPD audit systems that other regulators have already established (for example, the HPC).
- 17.13 As mentioned above, in February 2012 the NMC's Council reviewed the organisation's activities in order to ensure that each of them is both in line with the NMC's core objectives and necessary for public protection. In the education and training function, that review led to the NMC's plans for student indexing (which we reported on in the performance review for 2010/2011) being terminated. In last year's performance review report we questioned the proportionality of the plans for student indexing, as we considered that the relatively minor risks that the NMC was proposing to address could be managed through other means. We therefore welcome the NMC's decision to abandon these plans. The plans to bring the quality assurance of education and training in-house have also been deferred, despite the significant amount of work that had already been done in preparation for this being implemented during 2012. We understand that in Summer 2012 the NMC's Council will be asked to consider the strategic direction of quality assurance of education for delivery beyond 2013.
- 17.14 Examples of activities that the NMC has undertaken that have led us to conclude that it has met the majority of the standards in this area are:

Implementing new outcome-focused standards for pre-registration education

- The NMC's new standards for pre-registration education came into effect in September 2011. The NMC has quality assured and approved 32 nursing and midwifery education providers against these standards (by the beginning of December 2011). The NMC says that the remaining providers will go through the approval process before the end of 2013.

Continuing with its quality assurance programme and taking actions to improve the quality assurance process

- As part of the quality assurance process, the NMC has reviewed the student fitness to practise processes that are operated by nursing education providers. It has gathered information on the number of hearings held by the education providers, the reasons for the hearings, and the outcomes of the cases. It says that it has not been able to identify any pattern of concerns which would cause it to consider reviewing its standards or taking other action.

- As part of the quality assurance process, the NMC has reviewed documentary evidence provided by education providers concerning service user and carer involvement in programme development and delivery. It has also obtained feedback from service users, carers and students about their involvement in this work. The reviewers have also met with students to discuss their experiences of the courses and the practice placements. All of this work has fed into the NMC's appraisal of education providers. Learning from this work such as examples of good practice has also been disseminated to education providers to enable such practice to be adopted or learnt from. It has also been disseminated to reviewers so that those who carry out the quality assurance visits on behalf of the NMC are aware of the types of evidence education providers could provide about service user and carer involvement in programme development and delivery.
- The NMC has continued with its annual monitoring activity and intends to take steps to ensure that education providers address the concerns identified through this work. It intends to focus specifically on two particular areas in 2012/13 which arose from the annual monitoring work that was undertaken in 2011/12. The NMC wants to be assured that there is appropriate and effective governance of practice placements; and that all teaching staff are maintaining their professional registration and have a recordable teaching qualification.
- The NMC has responded to concerns identified by CQC and communicated to it about the learning environments for nursing and midwifery students at Lincolnshire Hospitals NHS Trust which resulted in the request for the removal of student nurses and midwives from care areas at Pilgrim Hospital. It was concerned that the Hospital did not provide a safe and effective learning environment for nursing and midwifery students. We would encourage the NMC to review any learning from these events to consider whether its approach is proportionate and effective.
- Reviewers have undergone training to improve the consistency of their approach as issues arise, including improving their understanding of the policy context of health and social care in each of the four countries. This training is ongoing.
- A QA reference group has been established to engage with subject experts so that their expertise can influence and help shape the NMC's approach to quality assurance.

Using its data to help students and providers

- The NMC has revised its guidance for students, with the intention of making it easier to understand and to apply to their actions and conduct.
- It has reviewed the education data it has gathered since 2007 to help identify those education providers that consistently perform well or poorly, so that it can provide appropriate support to those providers who perform poorly. These findings have been shared with reviewers, with the QA reference group (mentioned above) and with the NMC's internal education group.

- The NMC has taken steps to learn from frequently asked questions and has developed factsheets on some subjects (such as standards to support learning and assessment). The NMC has also begun publishing a monthly e-newsletter for education stakeholders to share news and learning.

Registration

- 17.15 The NMC meets the majority of the Standards of Good Regulation for registration. However, we do not consider that it meets the following standard:

Through the regulator's registers everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice.

- 17.16 The NMC does not meet this standard for two reasons. First, the register does not currently show data about registrants who have been suspended or those individuals who have been struck off the register. The NMC intends to make this information available from its online register during 2012. We will report on this in our next performance review.
- 17.17 Second, we are concerned about the integrity of the data on the NMC's register. As stated earlier in the report, each year we carry out a registers check on a random number of registrants who currently have a sanction imposed on their registration. When carrying out the check on the NMC's register, we identified that there was one entry within our random sample which did not appear to be correct. The error identified related to an individual who had been restored to the register pending his successful completion of a return to practice course. That individual had not yet completed the course, but the register wrongly indicated that he was already registered with the NMC. This error had clear implications for public protection.
- 17.18 As a result of our alerting the NMC to that error, the NMC carried out an audit of all 27 restoration cases considered since its register was established. That audit identified 14 cases where there were errors associated with either the online register or with the database that is made available to employers. The NMC's audit also identified a further three cases in which individuals had wrongly been entered onto the register without the NMC being confident that they were fit to practise. The NMC has taken steps to: correct the errors identified on the register; to amend its standard operating procedures; to add in an additional internal control mechanism relating to changes to its register; and to develop guidance and training for its fitness to practise and registration staff.
- 17.19 As a consequence of the outcome of the NMC's audit of the restoration cases, it decided to carry out an audit of its entire registration database. This has identified there are a minimum of 414 instances of incorrect data on the registration database. (We note that the register is populated with data from the registration database.) We have been told that the reason for this is that the NMC's registration database and the electronic case management system are not linked and therefore the outcomes of fitness to practise cases are manually inputted onto the NMC's registration database leaving room for human error. The NMC has told us that the registration records are being updated as soon as it becomes aware of the errors.

17.20 We are seriously concerned by the number of errors identified by the NMC as a result of the audits it has carried out. It is imperative to public protection and public confidence in the NMC as a regulator that its registration database is an effective and accurate record of all registrants' current fitness to practise status. We recommended to the NMC that it introduce a system of regular audit of its registration database to ensure that such failings are not repeated, or if they do occur that they are addressed promptly. The NMC has told us that it has taken steps to establish a team who are responsible for carrying out regular audits of its register to ensure that it is correct. It says that it will run daily checks of the registration database with any emerging errors being corrected immediately. It says that it will do this until it is in a position to remove the problem by replacing its existing IT systems as is envisaged in its draft ICT strategy. We will return to this issue in next year's performance review.

17.21 Additionally we are concerned about the NMC's performance in:

Effectively managing the workflow of the NMC registration department

17.22 Over the summer of 2011 the NMC had difficulties in managing the volume of registration applications it received. This led to delays in the processing of applications, in particular in gathering the information required before a registration decision can be made. It was also clear that registrants and applicants for registration experienced difficulties in making contact with NMC staff during the registration renewal period in order either to register or to raise queries.

17.23 The NMC has told us that it restructured its registration department over the summer of 2011, but that it subsequently became clear that the basis for that restructure was inadequate. As a result, insufficient staff resources were available during the peak period in the registration department. The NMC reports that it has now reviewed its resources so that they are aligned with the peaks and troughs in demand, and that it will recruit additional staff to help during peak periods. It has also introduced a new telephone system which provides clearer options for callers, so that their calls can be appropriately dealt with, and which generates management information that will help the NMC to manage the allocation of resources. It has reported the following improvements in its performance:

Registration applications Quarter 4 (1 January 2012 to 31 March 2012):
applications processed within five days of receipt of relevant documentation:

(i) New UK applicants 99.86% (Q3 68.23%)

(ii) New overseas applicants 100% (Q3 89.91%)

(iii) Renewal applications 99.72% (Q3 99.46%)

17.24 The NMC has also reported to us the following quarterly percentages for call centre performance in 2011-12 (percentage of calls received that were answered):

Q1 89.3%; Q2 52.66%; Q3 78.34%; Q4 87.91%

While we recognise that this represents a recovery of performance, we are concerned that even the Q4 figure represents 98,641 calls answered out of 112,129 calls received, meaning that 13,488 calls were unanswered in the quarter.

- 17.25 There have also been delays in progressing registration appeals. Between April and December 2011 there were 19 registration appeals, but none of these were concluded during that period. We have been told that the NMC has now introduced better case management and increased legal resources and has trained more panel chairs and members, which should mean that these appeals are progressed in a timely fashion in 2012²⁹. We look forward to seeing evidence of improvements in this area in next year's performance review.
- 17.26 As mentioned above, the NMC's Council reviewed the organisation's activities in February 2012 to ensure that each activity is in line with its core objectives and necessary for public protection. In the registration function, this led to further work on the following workstreams being deferred, with the final two activities listed being stopped:
- Further development of the online registration systems.
 - Development of automated processes for dealing with lapsed registrations, including identifying individuals whose registration has lapsed, details of where those individuals are working, and sending out letters reminding registrants of the need to renew their registration.
 - Review of the third part of the register, covering specialist community public health nursing.
 - The collection and storage of registrants' employers' data.
- 17.27 Despite the concerns we have highlighted above, we consider that the NMC meets the majority of the Standards of Good Regulation for registration by continuing with the activities we have previously reported on, as well as by:
- Reviewing the information available in relation to EU and international applicants for registration. The NMC now provides online country-specific information for each of the relevant EU states, which guides applicants about recognition of their qualifications. A secure website has also been introduced which EU and international applicants can access to self-assess their eligibility to apply for registration. Only those who meet the application standards are automatically sent a registration pack. The NMC has also improved the information that is provided to those applicants whose qualifications are not recognised under the European Directive 2005/36/EC, so that they have a clearer idea about what additional skills and knowledge are required in order to register with the NMC.
 - Introducing a number of changes to strengthen the processes that the NMC has in place to manage those individuals whose registration has lapsed, as well as taking steps to ensure that registrants and employers are clear about their responsibilities to ensure that they and their staff are registered. Examples of the changes that have been made include: writing to all

²⁹ We have been informed that as of April 2012 two of these appeals had been concluded and 17 were still outstanding.

employers of individuals whose registration has lapsed to remind them of their responsibilities in relation to checking the registration status of their staff; and requiring individuals whose registration has lapsed to provide additional material when they re-apply for registration, so that the NMC can be assured of their fitness to practise.

- Publishing a commissioned study on indemnity insurance arrangements that might be implemented for independent midwives. The NMC will be working with the Department of Health during 2012 on the recommendations from this study, and will begin to determine the legislative provisions that would be needed for the NMC to require registrants to declare their insurance status on registration or renewal of registration. We recognise that initiating legislative change is outside the NMC's direct control, but nevertheless look forward to monitoring progress. Launching an information sharing process with the NHS electronic staff record system (ESR) in England and Wales, allowing the update of 400,000 registrants' registration records on the ESR daily. We note that some third party feedback that we received said that were problems for employers because of time delay between registration being updated with the NMC and then being notified through the ESR interface. The NMC has told us however that they update the online employer confirmation service every two hours daily. We encourage the NMC to work with employers to understand and resolve any issues.
- Working jointly with the Royal College of General Practitioners (RCGP), the British Medical Association (BMA), and the GMC to highlight the importance of GPs and employers checking the registration status and qualifications of employees. The NMC also wrote to all Directors of Nursing to emphasise their responsibility for checking the registration status and qualifications of their staff.

17.28 In next year's performance review we would like to follow-up on any actions taken by the NMC to:

- Ensure the integrity of the data on the NMC's register and to include information about suspensions and interim suspension orders on the register.
- Develop a quality assurance process for registration decisions (the NMC reports that the restructure of the registration department should enable all types of application decisions to be quality assured). We would also suggest that the NMC considers introducing an audit process for registration decisions as the GDC and GMC have seen significant benefits in undertaking this work.
- The development, with the Department of Health, of indemnity insurance arrangements for independent midwives.

Fitness to practise

- 17.29 We recognise the efforts that have been made by the NMC during 2011/2012 to improve its performance in fitness to practise. The third party feedback that we received during 2011 evidences that some improvements have been achieved. However, we continue to have serious concerns about the NMC's performance against the Standards of Good Regulation for fitness to practise. We consider that it does not meet the following standards:

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.

- 17.30 We remain concerned about the time taken to progress the NMC's caseload, particularly those cases which were opened prior to January 2011. (We acknowledge that the NMC has a historic case progression plan in place, which aims to ensure that investigation of all such cases is concluded by the end of 2012). The delays that we have identified in case progression appear to be due to ineffective case management, human error, and inadequate oversight of investigations by the NMC.
- 17.31 Some delays in case progression also seem to be caused by a high rate of adjournments in final fitness to practise hearings (only 63% of substantive hearings held between July and December 2011 were concluded on the scheduled day). There are also delays in concluding interim order applications which is a matter of particular concern, as adjourning such hearings may result in ongoing failure to protect the public, which could also have serious implications for public confidence in the NMC. We acknowledge that the NMC is taking steps to reduce the adjournment rate and we look forward to seeing evidence of improvement.
- 17.32 Alongside this we note that the average caseloads for the screening team and casework teams remains high at 101 and 94 cases respectively (January 2012) which will have an obvious impact on the NMC's ability to progress cases efficiently.
- 17.33 It appears to us that this situation is likely to worsen if the number of new referrals that the NMC receives continues to increase year on year, as is the current trend. We are concerned that the NMC's plans for addressing the current problems in its delivery of its fitness to practise function may take inadequate account of the ongoing increase in the number of referrals it is likely to receive each year.
- 17.34 We have previously reported on the actions being taken by the NMC to reduce the time taken to progress cases. The actions have resulted in an improvement in the throughput of cases. For example, between September 2010 and December 2011 the number of cases older than two years that had not been closed or referred to a final fitness to practise hearing decreased by 57.8%; and between December 2010 to December 2011 the average age of the oldest 50 cases at the investigation stage of the process decreased by 34%. However, we note that as at January 2012 the average age of the 50 oldest cases at the investigation stage was still 40 months, as compared to the average age of the total caseload at the investigation

stage of 11.26 months. The average age of the total caseload at the adjudication stage was 26.7 months.

- 17.35 The NMC is taking additional steps to reduce its caseload at the adjudication stage of the process. It says that it is aiming to hold 15 final fitness to practise hearings a day and to conclude 107 such hearings each month. However, we note that these targets are not currently being achieved. In January 2012 only 13.3 hearings a day were held. In December 2011 only 33 substantive cases were concluded. We consider that this raises a question about whether the targets that the NMC has set itself are realistic, and will have the impact expected on the timeliness of its processes. We will continue to monitor the impact of the NMC's actions on the timeliness on its case progression.

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.

- 17.36 We have not seen a consistent overall improvement in the quality of the decisions made and recorded by the NMC as yet, although we have noted some improvement in the quality of some decisions since late 2011. We continue to provide a high number of learning points to the NMC on the drafting of their fitness to practise determinations, and have considered a disproportionate number of NMC panel decisions at section 29 case meetings compared to other regulators even when differences of scale between the regulators are taken into account. We also highlighted in our 2011 audit of initial stage fitness to practise decisions that the NMC's Investigating Committee's decision letters contained insufficient or inaccurate details about the outcomes of cases, meaning that some recipients may not have understood the reasons for the decisions that were taken. A recent evaluation of the Council Officer role (which was introduced to improve the quality of Committee decisions) that the NMC conducted identified that the Council Officers had been prevented from fulfilling the full potential of the role largely as a result of their workloads.
- 17.37 We recognise that the NMC has continued its efforts to improve the quality of its panel decisions. It has recently appointed 97 panel chairs, against revised competencies which focus on decision-making abilities. It also introduced a panel support team in late 2011, which actively manages the panellists' performance, including assessing and meeting their training needs. In early 2012 the NMC consulted on revised Indicative Sanctions Guidance (although as noted earlier it did initially fail to undertake this) and developed guidance on when to impose conditions of practice, and the types of conditions that should be imposed. We hope that the cumulative effect of these changes will result in a noticeable overall improvement in the NMC's panels' decision-making and reasoning.

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

- 17.38 Good customer service is important to maintaining professional and public confidence in a regulator. We highlighted in our 2011 audit of the NMC's initial stages of its fitness to practise process that correspondence and complaints were still not being acknowledged or responded to within a reasonable timeframe. As at the end of December 2011, in around a third of cases the NMC was not issuing decision letters in accordance with its performance target of 5 days; and the results from its customer satisfaction feedback forms indicated that customer satisfaction was not high. Third party feedback that we received during the performance review process and our own experience as a complainant in a fitness to practise case also raised similar concerns about the poor standard of customer service within the fitness to practise department. For example, we were not notified when the Investigating Committee was due to meet or of its decision to refer the case to a final fitness to practise committee. We were also given very short notice of the need to act as a witness at the final fitness to practise hearing and were often given short timeframes to respond to requests for information following long periods of apparent inactivity by the NMC. We acknowledge that improvements have been made such that as at the end of March 2012, the NMC has reported to us that 99% of Investigating Committee decision letters were being sent within five days, and 86% of all decision letters were meeting that target.
- 17.39 Whilst the NMC has continued to set clear expectations about the standards of customer service its fitness to practise staff should achieve, it still has only limited systems in place to monitor achievement of those standards. The lack of adequate data about compliance inevitably affects the NMC's understanding of the reasons for its poor performance in achieving improvements in this area. This means that often when concerns are raised with it about the poor level of customer service by parties to a fitness to practise complaint, the NMC is not able to ensure that the problems are resolved. This was unfortunately our experience when we were recently a complainant in a fitness to practise case. The NMC is beginning to put such compliance systems in place, and we will continue to review the outcomes of its work in this area.

Information about the fitness to practise cases is securely retained

- 17.40 During 2011 there were several examples of the NMC losing data/case files within its offices, as well as 27 breaches of confidentiality and data protection requirements, including NMC staff sending documentation to the wrong recipient or including inappropriate information in public determinations. We are aware of course of the scale of operations involved, and that the NMC is taking steps to improve its information security arrangements, such as providing training to staff, introducing an incident reporting system and developing guidance about how to comply with the NMC's information security requirements. The NMC has also told us that, following an internal audit, it is implementing a number of recommendations to strengthen its information governance arrangements, and that it intends to undertake a 'security gap analysis' during the first two quarters of 2012-13. However, we are still concerned about the number of incidents that have occurred in 2011 and the implications this has both in terms of the robustness of the

information governance arrangements in place at the NMC, and in terms of the impact of such incidents on public confidence in the NMC as an effective regulator. We will continue to review the outcomes of the NMC's work to improve its performance in this area.

17.41 We also consider there are weaknesses in the NMC's performance in:

Prioritising, progressing and monitoring the progress of its caseload particularly those cases opened prior to January 2011

17.42 We have expressed concerns to the NMC about the effectiveness of its systems for progressing its older caseload. Our concerns arose from:

- Two cases where the High Court refused to extend interim orders that the NMC's fitness to practise panels had previously made, due to the failure of the NMC to progress those cases within a reasonable timeframe.
- The fact that the NMC had to apply for High Court extensions of interim orders in 163 cases between 1 April and 25 November 2011.
- One case where the NMC failed to hold a review hearing within the relevant timeframe, which meant that a registrant who was only permitted to practise under conditions is now free to practise unrestricted, without there having been a review of their compliance/current fitness to practise. We understand that this was due to a human error in inputting the review hearing date in the registration database (we have previously commented on our concerns about this earlier in the report).
- Two cases where the NMC had failed to comply within a reasonable timeframe, with Orders made by the High Court following appeals by CHRE against unduly lenient decisions.

17.43 We are concerned that given the volume of ongoing older cases, it is detrimental to public protection and public confidence in the NMC if there is a perception that the older caseload is not being appropriately managed.

17.44 We are aware that the NMC has taken steps to improve its management and monitoring of cases where an interim order has been imposed, and that it is currently consulting on its options for managing its older caseload proportionately and fairly.

The quality of its management information

17.45 We have expressed concerns to the NMC about the adequacy of its current systems for recording, analysing and reporting management data relating to its performance. The apparent lack of reliable sources of performance data affects our confidence in the NMC's ability to identify and understand the nature, extent and location of the current weaknesses in its fitness to practise process, and therefore in the degree of reliance that can be placed on the NMC's assurances about the likely impact of the improvement work that it is currently undertaking. An example to illustrate this is the NMC's publicly available data on its performance against its key performance indicator to hold an interim order hearing within 28 days of receipt of a

complaint. It has reported publicly that it met this target in seven of out of 12 months in 2011. However, it has only recently realised that a large number of its interim order hearings are adjourned and we are therefore concerned about whether its publicly available performance data is based on the date of the first interim order hearing or on the date that a hearing was completed and a decision reached. We recognise that the NMC itself acknowledges the weaknesses in its management information and that it has commissioned an external audit of its management information.

The NMC's ability to learn from its quality assurance (QA) programme and serious event review process

- 17.46 The NMC has reported to us that from August 2011 to the end of March 2012, five QA exercises had been reported involving 240 cases, mainly in screening; and a further exercise involving 84 cases had been completed. It has also reported that from March 2012 fitness to practise quality assurance team commenced auditing standard operating procedures (SOPs) for compliance, with an objective of auditing each of 150 SOPs each year. The Council approved the revised quality assurance strategy in January 2012. We urge the NMC to maintain the momentum of this activity throughout 2012-13 and look forward to reviewing its effectiveness in assessing the impact of changes to the fitness to practise function.
- 17.47 The NMC has established a Decision Review Group which considers cases that are drawn to its attention, with the aim of assessing whether there is any learning for panel members to be identified from them, and assessing whether the panel's decision might be unduly lenient (with the intention of notifying us of any such potentially unduly lenient decisions). Although any individual staff errors are currently identified and learning fed back, we consider that this group should formally extend its remit to consider staff learning points. We are aware from our review of final fitness to practise determinations, as well as from our initial stages audits, that there are ongoing administrative errors made by NMC staff that result in unnecessary adjournments/other procedural difficulties at hearings, as well as inadequate investigation or hearing preparation that may lead to unduly lenient decisions being made.
- 17.48 The NMC has continued to undertake serious event reviews (SERs) (previously known as cause and effect reviews). There were 107 SERs between October 2011 and January 2012, resulting in 111 learning points. Even given the scale of operations, this is an alarming number of serious events. We acknowledge that the FTP executive management team reviews all recommendations monthly and quarterly to ensure that they are being implemented, that trends are monitored to address repetitions, and that learning is shared through staff briefings. We also acknowledge that the number of SERs may be a positive and welcome indicator that staff are able to report incidents. However, we still have not been provided with sufficient information to give us confidence that the SERS are sufficiently thorough or robust, or that their outcomes facilitate necessary changes being made. We consider that the NMC should review its approach to SERs to ensure that its approach is robust, as well as introducing monitoring systems to assess whether any changes that are introduced as a result of the SERs actually prevent recurrence of errors.

Managing ongoing risk in fitness to practise cases

- 17.49 In our 2011 initial stages fitness to practise audit we found an ongoing lack of consistency in the NMC's continuous risk assessment of cases throughout their lifetime. This meant that appropriate action was not necessarily taken once new information came to the attention of the NMC. This clearly has potentially serious implications for public protection. The NMC has introduced a risk assessment form (February 2012) which includes clear guidance for staff on the requirements for a risk assessment, including guidance about when risk assessments should be undertaken (on receipt of a complaint, at all stages of case progression, and when new information is received). We hope to see effective and consistent use of this form in our next audit.

The quality of its investigations

- 17.50 In our 2011 initial stages fitness to practise audit and in the learning points we send to the NMC (following our review of all its final fitness to practise decisions) we have highlighted concerns about the quality of the NMC's investigations and information-gathering. We are concerned about the impact this may have on the robustness of the decisions reached by the NMC's Investigating Committee and final fitness to practise panels. We understand that the NMC is progressing its plans to bring investigations of fitness to practise complaints in-house, and that it is emphasising to staff the importance of taking an investigative approach to managing fitness to practise complaints. We look forward to seeing improvements in the NMC's investigations in our next audit, and when we review all final fitness to practise panel decisions.

The standard of record-keeping

- 17.51 We identified in our 2011 initial stages fitness to practise audit concerns about the adequacy of the NMC's record-keeping, alongside concerns about the limitations of its case management system (CMS) which meant that it was difficult to identify an accurate and comprehensive case record in some cases. Maintenance of a single comprehensive record of all actions and information on a case is essential for proper case management as well as for good quality decision-making. The NMC has taken steps to address these issues by increasing its resources to monitor staff compliance with data recording, as well increasing the checks that it undertakes, by improving the CMS's functionality so that bundles of documents are automatically generated directly from the case record, and by emphasising again to staff the importance of good record-keeping. We hope to see a consistent improvement in the standard of record-keeping in our next audit.
- 17.52 As well as looking for evidence of improvement in our next audit of the initial stages of the NMC's fitness to practise process, in the performance review 2012/13 and in our ongoing review of final fitness to practise determinations, we will also continue to work with the NMC to monitor the progress it makes in improving its performance in the areas highlighted above.

- 17.53 We recognise that the NMC has successfully achieved a number of improvements in its fitness to practise function during 2011/2012, including:
- Enabling cases where there are potential risks to the public to be taken forward without a direct external referral/complaint. The NMC has continued to share information with system regulators and others, so that early action can be taken if there are concerns about fitness to practise of individual registrants. A high profile example of this work is the investigations that were opened following media exposure of the apparent abuse of patients at the Winterbourne View care home.
 - Improving liaison with employers during the fitness to practise process. The NMC has introduced a system of referring cases to employers at the earliest opportunity to establish whether: there are further fitness to practise concerns to be considered; the case should be referred for a local investigation by the employer; or the case should be closed. This should assist the NMC in assessing the seriousness of cases at an earlier stage so that it can focus its resources appropriately.
 - Improving the clarity of advice to be given to employers on fitness to practise referrals. The NMC has revised its advice to employers to emphasise the importance of referring matters to the NMC immediately where there are serious risks to patient safety, or a nurse/midwife has been dismissed or suspended. It has also widened the use of its telephone advice line so that now senior nurses and local supervisory authority midwifery officers in the NHS can use it to discuss potential referrals. The NMC reports that the telephone advice line has been well-received and utilised.
 - Standardising the guidance given to registrants and patient advocacy groups about the role of the NMC and the remit of the fitness to practise process, including the types of complaints that are relevant, and the various stages of the fitness to practise process. The guidance for patient advocacy groups also explains how they can support complainants through the process.

18. The Pharmaceutical Society of Northern Ireland (PSNI)

Overall assessment

- 18.1 The PSNI has maintained its performance as an effective regulator. It continues to meet the Standards of Good Regulation, to the extent that this is possible given the confines of its current legislative framework. However, we do have concerns about the time taken to progress cases at the initial stage of the fitness to practise process, which have led us to conclude that the PSNI demonstrates inconsistent compliance with the sixth Standard of Good Regulation for fitness to practise. We encourage the PSNI to continue to work to optimise the overall timeframes within which it is able to conclude each case, in close liaison with the external agencies which are also involved in the referral and investigation of allegations that may fall within the PSNI's jurisdiction. We discuss this in more detail at paragraph 19.14.

18.2 The PSNI has undertaken a significant amount of work during 2011/2012 in order to prepare for changes in its regulatory framework that it is expected will take place in 2012 as a result of the new legislative framework that is being put in place (the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012, and its associated regulations). We report on the work that the PSNI has undertaken in preparation for these changes throughout the report.

Guidance and standards

18.3 We consider that the PSNI continues to meet the Standards of Good Regulation for guidance and standards. It has demonstrated this by:

- Taking steps to ensure that the specific guidance that it publishes (for the purpose of assisting registrants to apply its standards of competence and conduct) is up-to-date and that registrants are aware of it.
- Taking steps to further develop its standards in order to address a new area of risk in pharmacy practice.
- Taking account of stakeholders' views, external events, developments in the four countries, and learning from other areas of its work in all its work within guidance and standards.

18.4 Examples of this work are:

- Reviewing its pharmacist prescribing guidance, once it was identified (both by the PSNI and by the Northern Ireland Centre for Pharmacy Learning and Development) that the current guidance was out of date. The revised guidance will be subject to public consultation later in 2012.
- Conducting an ongoing review of its guidance about raising concerns, following the occurrence of various high profile incidents involving health professionals' failures to raise concerns about fellow professionals. The PSNI has communicated to its registrants by means of its newsletter that registrants who fail to report concerns about fellow registrants are as much at risk of fitness to practise proceedings as those who provide poor care and treatment.
- Developing standards for internet pharmacies, following concerns that have been raised by patients and others. The PSNI intends to consult publicly on these standards during 2012.
- In next year's review we will assess the progress of the PSNI's ongoing work in setting up a voluntary register for pharmacy technicians in Northern Ireland³⁰ (including reviewing all standards and guidance to assess whether they could apply to pharmacy technicians as well as to pharmacists). We understand that should the PSNI set up a voluntary register it will seek accreditation of its register from CHRE as part of our new powers granted by the Health and Social Care Act 2012.

³⁰ Pharmacy technicians are statutorily regulated by the GPhC in the rest of the United Kingdom, but are not currently regulated in Northern Ireland

Education and training

- 18.5 We consider that the PSNI continues to meet the Standards of Good Regulation for education and training as far as its current legislative framework permits. In particular we note that the PSNI does not currently have a power to administer a mandatory scheme for auditing pharmacists' continuing professional development (CPD) portfolios, but instead it administers a voluntary system in which a significant proportion of pharmacists choose to participate.
- 18.6 The PSNI has demonstrated its compliance with the standards by continuing to undertake the activities we have described in previous performance review reports, as well as by:
- Developing operational protocols with the GPhC to enable an effective working relationship in the following areas: the development of education standards; the quality assurance of education and pre-registration training; and CPD.
 - Providing training for pre-registration trainees in completing their portfolios of evidence in order to demonstrate achievement of pre-registration standards. This should assist the pre-registration trainees in future in compiling their CPD evidence portfolios, as the two processes are aligned.
 - Continuing to develop the evidence base for a scheme that it will use to assure itself of its registrants' continuing fitness to practise³¹.
- 18.7 The PSNI is also taking steps to improve its quality assurance of the pre-registration training programme. It is developing an online submission and recording process to enable it to regularly review and quality assure pre-registration trainee work throughout the year, and to intervene at an early stage if the required standards are not being achieved. We will review the PSNI's progress on this piece of work in next year's performance review.
- 18.8 The PSNI has continued to prepare for the changes to its current powers that will result from the forthcoming changes to its legislative framework – including the transition from its current voluntary CPD audit scheme to a mandatory CPD scheme. As part of its preparations, the PSNI has undertaken a review of its CPD processes which has resulted in activities such as: further training for CPD assessors; the establishment of a CPD reference group (an expert group); and the preparation of a new CPD framework and standards document (which will be publicly consulted on once the regulations have been approved by the Northern Ireland Assembly). We look forward to reporting on the outcomes of this work in next year's performance review.

Registration

- 18.9 The PSNI continues to meet the Standards of Good Regulation for registration. It has demonstrated this by continuing to:

³¹ We have previously referred to schemes which aim to assure a registrant's continuing fitness to practise as revalidation schemes.

- Manage a fair, transparent and secure registration process, which ensures that only those applicants/registrants who have met its standards are registered.
- Publish a register which displays easily accessible information including information about any restrictions on a registrant's practice (currently only undertakings or striking offs). We note the forthcoming legislative changes which will enable the PSNI to impose the full range of fitness to practise sanctions also makes it possible for all fitness to practise sanctions to be displayed on the PSNI's register. The PSNI intends to publicly consult on: how the register should display historic fitness to practise information in terms of content and duration; and on any changes that are necessary to improve the display and accessibility of the register.
- Remind employers of their responsibilities for checking individual employees' registration status on a regular basis. This action has resulted in the identification of individuals who had practised without current PSNI registration.

18.10 We note that the PSNI has considered the recommendation we made in last year's performance review report that regulators should permit applicants for registration to provide a self-declaration about their health, rather than requiring verification by a doctor. We are disappointed that the PSNI has decided not to act upon our recommendation (it maintains there is value in obtaining a doctor's verification, and notes that when surveyed, professionals and the public did not consider it disproportionate to require a doctor's certification). We continue to consider that requiring certification by a doctor is a disproportionate measure, and that it does not represent a 'right touch' approach. We will continue to encourage the PSNI to move to a system of self-declaration, particularly given the commitment of the other regulators who also currently use the certified doctor's declaration system to make that change.

18.11 In next year's performance review we will be looking at the outcomes of the PSNI's current work in the following areas:

- Establishing internal audit processes for reviewing registration decisions to identify any learning points.
- The consultation on whether or not the register should also display historic fitness to practise information; and on any changes that are necessary to improve the display and accessibility of the register.
- Progress in the PSNI's current work in relation to internet pharmacy, including the outcomes of a consultation on annotation of the register to show where internet pharmacies operate from registered premises, as well as the development of an appropriate accreditation symbol that can be used by such pharmacies.

Fitness to practise

18.12 The PSNI continues to meet the Standards of Good Regulation for fitness to practise to the extent possible within the limitations of its current legislative framework. The PSNI is currently unable to meet all of the Standards of Good Regulation because it does not yet have the power to:

- Impose interim orders.
- Impose the full range of fitness to practise sanctions.
- Consider cases where a registrant's fitness to practise may be impaired because of an adverse health condition.
- Appoint the Chair of the Statutory Committee without the involvement of the Department of Health, Social Services and Public Safety (DHSSPS).
- Appoint a pool of chairs and panellists.

We note that the forthcoming changes to the PSNI's legislative framework will enable it to meet all of the Standards of Good Regulation in fitness to practise, and will also expand the PSNI's power to carry out its own investigations.

18.13 We continue to have concerns about the PSNI's performance in progressing cases at the initial stages of the fitness to practise process. A fitness to practise process which is not timely may impact on public confidence in the regulator. Delays can also impact upon the quality of evidence that is available. The PSNI has reported to us that the median time taken from receipt of initial complaint to the final Investigating Committee decision is 46 weeks, which compares unfavourably with other regulators including those of similar size. The median time for most regulators is 30 weeks or less for this stage of the process.

18.14 We acknowledge the specific arrangements that apply for the investigation of cases in Northern Ireland. We also acknowledge that the various agencies involved in the investigation of cases aim to work in partnership to protect the public in Northern Ireland, and appreciate the efforts that have been made by the PSNI and the DHSSPSNI to set out for us the circumstances of specific cases which have resulted in the timeframes reported to us. Nevertheless our concerns about these timeframes in the period covered by this performance review mean that we consider that the PSNI demonstrates inconsistent compliance with the sixth Standard of Good Regulation for fitness to practise. We encourage the PSNI, in close liaison with those agencies, to continue to review practice in this area to see if there are any ways in which the overall timeframes within which it is able to conclude cases can be improved.

18.15 The PSNI has maintained its performance in its fitness to practise function. In addition to continuing with the activities we have previously reported on, the PSNI has also:

- Commenced the development of operational protocols with the GPhC to enhance and formalise the current sharing of fitness to practise information between the two pharmacy regulators.

- Undertaken work with the Northern Ireland Centre for Pharmacy Learning and Development on developing complaints management training for pharmacy employers and employees, with the aim of improving complaints handling at a local level.
- Established a Fitness to Practise Subcommittee of the new Regulatory Compliance Committee which will be carrying out audits against key performance indicators in 2012 which will be reported to the Council.

18.16 The PSNI has undertaken a significant amount of work to prepare for the changes to its legislative framework. It has:

- Commissioned the development of guidance and process documents to provide a framework for staff, fitness to practise committee chairs and panellists and others to use when cases progress through the fitness to practise process, to ensure consistency, fairness, transparency and public protection.
- Carried out a workload planning exercise to ensure that it understands how its caseload will increase and change in nature.
- Developed an independent and objective competency framework.
- Developed a communications strategy to inform the public and the profession about its role and key functions.
- Developed plans to update the content of the fitness to practise section of its website, so that it describes in detail the fitness to practise process and its outcomes. Providing clear and comprehensive information on the website should assist those making a complaint, as well as PSNI registrants, to understand the purpose of the fitness to practise process, and their role within it.

18.17 We note that the PSNI faces major challenges as a result of the delay that has occurred in the timeframe for implementation of its revised legislative framework. It has been advised against recruiting and training fitness to practise panellists or consulting on its new guidance and process documents until the relevant regulations have been approved by the Northern Ireland Assembly. We are concerned that following this advice and delaying these activities until such time as the regulations have been approved may leave insufficient time to ready itself for the operationalisation of the changes in September 2012. We also note that the tenure of the current Chair of the Statutory Committee will expire on 30 June 2012, over two months before the new legislative framework is due to become operational. The PSNI intends to delay the two or three Statutory Committee hearings that might be affected during that period, should the Chair decide not to extend his tenure beyond 30 June. We consider that to be a pragmatic and reasonable approach in the circumstances.

- 18.18 In next year's performance review we will focus on assessing the impact that the changes to the PSNI's legislative framework have had on its performance against the Standards of Good Regulation. Next year's performance review will provide our first opportunity to draw a meaningful comparison between the performance of the PSNI and the performance of the other regulators that we oversee - because the PSNI will then have an up to date fitness to practise framework in place.

19. Conclusions and recommendations

- 19.1 This year's performance review has shown that the regulators are generally fulfilling their statutory responsibilities and are focussed on public protection. This is in the context of significant change faced by some, in particular the GMC's preparations for launching revalidation for doctors and the changes to its fitness to practise function, and the HPC's preparations for assuming responsibility for the regulation of social workers in England.
- 19.2 In the case of two regulators, namely the GDC and the NMC, we have been acting to address concerns that have been raised with us about their ability to fulfil their statutory functions effectively. Our work to address these concerns is the subject of separate reports outside the performance review process. The final NMC Strategic Review Report and the GDC Investigation Report will be available on our website.
- 19.3 As in previous years we have identified continuing concerns about the performance of some of the regulators around the effectiveness and efficiency of the fitness to practise processes. Some regulators are still working to achieve effective control of the core elements of an effective fitness to practise framework, including timely and robust investigation and decision-making.
- 19.4 We acknowledge that development of schemes to demonstrate continuing fitness to practise is work in progress. We think that this is an important part of regulatory policy development and will ultimately provide valuable assurance to the public that health professionals remain safe and fit to practise. We look forward to reviewing the progress with these schemes next year.
- 19.5 We have identified the GMC's work on guidance and standards as excellent because of its focus on understanding doctors' engagement with the standards and on the factors involved in why doctors do/do not follow guidance and or raise concerns. Understanding how health professionals are influenced by standards is an area of great interest to CHRE and is one which we are continuing to research.
- 19.6 The next year will be one of further change for the sector, not only because of the developments already mentioned above. The reforms in '*Enabling Excellence*' and in particular the work being led by the Law Commissions to reform the legislation of health professional regulation will continue and Sir Robert Francis is due to deliver his final report and recommendations to the Secretary of State for Health regarding care at Mid Staffordshire NHS Foundation Trust. Public safety is the primary function of the regulators. We will continue to work with the regulators to ensure that amid these developments, which may result in changes to the underpinning legislation, structures and processes of regulation that the regulators that we

oversee continue to meet their statutory responsibilities and focus on public protection. Public confidence in health professional regulation depends on this.

Recommendations

- 19.7 We have recommended some actions for the regulators, have highlighted areas of work that we will take forward as well as encouraging the Department of Health, Social Services and Public Safety Northern Ireland to continue implementing Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012.

For the regulators

- 19.8 We recommend that the regulators should:
- Address the areas of concern highlighted in their individual reports
 - Review this document as a whole, taking account of our views, and consider whether they can learn and improve from the practices of the other regulators
 - Ensure that their Councils review and discuss the performance review report in a public Council meeting.

For CHRE

- 19.9 We will review the different approaches taken to dealing with Lapsed Registration by the regulators to ensure that the public are protected through the registration decisions made by the regulators.
- 19.10 We will continue to review and refine the approach we take to undertaking the performance review process.

For the Department of Health, Social Services and Public Safety Northern Ireland

- 19.11 We hope that progress will continue to be made on implementing the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 and associated regulation.

20. Annex 1: Index of regulated health professions

Health professional regulator	Regulated health profession
General Chiropractic Council	Chiropractors
General Dental Council	Dentists Dental hygienists Dental therapists Clinical dental technicians Orthodontic therapists Dental nurses Dental technicians
General Medical Council	Doctors
General Optical Council	Dispensing opticians Optometrists
General Osteopathic Council	Osteopaths
General Pharmaceutical Council	Pharmacists Pharmacy technicians
Health 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 Speech and language therapists
Nursing and Midwifery Council	Nurses Midwives
Pharmaceutical Society of Northern Ireland	Pharmacists

Annex 2: The Standards of Good Regulation

Introduction

- 20.1 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.
- 20.2 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 and other members of the public and maintain public confidence in the profession.

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

- 20.3 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.
- 20.4 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.
- 20.5 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.

21. Section 1: Overview

Introduction

- 21.1 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 CHRE'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?

Section 2: Guidance and standards

Introduction

- 21.2 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 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 professionals.
- 21.3 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-centered 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 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 and other members of the public and maintain public confidence in the profession?

- Provides a clear framework that health professionals should meet when providing care, treatment and services to patients
- Provides a clear framework so that members of the public 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?

- 21.4 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.

21.5 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.

Section 3: Education and training

Introduction

- 21.6 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.
- 21.7 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 safety and patient 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, 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 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.

What evidence could be provided?

21.8 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.

21.9 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 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

- 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.

Section 4: Registration

Introduction

- 21.10 In order for a health professional to practise legally in the UK, 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. Patients and members of the public can find and check a health professional's 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.

How does good regulation through registration promote and protect the health, safety and well-being of patients 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?

21.11 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.

21.12 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 and patients. Evidence of the amount of contacts from public 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 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.

Section 5: Fitness to practise

Introduction

21.13 Anyone, including members of the public, employers and the regulators themselves, can raise a concern about a registered health 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 health professional being prevented from practicing 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 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
- 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 professional regulation.

What evidence could be provided?

21.14 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.

21.15 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 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 number 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.

22. Annex 3: Third party feedback

22.1 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.

22.2 Below is a list of the third party organisations' feedback that we took into account:

- Association of Optometrists
- British Chiropractic Association
- British Osteopathic Association
- Complementary and Natural Healthcare Council
- Council of Deans for Health
- Dental Protection Limited
- Dental Schools Council
- Department for Health, Social Services and Public Safety
- Faculty of Occupational Medicine
- Hywel Dda Health Board
- Independent Midwives UK
- Pharmacy Association
- NHS Education for Scotland
- NHS Fife
- NHS Grampian
- NHS Haringey
- NHS Lothian
- NHS Shetland
- North Bristol NHS Trust
- Royal College of Midwives
- Royal College of Nursing
- Royal College of Radiologists
- Scottish Government
- South West Strategic Health Authority Nursing Directorate

- Tees, Esk and Wear Valleys NHS Foundation Trust
- Unison
- Unite
- Welsh Government
- 16 individuals







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