Agenda Item 13

Enclosure 10

Health and Care Professions Council
20 September 2017

Fitness to Practise Annual report

For discussion and approval

From Kelly Green, Head of FtP Operations

Council, 20 September 2017

Fitness to Practise Annual Report 2016-17

Executive summary and recommendations

Introduction

Article 44(1)(b) of the Health and Social Work Professions Order 2001 provides that the Council shall publish an annual report describing the range of fitness to practise activity undertaken in the previous year.

The text for the 2016-17 Fitness to Practise Annual Report is attached as appendix 1. The report includes a range of statistical information alongside explanatory narrative. The report provides a factual summary of fitness to practise activity for the period 1 April 2016 to 31 March 2017. The report includes the same data sets, and follows a similar format, to previous reports.

After consideration by Council, the report will undergo final proofing, will be edited and formatted in HCPC house style and will be sent for design. The report will be published in electronic format only and made available on the HCPC website at the following page: http://www.hcpc-uk.org/publications/reports/.

Decision

The Council is asked to approve the text for the 2016-17 Fitness to Practise Annual Report (subject to any necessary editorial or stylistic amendments).

Background information

As in previous years, a separate, shorter document, Fitness to Practise – key information 2017, will be published alongside the Fitness to Practise Annual Report 2016-17.

Resource implications

Production costs (design).

Financial implications

The production costs have been accounted for in 2017-18 budget.

Appendices

Appendix 1 Fitness to Practise Annual Report 2016-17

Date of paper

3 July 2017

[front cover]

1 April 2016 to 31 March 2017 [strapline]

Fitness to practise annual report 2017 [title]

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Executive summary

Welcome to the fourteenth fitness to practise annual report of the Health and Care Professions Council (HCPC) covering the period 1 April 2016 to 31 March 2017. This report provides information about the work we do in considering allegations about the fitness to practise of our registrants.

In 2016–17, the number of individuals on our Register increased by 2.5 per cent. The number of new fitness to practise concerns we received increased by 6.2 per cent (from 2,127 concerns in 2015-16 to 2,259 in 2016-17). The proportion of the Register affected still remains low, with only 0.64 per cent of registrants (or one in 164) being subject to a new concern in 2016–17.

Members of the public continue to be the largest complainant group, making up 41 per cent of the total number of concerns raised this year, although this has decreased by five per cent over the last two years. Employers continue to be the second largest source of concerns, contributing 26 per cent of the concerns raised. We have also seen an increase in the number of cases resulting from a self-referral made by registrants, with 462 self-referral cases received in 2016–17 compared to 429 cases in 2015–16 and 353 cases in 2014–15. Self-referrals constitute 20 per cent of the total number of concerns received.

Of the cases we progressed through the fitness to practise process in 2016–17:

- 1,854 cases were closed as they did not meet our Standard of Acceptance[1];
- 653 cases were considered by an Investigating Committee Panel (ICP);
- 445 cases were concluded at final hearings; and
- 222 review hearings were held.

We have seen an increase of almost 12 per cent in the number of cases closed as they did not meet our Standard of Acceptance. This has led to a 17 per cent decrease in the number of cases being considered by the ICP. Although fewer cases have been considered by an ICP, there has been an increase in the proportion of cases where the ICP has decided that there is a case for the registrant to answer. The case to answer decision rate in 2016–17 is 71 per cent compared to 63 per cent in 2015–16 and 53 per cent in 2014–15.

This year, out of 653 cases considered, the ICP decided that there was a case for the registrant to answer in 443 cases (the remaining decisions were 27 requests for further information and 183 no case to answer). Of the case to answer decisions, the complainant was a member of the public in five per cent of the cases. The registrant's employer was the complainant in 62 per cent and 22 per cent of the cases were from registrants' self-referrals.

[1] The Standard of Acceptance is the threshold a concern about a registrant must meet before we will investigate it as a fitness to practise allegation.

We have seen a significant increase in hearings activity this year, with 39 per cent more cases being concluded at a final hearing in 2016–17 compared to 2015–16. This reflects the activities we have carried out to improve the time it takes to conclude cases including our older cases. There was also a ten per cent increase in the number of review hearings heard in 2016–17, compared to last year. This year's total hearings activity, including final, substantive review, interim order, restoration, ICP hearing days and preliminary hearing days, amounted to 2336 days in total, which is an increase of 31 per cent from 1,785 last year.

This year we have realigned the fitness to practise directorate to provide for greater specialisation in the case management process. We have reviewed our approach to assessing risk, including determining whether we should apply for an Interim Order. We have continued our focus on improving the time it takes for cases to progress through the fitness to practise process. This has included ensuring that our older cases are concluded at a final hearing. We have also enhanced our arrangments for montoring performance in this area. We will conitnue this work in the coming year. Other activities in 2016–17 have included a review of our approach to fitness to practise. This resulted in the publication of HCPC's Approach to Fitness to Practise in December 2016. This sets out our approach to delivering public protection through our fitness to practise work and emphasises that we will adopt a proportionate and risk based approach when dealing with fitness to practise issues.

To enhance the independence of the adjudication function, we commenced a project to establish the Health and Care Professions Tribunal Service (HCPTS). Greater independence of this function reinforces the separation of the investigation and adjudication of fitness to practise cases. It will provide reassurance to those involved in fitness to practise cases that the decisions are made by independent panels that are at arm's length from the organisation that has investigated the cases. This project will be completed in April 2017.

We have continued to encourage feedback from those who use our services, our stakeholders and partners and continuously review and improve our processes, in light of this feedback and the changing regulatory environment and law. The continuous improvement of our processes is also informed by our own quality assurance work and the reviews undertaken by the Professional Standards Authority.

We have continued to develop the support mechanisms we provide to those who are involved in fitness to practise cases. This year we published an updated What happens if a concern is raised about me? brochure, which is aimed at registrants who are subject to a fitness to practise investigation. Fitness to practise employees also received training on mental health issues and awareness and were provided with new guidance on managing suicidal contacts.

In 2016–17 we continued to work with a number of other organisations that have the common objective of ensuring the safety and wellbeing of members of the public through collaborating with the Care Quality Commission (CQC),

other regulators and NHS and social care organisations. This included agreeing memoranda of understanding with the three other social care regulators located in Northern Ireland, Scotland and Wales or with the Office for Standards in Education, Children's Services and Skills (Ofsted).

We concluded our pilot of the provision of mediation for our fitness to practise process. The pilot identified that mediation had a very limited role to play in the conclusion of fitness to practise cases, although the option to use mediation in relevant cases will remain open.

Looking forward, our priorities and work in 2017–18 will include evaluating the impact and improvements achieved following the realignment of our fitness to practise directorate, coupled with the continued focus on the timely progression and conclusion of cases. The conclusion of the project establishing the HCPTS and a review of its impact will also be a focus.

We will also explore the use and value of case examiners or screeners in the early stages of our fitness to practise process, holding some hearings 'on the papers' and the use of electronic bundles.

We will continue to keep our policies under review, including the review of our Indicative Sanctions Policy, and stand ready to take forward any actions that may emerge from the research the HCPC has commissioned into understanding the prevalence of fitness to practise cases about paramedics and social workers in England.

I hope you find this report of interest. If you have any feedback or comments, please email these to ftpnoncaserelated@hcpc-uk.org

John Barwick
Acting Director of Fitness to Practise

Introduction

About us (the Health and Care Professions Council)

We are the Health and Care Professions Council (HCPC), a regulator set up to protect the public. To do this, we keep a Register of the professionals we regulate who meet our standards for their training, professional skills and behaviour. We can take action if someone on our Register falls below our standards.

In the year 1 April 2016 to 31 March 2017 we regulated 16 professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

Each of the professions we regulate has one or more ‘designated title’ which is protected by law. These include titles like ‘physiotherapist’ and ‘dietitian’. Anyone who uses one of these titles must be on our Register. Anyone who uses a protected title and is not registered with us is breaking the law, and could be prosecuted. It is also an offence for a person who is not a registered hearing aid dispenser to perform the functions of a dispenser of hearing aids.

For a full list of designated titles and for further information about the protected function of hearing aid dispensers, please visit website at www.hcpc-uk.org. Registration can be checked at www.hcpc-uk.org/check or by calling +44(0)300 500 6184.

Our main functions

To protect the public, we:

- set standards for the education and training, professional skills, conduct, performance, ethics and health of registrants (the professionals who are on our Register);
- keep a Register of professionals who meet those standards;
- approve programmes which professionals must complete before they can register with us; and
- take action when professionals on our Register do not meet our standards.

For an up-to-date list of the professions we regulate, or to learn more about the role of a particular profession, see http://www.hcpc-uk.org/aboutregistration/professions/.

What is 'fitness to practise'?

When we say that a professional is 'fit to practise' we mean that they have the skills, knowledge and character to practise their profession safely and effectively. Registrants also need to keep their knowledge and skills up to date, to act competently and remain within the bounds of their competence. Maintaining fitness to practise also requires registrants to treat service users with dignity and respect, to collaborate and communicate effectively, to act with honesty, integrity and candour and to manage any risk posed by their own health.

What is the purpose of the fitness to practise process?

The purpose of the fitness to practise process is to identify those registrants who are not fit to practise and, where necessary, to take steps to restrict their ability to practise. This provides protection for the public and maintains confidence in the professions that we regulate.

Most health and care professionals adhere to the standards without any intervention by the HCPC. Only a small minority of registrants will ever face an allegation that their fitness to practise is impaired and, of those, very few will have acted maliciously.

Sometimes professionals make mistakes or have one-off instances of unprofessional conduct or behaviour, which are unlikely to be repeated. In such circumstances, it is unlikely that the registrant's fitness to practise will be found to be impaired. We are, therefore, unlikely to pursue every isolated or minor mistake. However, if a professional is found to fall below our standards, we will take action.

Raising a fitness to practise concern

Anyone can contact us and raise a concern about a registered professional. This includes members of the public, employers, the police and other professionals. Further information about how to tell us about a fitness to practise concern is in our brochure How to raise a concern, which is available on our website at www.hcpc-uk.org/publications/brochures

What types of cases can the HCPC consider?

We consider every case individually. However, a professional's fitness to practise is likely to be impaired if the evidence shows that they:

- were dishonest, committed fraud or abused someone's trust;
- exploited a vulnerable person;
- failed to respect service users' rights to make choices about their own care;
- have health problems that they are no managing well and which may affect the safety of service users;
- hid mistakes or tried to block our investigation;
- had an improper relationship with a service user;
- carried out reckless or deliberately harmful acts;
- seriously or persistently failed to meet standards;
- were involved in sexual misconduct or indecency (including any involvement in child pornography);
- have a substance abuse or misuse problem;
- have been violent or displayed threatening behaviour; or
- carried out other, equally serious, activities which affect public confidence in the profession.

We can also consider concerns about whether an entry to the HCPC Register has been made fraudulently or incorrectly. For example, the person may have provided false information when they applied to be registered or other information may have come to light since that means that they were not eligible for registration.

What can't the HCPC do?

We are not able to:

- consider cases about professionals who are not registered with us;
- consider cases about organisations (we only deal with cases about individual professionals);
- get involved in clinical or social care arrangements;
- reverse decisions of other organisations or bodies;
- deal with customer service issues;
- get involved in matters which should be decided upon by a court;
- get a professional or organisation to change the content of a report;
- arrange refunds or compensation;

– fine a professional;
– give legal advice; or
– make a professional apologise.

What to expect

We will take a proportionate and risk based approach when considering a registrant's fitness to practise.

New concerns about a professional's fitness to practise that are raised with us, will be assessed against our Standard of Acceptance. If this is not met, the case will be closed. If the Standard of Acceptance is met, the case will be allocated to a Case Manager in our Investigations team, who manage the case through to the Investigating Committee Panel (ICP). The ICP will consider the case and determine whether the case should be closed at that stage or whether there is a case to answer and the case should be referred for a hearing. If referred, our Case Progression and Conclusion team will take over the management of the case and work closely with our solicitors to prepare the case for a hearing.

Our Case Managers will keep everyone involved in the case up-to-date with its progress and informed about the process we are following and the decisions that are being made. Case Managers are neutral and do not take the side of either the registrant or the person who has made us aware of the concerns. They will ensure that we appropriately balance the rights of the registrant against the need to ensure that we protect the public.

Practice notes

The HCPC publishes a number of practice notes, which provide guidance to the panels that make decisions about fitness to practise cases and to assist those appearing before them. New practice notes are issued on a regular basis and all current notes are reviewed to ensure that they are fit for purpose.

As part of the project to establish the Health and Care Professions Tribunal Service (HCPTS), the Practice Notes were reviewed and updated this year and can be found on the HCPT's website at www.hcpts-uk.org.

Health and Care Professions Tribunal Service (HCPTS)

Independent panels hear and determine fitness to practise cases on behalf of the HCPC's three Practice Committees: the Investigating, Conduct and Competence and Health Committees. Panel members are drawn from a wide variety of backgrounds – including professional practice, education and management. Each panel will have at least one lay member and one registrant member. Lay panel members are individuals who are not, and have never been, eligible to be on the HCPC Register. The registrant panel member will be from the relevant profession. This ensures that we have the appropriate public and professional input in the decision-making process.

A legal assessor will be at every hearing. They do not take part in the decision-making process, but will give the panel and the others involved advice on law and legal procedure, ensuring that all parties are treated fairly. Any advice given to panels is stated in the public element of the hearing.

The HCPC's Council members do not sit on our Fitness to Practise Panels. This is to maintain separation between those who set Council policy and those who make decisions in relation to individual fitness to practise cases. This contributes to ensuring that our hearings are fair, independent and impartial. Furthermore, employees of the HCPC are not involved in the decision-making process. This ensures decisions are made independently and are free from any bias.

About this report

The data in this report covers the period 1 April 2016 to 31 March 2017. Please note that due to rounding to one or two decimal points, some percentage totals do not amount to exactly 100 per cent.

Cases received in 2016–17

This section contains information about the number and type of fitness to practise concerns received about registrants. It also provides information about who raised these concerns. A concern is only classed as an 'allegation' when it meets our Standard of Acceptance for allegations.

The Standard of Acceptance policy sets out the information we must have for a case to be treated as an allegation. As a minimum this information:

- must be in writing (fitness to practise concerns may also be taken over the telephone if a complainant has any accessibility difficulties);
- the registrant must be sufficiently identified; and
- must give enough detail about the concerns to enable the professional to understand those concerns and to respond to them.

The Policy also recognises that, while concerns are raised about only a small minority of HCPC registrants, investigating them takes a great deal of time and effort. So it is important that HCPC's resources are used effectively to protect the public and are not diverted into investigating matters which do not give cause for concern. Where cases are closed we will, wherever we can, signpost complainants to other organisations that may be able to help with the issues they have raised.

Further enquiries are made in cases that, on receipt, do not meet the Standard of Acceptance to identify whether it is capable of meeting the Standard and becoming an allegation that we should investigate. If not, we have an authorisation process to close the case.

For further information, please see the Standard of Acceptance for allegations policy and our Standard of Acceptance explained factsheet on our website at www.hcpc-uk.org/publications/policy.

Table 1 shows the number of cases received in 2016–17 compared to the total number of professionals registered by the HCPC (as of 31 March 2017).

Table 1 Total number of cases received in 2016–17

	Number of cases	**Total number of registrants**	**% of registrants subject to complaints**
2016–17	2,259	350,330	0.64

The proportion of HCPC registrants who have had a fitness to practise concern raised about them has increased slightly, from 0.62 per cent of all professionals

on the Register in 2015–16 to 0.64 per cent in 2016–17. A very small proportion of the Register have concerns raised about them. This year, only one in 164 registrants were the subject of a new concern about their fitness to practise. It should be noted that in a few instances a registrant will be the subject of more than one case.

Graphs 1a and 1b shows the number of fitness to practise concerns received between 2012–13 and 2016–17 compared to the total number of HCPC registrants.

Table 2 Total numbers of cases and percentage of Register

Year	Number of cases	Number of registrants	% of Register
2012–13	1,653	310,942	0.52
2013–14	2,069	322,021	0.64
2014–15	2,170	330,887	0.66
2015–16	2,127	341,745	0.62
2016–17	2, 259	350,330	0.64

Graph 1a Number of fitness to practise cases received by year 2012–13 to 2016–17

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Year	Number of cases	% of Register
2012–13	1,653	0.52
2013–14	2,069	0.64
2014–15	2,170	0.66
2015–16	2,127	0.62
2016–17	2, 259	0.64

Graph 1b Number of registrants on HCPC Register by year from 2012–13 to 2016–17

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Year	Number of registrants
2012–13	310,942
2013–14	322,021
2014–15	330,887
2015–16	341,745
2016–17	350,330

Cases by profession and complainant type

The following tables and graphs show information about who raised fitness to practise concerns in 2016–17 and how many cases were received for each of the professions the HCPC regulates. The total number of cases received in 2016–17 was 2,259.

Table 3 provides information about the source of the concerns which gave rise to these cases. Members of the public continue to be the largest complainant group, making up 40.9 per cent of the total number of concerns received. This has decreased from 2015–16 when the proportion was 42.8 per cent.

Similarly employers continue to be the second largest source of concerns, comprising 26.4 per cent of the total. This compares to 25 per cent in 2015–16. The proportion of cases which were the result of a self-referral by the registrant has remained the same as last year, at just over 20 per cent.

Table 3 Who raised concerns in 2016–17?

Who raised a concern	Number	%
Article 22(6) / anon	65	2.9
Employer	596	26.4
Other	102	4.5
Other registrant / professional	68	3.0
Professional body	10	0.4
Police	31	1.4
Public	924	40.9
Self-referral	463	20.5
Total	**2,259**	**100**

Article 22(6) of the Health and Social Work Professions Order 2001

Article 22(6) of the Health and Social Work Professions Order 2001 enables the HCPC to investigate a matter even where a concern has not been raised with us in the normal way (for example, in response to a media report or where information has been provided by someone who does not want to raise a concern formally). This is an important way we can use our legal powers to protect the public.

Table 4a Cases by profession and complainant type

Profession	Article 22(6)/Anon	%	Employer	%	Other	%	Other registrant	%	Police	%	Professional body	%	Public	%	Self-referral	%	Total
Arts therapists	0	0.0	3	0.5	2	2.0	0	0.0	0	0.0	1	10.0	1	0.1	4	0.9	11
Biomedical scientists	0	0.0	15	2.5	2	2.0	3	4.4	0	0.0	0	0.0	1	0.1	11	2.4	32
Chiropodists / podiatrists	1	1.5	10	1.7	2	2.0	8	11.8	2	6.5	0	0.0	28	3.0	18	3.9	69
Clinical scientists	0	0.0	1	0.2	0	0.0	0	0.0	0	0.0	0	0.0	2	0.2	2	0.4	5
Dietitians	0	0.0	7	1.2	0	0.0	1	1.5	0	0.0	0	0.0	6	0.6	5	1.1	19
Hearing aid dispensers	0	0.0	5	0.8	1	1.0	0	0.0	1	3.2	2	20.0	15	1.6	2	0.4	26
Occupational therapists	1	1.5	33	5.5	1	1.0	1	1.5	1	3.2	0	0.0	30	3.2	17	3.7	84
Operating department practitioners	3	4.6	24	4.0	3	2.9	2	2.9	4	12.9	0	0.0	4	0.4	17	3.7	57
Orthoptists	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	0.1	0	0.0	1
Paramedics	13	20.0	41	6.9	13	12.7	11	16.2	8	25.8	2	20.0	52	5.6	155	33.5	295
Physiotherapists	0	0.0	52	8.7	14	13.7	6	8.8	4	12.9	0	0.0	82	8.9	25	5.4	183

Practitioner psychologists	0	0.0	19	3.2	9	8.8	0	0.0	1	3.2	1	10.0	96	10.4	17	3.7	143
Prosthetists / orthotists	0	0.0	2	0.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	2
Radiographers	5	7.7	27	4.5	5	4.9	3	4.4	2	6.5	1	10.0	14	1.5	18	3.9	75
Social workers in England	42	64.6	349	58.6	47	46.1	30	44.1	8	25.8	3	30.0	578	62.6	169	36.5	1226
Speech and language therapists	0	0.0	8	1.3	3	2.9	3	4.4	0	0.0	0	0.0	14	1.5	3	0.6	31
	65	100.0	596	100.0	102	100.0	68	100.0	31	100.0	10	100.0	924	100.0	463	100.0	2259

Article 22(6) is important in 'self-referral' cases. We encourage all professionals on the HCPC Register to self-refer any issue which may affect their fitness to practise. Standard 9 of the HCPC's revised Standards of conduct, performance and ethics, which were published in January 2016 states that "You must tell us as soon as possible if:

- you accept a caution from the police or if you have been charged with, or found guilty of, a criminal offence;
- another organisation responsible for regulating a health or social-care profession has taken action or made a finding against you; or
- you have had any restriction placed on your practice, or been suspended or dismissed by an employer, because of concerns about your conduct or competence".

All self-referrals are assessed to determine if the information provided suggests the registrant's fitness to practise may be impaired and whether it may be appropriate for us to investigate the matter further using the Article 22(6) provision.

Graph 2 Who raised concerns in 2016-17?

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Who raised concern	Number	%
Article 22(6) / anon	65	2.9
Employer	596	26.4
Other	102	4.5
Other registrant / professional	68	3.0
Professional body	10	0.4
Police	31	1.4
Public	924	40.9
Self-referral	463	20.5
Total	2,259	100.0

The category ‘Other’ in Table 4a and Graph 2 will include solicitors acting on behalf of complainants, hospitals / clinics (when not acting in the capacity of employer), colleagues who are not registrants and the Disclosure and Barring Service, who notify us of individuals who have been barred from working with vulnerable adults and / or children. Other types of complainants may all fall within this category.

Table 4b provides information on the breakdown of cases received by profession and gives a comparison to the Register as a whole.

Table 4b Cases by profession

Profession	Number of cases	% of total cases	Number of registrants	% of the Register	% of registrants subject to concerns
Arts therapists	11	0.49	4,026	1.15	0.27
Biomedical scientists	32	1.42	22,902	6.54	0.14
Chiropodists / podiatrists	69	3.05	12,931	3.69	0.53
Clinical scientists	5	0.22	5,663	1.62	0.09
Dietitians	19	0.84	9,107	2.60	0.21
Hearing aid dispensers	26	1.15	2,593	0.74	1.00
Occupational therapists	84	3.72	38,080	10.87	0.22
Operating department practitioners	57	2.52	13,052	3.73	0.44
Orthoptists	1	0.04	1,451	0.41	0.07
Paramedics	295	13.06	23,992	6.85	1.23
Physiotherapists	183	8.10	52,915	15.10	0.35
Practitioner psychologists	143	6.33	22,604	6.45	0.63
Prosthetists / orthotists	2	0.09	1,063	0.30	0.19
Radiographers	75	3.32	32,072	9.15	0.23
Social workers in England	1,226	54.27	91,944	26.24	1.33
Speech and language therapists	31	1.37	15,935	4.55	0.19
Total	2,259	100.00	350,330	100.00	0.64

Cases by route to registration

Graph 3 shows the number of cases by route to registration and demonstrates a close correlation between the proportion of registrants who entered the HCPC Register by a particular route and the percentage of fitness to practise cases. In 2016–17, 29 cases were received against 'grandparented' registrants and 98 cases received involved international registrants, which accounts for four per cent of cases received.

Graph 3 Cases by route to registration 2016–17

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Route	% of cases	% of Register
Grandparenting	1.3	1.2
UK	94.4	92.3
International	4.3	6.5

Case closure

Where a case does not meet the Standard of Acceptance, even after we have sought further information, or the concerns that have been raised do not relate to fitness to practise, the case is closed.

In 2016–17, 1,854 cases were closed without being considered by a panel of the HCPC's Investigating Committee, a 12 per cent increase compared to 2015–16 (where 1,661 cases were closed in this way). In 2016–17, 488 cases (26 per cent) that were closed in this way came from members of the public. This compares to 59 per cent in 2015–16.

In 2016–17, the average length of time for cases to be closed at this first closure point was a median average of four months and a mean average of five months. Both the mean and median averages have decreased by one month since the previous year.

Table 5 Length of time from receipt to closure of cases that are not considered by Investigating Committee

Number of months	Number of cases	Cumulative number of cases	% of cases	Cumulative % of cases
0 to 2 months	570	570	30.7	30.7
3 to 4 months	510	1,080	27.5	58.3
5 to 7 months	427	1,507	23.0	81.3
8 to 12 months	227	1,734	12.2	93.5
13 to 15 months	41	1,775	2.2	95.7
16 to 20 months	43	1,818	2.3	98.1
21 to 24 months	15	1,833	0.8	98.9
> 24 months	21	1,854	1.1	100.0
Total	1,854		100.0	

Table 6 provides information about the variation across the professions for cases that are closed without consideration by an Investigating Committee Panel.

There is a wide range of variation in these patterns of referral. For instance, social workers are the largest profession on the Register, and have the most concerns raised. This profession also has the largest number of cases that are raised by members of the public. 62.6 per cent of the cases received in relation to social workers were received from members of the public. However, this profession has the largest number of cases that are closed because the concerns did not meet the Standard of Acceptance.

Physiotherapists are the second largest profession, yet have a much lower rate of concerns raised than paramedics or social workers in England, and also have a lower rate of closure due to not meeting the Standard of Acceptance.

Paramedics are the profession with the second largest number of concerns raised, and are the fifth largest profession. Concerns about this group are the second largest to be closed because they do not reach the Standard of Acceptance.

Table 6 Cases closed by profession before consideration at Investigating Committee

Profession	Number of cases	% of total cases
Arts therapists	6	0.3
Biomedical scientists	17	0.9
Chiropodists / podiatrists	47	2.5
Clinical scientists	4	0.2
Dietitians	13	0.7
Hearing aid dispensers	19	1.0
Occupational therapists	60	3.2
Operating Department Practitioners	31	1.7
Orthoptists	1	0.1
Paramedics	214	11.5
Physiotherapists	142	7.7
Practitioner psychologists	137	7.4
Prosthetists / orthotists	1	0.1
Radiographers	50	2.7
Social workers in England	1,089	58.7
Speech and language therapists	23	1.2
Total	**1,854**	**100.0**

Investigating Committee Panels

The role of an Investigating Committee Panel (ICP) is to consider allegations made against HCPC registrants and to decide whether there is a 'case to answer.'

An ICP can decide that:

- more information is needed;
- there is a 'case to answer' (which means the matter will proceed to a final hearing); or
- there is 'no case to answer' (which means that the case does not meet the 'realistic prospect' test).

ICPs meet in private to conduct a paper-based consideration of the allegation. Neither the registrant nor the complainant appears before the ICP. The panel must decide whether there is a 'case to answer' based on the documents before it. The test the ICP applies in order to reach its decision is the 'realistic prospect' test. This means that the panel must be satisfied there is a realistic (or genuine) possibility that the HCPC, which has the burden of proof in respect of the facts alleged, will be able to prove those facts and, based upon those facts, that the panel considering the case at a final hearing would conclude that:

- those facts amount to the statutory ground (ie misconduct, lack of competence, physical or mental health, caution or conviction or a decision made by another regulator responsible for health and social care); and
- the registrant's fitness to practise is impaired by reason of the statutory ground.

Only cases that meet all three elements of the 'realistic prospect' test (ie facts, ground(s) and impairment) can be referred for consideration at a final hearing. Panels must consider the allegation as whole. Examples of 'no case to answer' decisions can be found on page 24.

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In some cases there may be a realistic prospect of proving the facts. However the panel may consider there is no realistic prospect of those facts amounting to the ground(s) of the allegation. Similarly, a panel may consider that there is sufficient information to provide a realistic prospect of proving the facts and establishing the ground(s) of the allegation but there is no realistic prospect of establishing that the registrant's fitness to practise is impaired. This could be for a number of reasons: for example, because the allegation concerns a minor and isolated lapse that is unlikely to recur, or there is evidence to show the registrant has taken action to correct the behaviour that led to the allegation being made and so there is no risk of repetition. Such cases would result in a 'no case to answer' decision and the case would not proceed to a final hearing.

In these ‘no case to answer’ decisions, if there are matters arising which the panel considers should be brought to the attention of the registrant, it may include a learning point. Learning points are general in nature and are for guidance only. They allow ICPs to acknowledge that a registrant’s conduct or competence may not have been of the standard expected and that they should be advised on how they may learn from the event. In 2016–17 ICPs issued learning points in 54 cases (8 per cent of the cases considered). This is in line with the figure (56) for 2015–16 (7 per cent of the cases considered) and slightly more when we look at this as a proportion of the cases considered (an increase from seven to eight per cent).

There were 653 cases considered by an ICP in 2016–17, of which 27 were the panels had requested further information. The total number of cases considered is a reduction of 17 per cent from 2015–16 when 787 cases were considered by an ICP. The decrease in the number of cases being considered by an ICP in 2016–17 reflects the increase in the number of cases that have been closed for not meeting the Standard of Acceptance for allegations.

Graph 4 shows the percentage of ‘case to answer’ decisions each year from 2012–13 to 2016–17. The ‘case to answer’ rate for 2016–17 was 71 per cent, an increase of eight per cent from 2015–16.

Graph 4 Percentage of allegations with a case to answer decision

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Year	% of cases with case to answer
2012–13	58
2013–14	53
2014–15	53
2015–16	63
2016–17	71

Decisions by Investigating Committee Panels

Table 7 Examples of no case to answer decisions

This table shows a range of cases that were considered by an Investigating Committee Panel in 2016–17. The examples describe the allegation and a brief rationale of the Panel's decision of no case to answer.

Type of issue	Reason for no case to answer decision
A social worker was alleged not to have recorded a number of visits or recorded case notes, or in some cases had not recorded adequate case notes.	In their written response to the allegation the registrant accepted responsibility for the lack of recording and, taking this into account alongside all the other information gathered during the investigation, the Panel was able to conclude that there was a realistic prospect of proving the facts of the allegation. The Panel then went on to consider if there was a realistic prospect these facts would amount to one of the statutory grounds, in this case either misconduct or lack of competence. The Panel noted that the allegations related to 12 separate service users and had occurred over a number of years. The Panel recognised too that accurate record keeping is a fundamental professional responsibility. On this basis, it determined that there was a realistic prospect the alleged facts would amount to misconduct and / or lack of competence. Having reached this point the Panel was next required to apply the same realistic prospect test to the question of whether the registrant's fitness to practise might be found by a final hearing panel to be impaired by reason of the alleged misconduct or lack of competence. In doing so the Panel took account of the context in which these allegations were referred to the HCPC. It noted that the registrant had undertaken a new

	role following a reorganisation and that there had been extenuating personal circumstances which had now improved. The Panel also took into account the level of insight demonstrated by the registrant into the shortcomings in their professional practice and actions they had already taken to remediate these deficiencies. In consequence and considering the allegation as a whole, the Panel concluded that there was not a realistic prospect of establishing that the registrant's fitness to practise was currently impaired.
A practitioner psychologist was alleged to have made inappropriate and / or offensive comments toward a colleague.	The comments made by the registrant had been directed towards a colleague in the workplace on a single day. The registrant admitted they had made some, though not all, of the alleged comments and the Panel was in consequence readily able to conclude there was a realistic prospect of proving, at least some of, the alleged facts. The Panel recognised too that, if proved, these facts were likely to constitute misconduct. In moving on to consider whether there was a realistic prospect of a final hearing panel finding the registrant's fitness to practise to be currently impaired by this misconduct the Panel recognised that the comments were made on a single day and could therefore be regarded as an isolated incident. The registrant had provided supportive references attesting to their general good character and had reflected on their actions. With all this in mind the Panel determined that there was no realistic prospect of proving that the registrant's fitness to practise was currently impaired. The Panel did, nonetheless, issue the registrant

	with a learning point reminding them of the importance of communicating appropriately and sensitively with work colleagues.
A hearing aid dispenser was alleged to have failed to communicate effectively with service users.	The Panel found there was a realistic prospect of establishing both the facts and the grounds of misconduct and / or lack of competence based on the registrant admitting part of the allegation, which covered a number of service users over a prolonged period of time. In considering whether there was a realistic prospect of proving the registrant's fitness to practise to be impaired the Panel took account of a detailed response to the allegation submitted by the registrant. This showed the registrant's insight and demonstrated they had made appropriate changes to their clinical practice aimed at improving communication with service users. In concluding that the realistic prospect test was not met in relation to impairment the Panel took the view that it should issue the registrant with a learning point on the importance of appropriate and effective communication, specifically highlighting standard 2.7 of the HCPC's Standards of conduct, performance and ethics.
It was alleged that a speech and language therapist had committed misconduct by dishonestly displaying incorrect qualifications on a professional profile page. The allegation had been made anonymously.	The Panel considered there was a realistic prospect of proving one of the facts of the allegation, namely that the registrant's qualifications had been listed incorrectly. The Panel did not consider, however, that there was a realistic prospect of proving that this had been done through a deliberate act of dishonesty on the part of the registrant. This was because the panel saw evidence that the registrant had acted in good faith on advice provided by their university.

	The Panel went on to consider whether the incorrect listing alone was sufficient to amount to misconduct and concluded that it was not. In reaching this decision the Panel noted that the registrant had taken immediate steps to rectify the issue and was able to provide several very positive and supportive testimonials. Because there was no realistic prospect of proving misconduct it followed that there could be no possibility of proving that the registrant's fitness to practise was impaired.
The allegations arose following an employer's audit of a social worker's record keeping and report writing, including not maintaining up to date information.	The Panel concluded that there was no realistic prospect of proving the facts of the allegation. Alongside the employer's investigation of the matter the Panel also had the benefit of a very detailed response to the allegation from the registrant. This response demonstrated to the Panel's satisfaction that the registrant was able to refute the particulars of the allegation where these related to specific service user records.
The allegations related to concerns about a registrant's health, specifically their alleged dependency on alcohol.	The Panel found there to be a realistic prospect of proving the facts of the allegation on the basis that there was documented medical evidence confirming the registrant's alcohol dependency. Health is a statutory ground for an allegation. In determining whether there was a realistic prospect of proving that the registrant's fitness to practise was impaired by reason of their health, the Panel noted the steps the registrant had taken. The Panel had evidence that the registrant had abstained from alcohol for some time and was now back at work practising their profession without giving their employer any further cause for concern. In these circumstances the Panel concluded

	that there could be no realistic prospect of proving the registrant's fitness to practise was currently impaired.
A registrant self-referred to the HCPC that they had been convicted of drink driving.	Given that the registrant had of their own volition self-referred the matter to the HCPC, there could be no difficulty in the Panel being satisfied that there was a realistic prospect of proving the fact of the conviction. In addition, though, the Panel also had the benefit of documentary evidence of the conviction which had been obtained from the relevant court by the HCPC as part of its investigation. A conviction is a statutory ground for an allegation. Going on to consider whether there was a realistic prospect of proving fitness to practise impairment, the Panel considered that the wider public interest, including public protection, would not be served by referring the matter to a final hearing panel. In reaching this conclusion the panel had regard to the fact that this was a one-off incident unconnected to the registrant's employment, that the registrant had practised their profession for many years with an otherwise unblemished record and that they had demonstrated considerable remorse for their behaviour and shown insight into how they had allowed the incident to occur.
An operating department practitioner was alleged to have acted dishonestly by taking on other paid employment for a two–day period while absent through sickness from their permanent employment.	In their written response to the Panel the registrant had denied the allegations, stating they had in fact requested annual leave from their permanent employer and did not understand why this had instead been recorded as sickness absence. In comparing the documentation submitted by the registrant

	alongside the material provided by their employer the Panel found some apparent confusion and misunderstanding with regard to the registrant's agreed working arrangements. The Panel noted that it was not part of its role to attempt to resolve this apparent conflict in the evidence. Such conflicts could only be resolved by a panel at final hearing, which would have the benefit of oral evidence from the witnesses. Accordingly the Panel concluded that there was a realistic prospect of proving the facts of the allegation. Having reached this conclusion the Panel also went on to conclude there was a realistic prospect of proving that the facts amounted to misconduct. The Panel noted that, if proved, the alleged dishonesty would certainly be sufficient to constitute misconduct. Considering the case as a whole, however, the Panel determined that there was not a realistic prospect of proving current fitness to practise impairment. In reaching this determination the Panel attached due weight to the registrant's detailed response to the allegation. The Panel found persuasive the written evidence it received of the registrant's reflection on the allegation and the learning the registrant had demonstrated through their experience of the fitness to practise process. The Panel noted the actions the registrant had already taken to ensure there could be no misunderstandings or miscommunication in future. The Panel noted too that there had been no previous concerns regarding the registrant's conduct throughout their employment.

Case to answer decisions by complainant type

Table 8 shows the number of 'case to answer' decisions by complainant type. There continue to be differences in the case to answer rate, depending on the source of the complaint.

Fitness to practise allegations received from the Police had the highest percentage (88 per cent) of case to answer decisions, although this is a small complainant group. The largest complaint group was Employers and a case to answer decision was made in significant proportion of those cases (78 per cent). A high proportion (83 per cent) of cases referred anonymously, or by article 22(6), also have a case to answer decisions.

This does represent a change from 2015–16, where the highest proportion of case to answer decisions were made in cases from the other registrant / professionals. This group had the lowest proportion of case to answer decision in 2016–17.

Table 8 Case to answer by complainant

Complainant	Number of case to answer	Number of no case to answer	Total	% case to answer
Article 22(6) / Anon	5	1	6	83
Employer	276	80	356	78
Other	18	11	29	62
Other Registrant / Professional	4	7	11	36
Police	14	2	16	88
Professional body	4	4	8	50
Public	24	27	51	47
Self referral	98	51	149	66
Total	**443**	**183**	**626**	**71**

Case to answer decisions and route to registration

Table 9 shows the case to answer decisions for the different routes to registration.

Table 9 Case to answer and route to registration

Route to registration	Number of case to answer	% of allegations	Number of no case to answer	% of allegations	Total allegations	% of allegations
Grandparenting	4	0.90	1	0.55	**5**	**0.80**
International	31	7.00	7	3.83	**38**	**6.07**

UK	408	92.10	175	95.63	**583**	**93.13**
Total	443	100.00	183	100.00	**626**	**100.00**

Time taken from point of meeting the Standard of Acceptance to Investigating Committee Panel

Table 10 shows the length of time taken for allegations to be put before an ICP in 2016–17. The table shows that 80 per cent of allegations were considered by an ICP within seven months of the point of meeting the Standard of Acceptance.

The mean length of time taken for a matter to be considered by an ICP was six months from meeting the Standard of Acceptance and the median length of time was four months. This is consistent with the time taken in 2015–16.

Table 10 Length of time from point of meeting Standard of Acceptance to Investigating Committee Panel

		Cumulative number of cases	% of cases	Cummulative % cases
0 to 2 months	**116**	116	18.53	18.53
3 to 4 months	**268**	384	42.81	61.34
5 to 7 months	**117**	501	18.69	80.03
8 to 12 months	**60**	561	9.58	89.62
13 to 15 months	**19**	580	3.04	92.65
16 to 20 months	**23**	603	3.67	96.33
21 to 24 months	**9**	612	1.44	97.76
> 24 months	**14**	626	2.24	100.00
Total	**626**		100.00	

Case to answer decisions and representations

Graph 5 provides information on 'case to answer' and 'no case to answer' decisions and representations received in response to allegations. In 2016–17, there was a decrease in representations being made to the ICP by either the registrant or their representative with representations being made in 74 per cent of the cases considered compared to 77 per cent in 2015–16.

A total of 183 cases considered by an ICP resulted in a 'no case to answer' decision. Of this number, 90 per cent were cases where representations were provided. By contrast, cases where there were no representations made constituted 32 per cent of the case to answer decisions.

Graph 5 Representations provided to Investigating Committee Panel

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Representation provided by	Case to answer	No Case to answer

Registrant	242	142
Representative	58	22
None	143	19
Total	443	183

Interim orders

In certain circumstances, panels of our Practice Committees may impose an 'interim suspension order' or an 'interim conditions of practice order' on registrants subject to a fitness to practise investigation. These interim orders prevent the registrant from practising or places limits on their practice, while the investigation is ongoing. This power is used when the nature and severity of the allegation is such that, if the registrant remains free to practise without restraint, they may pose a risk to the public, to themselves, or otherwise in the public interest. Panels will only impose an interim order if they are satisfied that the public or the registrant involved require immediate protection. Panels will also consider the potential impact on public confidence in the regulatory process should a registrant be allowed to continue to practise without restriction whilst subject to an allegation and may then impose an interim order in the public interest.

An interim order takes effect immediately and will remain until the case is heard or the order is lifted on review. The duration of an interim order is set by the panel however it cannot last for more than 18 months. If a case has not concluded before the expiry of the interim order, the HCPC must apply to the relevant court to have the order extended. In 2016–17 we applied to the High Court for an extension of an interim order in 26 cases. This is an increase from 19 cases in 2015–16.

A Practice Committee panel may make an interim order to take effect either before a final decision is made in relation to an allegation or pending an appeal against such a final decision. Case managers from the Fitness to Practise Department acting in their capacity of presenting officers present the majority of applications for interim orders and reviews of interim orders. This is to ensure resources are used to their best effect.

Table 11 shows the number of interim orders by profession and the number of cases where an interim order has been granted, reviewed or revoked. These interim orders are those sought by the HCPC during the management of the case processing. It does not include interim orders that are imposed at final hearings to cover the registrant's appeal period.

In 2016–17, 142 applications for interim orders were made, accounting for over six per cent of the cases received. 128 (90%) of those applications were granted and fourteen (10%) were not. In 2015–16, 89 applications were made and 88 per cent of those applications were granted. Although there was an increase in the number of applications made in 2016–17 compared to the previous year, the proportion of applications granted has remained broadly the same.

Social workers in England and paramedics had the highest number of applications considered. These professions also had the highest number of applications considered in 2015–16.

Our governing legislation provides that we have to review an interim order six months after it is first imposed and every three months thereafter. The regular review mechanism is particularly important given that an interim order will restrict or prevent a registrant from practising pending a final hearing decision. Applications for interim orders are usually made at the initial stage of the investigation; but a registrant may ask for an order to be reviewed at any time if, for example, their circumstances change or new evidence becomes available. In some cases an interim suspension order may be replaced with an interim conditions of practice order if the Panel consider this will adequately protect the public, or either order may be revoked. In 2016–17 there were eight cases where an interim order was revoked by a review panel.

We risk assess all complaints on receipt to help determine whether to apply for an interim order. In 2016–17, the median time from receipt of a complaint to a panel considering whether an interim order was necessary was 18.8 weeks. In 2015–16, this was 15.2 weeks.

Not all interim order applications are made immediately on receipt of the complaint. It may be that we receive insufficient information with the initial complaint or that during the course of the investigation the circumstances of the case change. We also risk assess new material as it is received during the lifetime of a case to decide if it indicates that an interim order application in the case is necessary.

In 2016–17, the average time from the risk assessment of the relevant information indicating an interim order may be necessary, to a panel hearing the application was 21 days. In 2015–16, this was 17 days.

Ninety six out of the 142 (68%) interim order applications made in 2016–17 were in cases where the complainant was the employer. The median time for these cases, from receipt of complaint to a panel considering whether an interim order was necessary, was 14.5 weeks.

In 2016 we introduced a further checking mechanism on cases where an Interim order is likely to be requested but we still require further information. An operational manager is tasked to review a case in these circumstances to ensure that the case is being progressed and the risk is being prioritised.

Table 11 Number of interim orders by profession

Profession	Applications considered	Applications granted	Applications not granted	Orders reviewed	Orders revoked on review
Arts therapists	0	0	0	3	0
Biomedical scientists	3	2	1	12	1

Chiropodists / podiatrists	6	4	2	6	0
Clinical scientists	0	0	0	0	0
Dietitians	0	0	0	6	0
Hearing aid dispensers	2	2	0	1	0
Occupational therapists	6	5	1	3	0
Operating department practitioners	12	12	0	39	0
Orthoptists	0	0	0	0	0
Paramedics	24	22	2	56	1
Physiotherapists	14	14	0	41	0
Practitioner psychologists	4	3	1	11	1
Prosthetists / orthotists	1	1	0	0	0
Radiographers	12	11	1	28	0
Social workers in England	58	52	6	118	5
Speech and language therapists	0	0	0	0	0
Total	**142**	**128**	**14**	**324**	**8**

Public hearings

445 final hearing cases were concluded in 2016–17. This is 125 more cases than the previous year.

Hearings where allegations were well founded concerned only 0.09 per cent of registrants on the HCPC Register.

Hearings can be adjourned in advance administratively by the Head of Adjudication if an application is made more than 14 days before the hearing. If the application is made less than 14 days before the hearing, the decision on adjournment is made by a panel. Hearings that commence but do not conclude in the time allocated are classed as part heard. In 2016–17, 108 cases which were listed for a hearing were either adjourned or concluded part heard.

Panels have the power to hold preliminary hearings in private with the parties for the purpose of case management. Such hearings allow for substantive evidential or procedural issues, such as the use of expert evidence or the needs of a vulnerable witness, to be resolved (by a panel direction) prior to the final hearing taking place. This assists in final hearings taking place as planned. In 2016–17, 89 cases had a preliminary hearing, compared to 66 in 2015–16. This represents a proportionate increase given the increased number of final hearings.

Most hearings are held in public, as required by our governing legislation, the Health and Social Work Professions Order 2001. Occasionally a hearing, or part of it, may be heard in private in certain circumstances.

The HCPC is obliged to hold hearings in the UK country of the registrant concerned. The majority of hearings take place in London at the HCPC's offices. Where appropriate, proceedings are held in locations other than capitals or regional centres, for example, to accommodate attendees with restricted mobility. In January 2016 we acquired a new building which now provides a dedicated hearings centre for fitness to practise hearings. We use this building flexibly to schedule hearings whilst maintaining a professional and comfortable environment. In 2016–17, we had a room occupancy for our hearing space of 92%.

Table 12 illustrates the number of public hearings that were held from 2012–13 to 2016–17. It details the number of public hearings heard in relation to interim orders, final hearings and reviews of substantive decisions. Some cases will have been considered at more than one hearing in the same year, for example, if a case was part heard and a new date had to be arranged.

Table 12 Number of concluded public hearings

Year	Interim order and review	Final hearing	Review hearing	Restoration hearing	Article 30(7) hearing	Total
2012–13	194	228	141	1	1	565
2013–14	265	267	155	1	1	689
2014–15	337	351	236	5	0	929
2015–16	346	320	171	8	1	846
2016–17	466	445	216	8	0	1,135

Time taken from point of meeting the Standard of Acceptance to final hearing

Table 13 shows the length of time it took for cases to conclude, measured from the point of meeting the Standard of Acceptance. The table also shows the number and percentage of allegations cumulatively as the length of time increases.

The length of time taken for cases that were referred for a hearing to conclude was a mean of 20 months and a median of 18 months from the date the Standard of Acceptance was met. This has reduced from 22 and 21 months in the previous year.

When measured from the receipt of the initial complaint to the conclusion of the final hearing, the mean was 25 months, and the median was 22 months.

The length of time for a hearing to conclude can be extended for a number of reasons. These include protracted investigations, legal argument, availability of parties and requests for adjournments, which can all delay proceedings. Where criminal investigations have begun, the HCPC will usually wait for the conclusion of any related court proceedings. Criminal cases are often lengthy in nature and can extend the time it takes for a case to reach a hearing. We have focussed efforts on complex cases in the last twelve months, which has resulted in changes in the length of time from the previous year.

The complexity of cases is reflected in the continuing requirement for preliminary hearings before a final hearing can take place. In 2016–17 there were 89 preliminary hearings. This compares to 66 in 2015–16. Although there were more preliminary hearings this year, given the number of increased hearing activity, the proportion of preliminary hearings remained similar and constituted 20 per cent of concluded hearings comparing to 20.6 per cent last year.

Table 13 Length of time from point of meeting the Standard of Acceptance to final hearing

Number of months	Number of cases	Cumulative number of cases	% of cases	Cumulative % of cases
0 to 2 months	**1**	1	0.2	0.2
3 to 4 months	**0**	1	0.0	0.2
5 to 7 months	**8**	9	1.8	2.0
8 to 12 months	**77**	86	17.3	19.3
13 to 15 months	**90**	176	20.2	39.6
16 to 20 months	**99**	275	22.2	61.8
21 to 24 months	**55**	330	12.4	74.2
> 24 months	**115**	445	25.8	100.0
Total	445		100	

In 2016–17, there were 115 cases that took longer than 24 months to conclude from the Standard of Acceptance being met. This accounted for 26 per cent of the final hearings closed. As illustrated in table 14, this year we have noted a decrease in the length of time for a case to conclude at a final hearing from the point of meeting the Standard of Acceptance. This year the mean was 20 months, a decrease from 22 last year and the median was 18 months, a decrease from 21 months last year.

Table 14 Time taken to conclude cases at final hearing from 2012–13 to 2016–17

Year	Number of concluded cases	Mean time from point of meeting Standard of Acceptance to conclusion (months)	Median time from point of meeting Standard of Acceptance to conclusion (months)
2012–13	228	16	14
2013–14	267	17	14
2014–15	351	16	14
2015–16	320	22	21
2016–17	445	20	18

Table 15 sets out the total length of time to close all cases from the point the concern was received to case closure at different points in the fitness to practise process. In 2016–17, the total length of time for this combined group was a mean of 20 months and a median average of 18 months.

Table 15 Length of time to close all cases from receipt of complaint, including those that did not meet the Standard of Acceptance, those where no case to answer is found and those concluded at final hearing

	Number of cases	Cumulative number of cases	% of cases	Cumulative % of cases
0 to 2 months	587	587	23.7	23.7
3 to 4 months	529	1116	21.3	45.0
5 to 7 months	486	1602	19.6	64.6
8 to 12 months	301	1903	12.1	76.7
13 to 15 months	109	2012	4.4	81.1
16 to 20 months	158	2170	6.4	87.5
21 to 24 months	84	2254	3.4	90.9
> 24 months	227	2481	9.1	100.0
Total	2481		100.0	

Days of hearing activity

Panels of the Investigating Committee, Conduct and Competence Committee and Health Committee met on 2,336 days in 2016–17 across the range of public and private decision making activities. Final hearings are usually held in public and are open to members of the public and other interested parties including the press. In certain circumstances, such as to protect confidential health issues of either the registrant or witnesses, an application can be made to hold some or all of the hearing in private. Table 16 sets out the types of hearing activity in 2016–17.

Of these, 1,709 hearing days were held to consider final hearing cases. This includes where more than one hearing takes place on the same day. This number includes cases that were part heard or adjourned. This is a 43 per cent increase from 1,194 hearings days in 2015–16.

Panels of the Investigating Committee hear final hearing cases concerning fraudulent or incorrect entry to the Register only. There were no cases falling within this category this year.

Panels may hear more than one case on some days to make the best use of the time available. Of the 445 final hearing cases that concluded in 2016–17, it took an average of 3.1 days to conclude cases. This is a slight decrease compared to 2015–16, when it took an average of 3.7 days to conclude cases. Despite the increase in the number of concluded cases, the average duration of days per hearing is at the lowest since 2012–13.

Table 16 Breakdown of public and private committee activity in 2016–17

Private meetings		Public hearings	
Activity	**Number of days**	**Activity**	**Number of days**
Investigating Committee	111	Final hearings	1,709
Preliminary meetings	94	Review of substantive sanctions	145
		Interim orders	277
Total	**205**		**2,131**

What powers do panels have?

The purpose of fitness to practise proceedings is to protect the public, not to punish registrants. Panels carefully consider all the individual circumstances of each case and take into account what has been said by all parties involved before making any decision.

Panels must first consider whether the facts of any allegations against a registrant are proven. They then have to decide whether, based upon the proven facts, the 'ground' set out in the allegation (for example misconduct or lack of competence) has been established and if, as a result, the registrant's fitness to practise is currently impaired. If the panel decide a registrant's fitness to practise is impaired they will then go on to consider whether to impose a sanction.

In cases where the ground of the allegations solely concerns health or lack of competence, the panel hearing the case does not have the option to make a striking off order in the first instance. It is recognised that in cases where ill health has impaired fitness to practise or where competence has fallen below expected standards, that it may be possible for the registrant to remedy the situation over time. The registrant may be provided the opportunity to seek treatment or training and may be able to return to practice if a panel is satisfied that it is a safe option.

If a panel decides there are still concerns about the registrant being fit to practise, they can:

- take no further action or order mediation (a process where an independent person helps the registrant and the other people involved agree on a solution to issues);
- caution the registrant (place a warning on their registration details for between one to five years);
- make conditions of practice that the registrant must work under;
- suspend the registrant from practising; or

- strike the registrant's name from the Register, which means they cannot practise.

These are the sanctions available to a panel if the grounds of the allegation include misconduct.

In cases of incorrect or fraudulent entry to the Register, the options available to the panel are to take no action, to amend the entry on the Register or to remove the person from the Register.

In certain circumstances, the HCPC may enter into an agreement allowing a registrant to remove their name from the Register, this is known as voluntary removal agreement. The registrant must admit the substance of the allegation and by signing they agree to cease practising their profession. The agreement also provides that, if the person applies for restoration to the Register, their application will be considered as if they had been struck off. Agreements are approved by a panel at a public, but not contested, hearing.

Suspension or conditions of practice orders must be reviewed before they expire. At the review a panel can continue or vary the original order. For health and competency cases, registration must have been suspended, or had conditions, or a combination of both, for at least two years before the panel can make a striking off order. Registrants can also request early reviews of any order if circumstances have changed and they are able to demonstrate this to the panel.

Outcomes at final hearings

Table 17 is a summary of the outcomes of hearings that concluded in 2016–17. It does not include cases that were adjourned or part heard. Decisions from all public hearings where fitness to practise is considered to be impaired are published on our website at www.hcpc-uk.org. Details of cases that are considered to be not well founded are not published on the HCPC website unless specifically requested by the registrant concerned.

An analysis of the impact on the registrant's registration status shows that:

- 26 per cent were not well found;
- 53 per cent had a sanction that prevented them from practising (including voluntary removal);
- Nine per cent had a sanction that restricted their practice; and
- Nine per cent had a caution entry on the Register.

Table 17 Outcome by type of committee

Committee	Caution	Conditions of practice	No further action	Not well founded / discontinued	Removed by Consent	Struck off	Suspension	Well-founded	Total
Conduct and Competence Committee	39	39	8	115	26	92	110	3	**432**
Health Committee	0	1	0	2	5	0	5	0	**13**
Investigating Committee (fraudulent and incorrect entry)	0	0	0	0	0	0	0	0	**0**

Outcome by profession

Table 18 shows what sanctions were made in relation to the different professions the HCPC regulates. In some cases there was more than one allegation against the same registrant. The table sets out the sanctions imposed per case, rather than by registrant.

Table 18 Sanctions imposed by profession

	Caution	Conditions of Practice	No Further Action / Not impaired	Not Well Founded	Well Founded	Register entry amended	Removed (fraudulent/incorrect)	Struck off	Suspended	Consent – removed	Total
Arts therapists	0	0	0	0	0	0	0	1	0	0	1
Biomedical scientists	2	1	0	0	0	0	0	7	8	0	18
Chiropodists / podiatrists	0	0	0	5	0	0	0	1	4	3	13
Clinical scientists	0	0	0	0	0	0	0	0	0	0	0
Dietitians	1	0	0	1	0	0	0	0	0	3	5
Hearing aid dispensers	1	0	0	2	0	0	0	0	1	0	4
Occupational therapists	4	3	0	4	0	0	0	0	6	5	22
Operating department practitioners	3	1	0	3	0	0	0	11	10	1	29
Orthoptists	0	0	0	0	0	0	0	0	0	0	0
Paramedics	7	5	2	17	0	0	0	20	13	2	66
Physiotherapists	0	2	0	11	1	0	0	5	10	4	33
Practitioner psychologists	0	5	0	9	0	0	0	1	3	2	20
Prosthetists / orthotists	0	0	0	0	0	0	0	0	1	0	1
Radiographers	4	1	0	3	0	0	0	5	7	1	21
Social workers in England	17	21	6	60	2	0	0	41	51	10	208

Speech and language therapists	0	1	0	2	0	0	0	0	1	0	4
Total 16/17 FYE	**39**	**40**	**8**	**117**	**3**	**0**	**0**	**92**	**115**	**31**	**445**

NB: the sanctions of caution, conditions of practice and suspension above contain those where the registrant consented to the sanction. The table below shows the breakdown of the sanctions by profession. These are included within the totals in the table above.

	Consent — caution	Consent — conditions	Consent — suspension	Total
Arts therapists	0	0	0	0
Biomedical scientists	0	0	0	0
Chiropodists / podiatrists	0	0	0	0
Clinical scientists	0	0	0	0
Dietitians	0	0	0	0
Hearing aid dispensers	0	0	0	0
Occupational therapists	0	0	0	0
Operating department practitioners	0	0	0	0
Orthoptists	0	0	0	0
Paramedics	1	0	0	1
Physiotherapists	0	0	0	0
Practitioner psychologists	0	0	0	0
Prosthetists / orthotists	0	0	0	0
Radiographers	0	0	0	0
Social workers	3	2	0	5
Speech and language therapists	0	0	0	0

Total 16/17 FYE	**4**	**2**	**0**	**6**

Outcome and representation of registrants

All registrants have the right to attend their final hearing. Some attend and represent themselves, whilst others bring a union or professional body representative or have professional representation, for example a solicitor or counsel. Some registrants choose not to attend, but they can submit written representations for the panel to consider in their absence.

The HCPC encourages registrants to participate in their hearings where possible. We make information about hearings and our procedures accessible and transparent in order to maximise participation, and to ensure any issues that may affect the organisation, timing or adjustments can be identified as early as possible. Our correspondence sets out the relevant parts of our process and includes guidance. We also produce practice notes, which are available online, detailing the process and how panels make decisions. This allows all parties to understand what is possible at each stage of the process.

Panels may proceed in a registrant's absence if they are satisfied that the HCPC has properly served notice of the hearing and that it is just to do so. Panels cannot draw any adverse inferences from the fact that a registrant has failed to attend the hearing. They will receive independent legal advice from the legal assessor in relation to choosing whether or not to proceed in the absence of the registrant.

The panel must be satisfied that in all the circumstances, it would be appropriate to proceed in the registrant's absence. The practice note Proceeding in the absence of the registrant provides further information and is available in full at www.hcpts-uk.org.

In 2016–17, 14 per cent of registrants represented themselves, with a further 36 per cent choosing to be represented by a professional. Of those who were represented by a professional, most attended with that representative.

Final hearings where the registrant did not attend, or was not represented account for 49 per cent of activity in 2016–17. This is the same level of non-attendance as in 2015–16.

We meet with the various registrant representative bodies, and share this data with them. We also encourage the seeking of representation early in the process, as part of our regular communication relating to the investigation and scheduling of a hearing.

Graph 6 Representation at final hearings

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Registrant	64	14%
Registrant attended and had representative	150	34%
Registrant did not attend but had representative	14	3%
None	217	49%
	445	

Table 19 details outcomes of final hearings and whether the registrant attended alone, with a representative or was absent from proceedings. In cases where there is representation (either by self or by a representative), sanctions that prevent the registrant from working are less frequently applied. This also applies to removal by consent, but for a different reason, as registrants have signed a legal agreement with the HCPC to be removed from the Register, and so rarely attend the hearing.

Table 19 Outcome and representation at final hearings

	Represented self	Registrant attended and had representative	Registrant did not attend but had representative	No representation	Total
Caution	9	22	1	3	35
Conditions	4	26	2	6	38
No Further Action	3	3	0	2	8
Well founded	1	1	0	1	3
Not Well Found	22	63	4	28	117
Register entry amended	0	0	0	0	0
Struck off	6	14	2	70	92
Suspended	18	20	1	76	115
Consent - removed	1	0	3	27	31
Consent - caution	0	1	0	3	4
Consent - suspension	0	0	0	0	0
Consent - conditions	0	0	1	1	2
Total	64	150	14	217	445

Outcome and route to registration

Table 20 shows the relationship between routes to registration and the outcomes of final hearings. As with case to answer decisions at ICP, the percentage of hearings where fitness to practise is found to be impaired broadly correlates with the percentage of registrants on the Register and their route to registration. The number of hearings concerning registrants who entered the Register via the UK approved route remained around 95 per cent, which is similar to 2015–16.

Table 20 Outcome and route to registration

Route to registration	Caution	Conditions of practice	No further action	Well founded	Not well founded	Removed	Struck off	Suspension	Removed by consent	Total cases	% of cases	% of registrants on the Register
Grandparenting	0	1	0	0	3	0	0	0	0	**4**	**0.9**	**1.2**
International	4	1	0	1	5	0	6	4	0	**21**	**4.7**	**6.5**
UK	35	38	8	2	109	0	86	111	31	**420**	**94.4**	**92.3**
Total	39	40	8	3	117	0	92	115	31	**445**	**100.0**	**100.0**

Table 21 shows the source of the original complaint for cases that concluded at a final hearing in 2016–17 and the outcome of that final hearing.

Employers were the complainant in 63% of the cases heard. The highest category of outcome was not well founded or discontinued cases and employers were the complainant in 61% of these case. Members of the public were the complainant in 14%.
Suspensions represent the second highest outcome (at 115 cases) and employers were the complainant in 67% of these cases. Registrants who self-referred represented 20% of the cases that resulted in a suspension and members of the public constituted five per cent.

Table 21 Outcome and source of complaint

Outcome	Article 22(6)/Anon	Employer	Other	Other Registrant	Police	Professional body	Public	Self	Total
Caution	1	18	1	1	1	1	1	15	39
Conditions of Practice	2	22	4	1	1	0	3	7	40
No further action	0	5	0	2	0	0	0	1	8
Not well founded / discontinued	3	72	2	5	4	0	16	15	117
Removed	0	0	0	0	0	0	0	0	0
Consent – removed	1	21	3	0	0	0	1	5	31
Struck off	2	64	4	1	5	0	1	15	92
Suspension	4	77	2	3	0	0	6	23	115
Well-founded	0	1	0	0	1	0	0	1	3
Not impaired	0	0	0	0	0	0	0	0	0
	13	280	16	13	12	1	28	82	445

Not well founded

Once a panel of the Investigating Committee has determined there is a case to answer in relation to the allegation made, the HCPC is obliged to proceed with the case. Final hearings that are 'not well founded' involve cases where, at the hearing, the panel does not find the facts have been proved to the required standard or concludes that, even if those facts are proved, they do not amount to the statutory ground (eg misconduct) or show that fitness to practise is impaired. In that event, the hearing concludes and no further action is taken. In 2016–17 the panel concluded that 83 cases were not well founded at final hearing.

We continue to monitor these cases to ensure we maintain the quality of allegations and investigations. Investigating Committee Panellists receive regular refresher training on the 'case to answer' stage in order to ensure that only cases that meet the realistic prospect test as outlined on page X are referred to a final hearing.

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Table 22 sets out the number of not well founded cases between 2012–13 and 2016–17.

Table 22 Cases not well-founded

Year	Number of not well founded and discontinued in full cases	Total number of concluded cases	% of cases not well founded
2012–13	54	228	23.7
2013–14	60	269	22.3
2014–15	75	351	21.4
2015–16	84	320	26.3
2016–17	117	445	26.3

In 45 per cent of the cases (37 cases) which were not well founded, registrants demonstrated that their fitness to practise was not impaired. The test is that current fitness to practise is impaired and so is based on a registrant's circumstances at the time of the hearing. If registrants are able to demonstrate insight and can show that any shortcomings have been remedied, panels may not find fitness to practise currently impaired.

In some cases, even though the facts may be judged to amount to the ground of the allegation (eg misconduct, lack of competence), a panel may determine that the ground does not amount to an impairment of current fitness to practise. For example, if an allegation was minor in nature or an isolated incident, and where reoccurrence is unlikely.

In 43 per cent of the cases (36 cases) which were not well founded, the grounds of misconduct, lack of competence or health were not found by the panel.

In other cases the facts of an allegation may not be proved to the required standard (the balance of probabilities). This may be due to the standard or nature of the evidence before the panel. In 2016–17, 12 per cent of cases (ten cases) which were not well founded, did not have the facts proved. We review any cases that are not well founded on facts to explore if an alternative form of disposal would have been appropriate. We continue to monitor the levels of not well founded cases to ensure that we are utilising our resources appropriately, and that we minimise the impact of public hearings on the parties involved.

Not well founded case study

A panel of the Conduct and Competence Committee considered an allegation that an occupational therapist had accessed the personal records of a service user on multiple occasions without a work-related reason for doing so.

The registrant, who was represented, attended the hearing and admitted to accessing the records without a work-related reason. The Panel heard evidence from one witness, who was able to confirm that the employer's policy was clear and only those with a work-related reason for doing so should access a service user's records. The registrant did not dispute this evidence.

The same witness was also able to provide positive evidence in favour of the Registrant. The witness confirmed that the registrant's work had been of a very high standard and that they were an extremely conscientious employee who would not knowingly breach a policy. When the Registrant gave his own evidence, the Panel found him to be open, honest, consistent and credible.

Having found the facts proved, the Panel considered whether they amounted to misconduct. It concluded that the registrant had, by their actions, breached a service user's confidentiality and risked undermining public confidence in the security of service user records and the trustworthiness of the profession. It was, therefore, sufficiently serious to amount to misconduct.

The Panel had heard oral evidence from the registrant, who had explained that they had first known the service user in a personal capacity and had accessed the records because they had lost contact and were worried about the service user. The registrant accepted that, after several years and after becoming the service user's Named Person (attending hearings and tribunals for him and advocating on his behalf), this still did not justify accessing the service user's records. The registrant acknowledged that he had blurred his role as a friend with his role as an occupational therapist, even if he had thought this was in his friend's best interests. He accepted he should have gone to his line manager for advice. The registrant was honest that if he had not been caught he would

have continued to access the records, but that in being caught, he had learnt a lesson and now fully accepted and realised the importance of data protection.

Whilst considering that the registrant had made a serious error of judgement clouded by personal motivation, the Panel noted that the registrant had only accessed one specific set of records and had shown full insight and understanding into why his actions had been inappropriate and unjustified. He demonstrated genuine remorse and had already remediated the failings identified, making the behaviour highly unlikely to be repeated. Having found that he was not impaired on the personal component, the Panel also considered that, although a member of the public would not condone the registrant's actions, in light of his long and otherwise unblemished career, his remorse, his insight, and the remediation of the misconduct, a finding of no current impairment would not undermine public confidence in the profession.

Disposal of cases by consent

The HCPC's consent process is a means by which the HCPC and the registrant concerned may seek to conclude a case without the need for a contested hearing. In such cases, the HCPC and the registrant consent to conclude the case by agreeing an order of the nature of which the panel would have been likely to make had the matter proceeded to a fully contested hearing. The HCPC and the registrant may also agree to enter into a Voluntary Removal Agreement, whereby the HCPC allows the registrant to remove themselves from the HCPC Register on the basis that they no longer wish to practise their profession and admit the substance of the allegation that has been made against them. Voluntary Removal Agreements have the effect of treating the registrant as if they were subject to a striking off order.

Cases can only be disposed of in this manner with the authorisation of a panel of a Practice Committee.

In order to ensure the HCPC fulfils its obligation to protect the public, neither the HCPC nor a panel would agree to resolve a case by consent unless they are satisfied that:

- the appropriate level of public protection is being secured; and
- doing so would not be detrimental to the wider public interest.

The HCPC will only consider resolving a case by consent:

- after an Investigating Committee Panel has found that there is a 'case to answer', so that a proper assessment has been made of the nature, extent and viability of the allegation;

- where the registrant is willing to admit the substance of the allegation (a registrant's insight into, and willingness to address failings are key elements in the fitness to practise process and it would be inappropriate to dispose of a case by consent where the registrant denies liability); and

- where any remedial action agreed between the registrant and the HCPC is consistent with the expected outcome if the case was to proceed to a contested hearing.

The process may also be used when existing conditions of practice orders or suspension orders are reviewed. This enables orders to be varied, replaced or revoked without the need for a contested hearing.

In 2016–17, 37 cases were concluded via the HCPC's consent arrangements at final hearing. This is the same number as the previous year.

Further information on the process can be found in the Practice Note Disposal of cases by consent at www.hcpts-uk.org.

Consent case study 1

Consent to a one year Caution Order was granted in relation to a social worker who was found to have failed in their duty to supervise a young person on their case load. The social worker worked for a youth offending service and was given a final written warning by their employer. The registrant fully admitted the allegation.

The matter had not previously been considered at a substantive hearing of a panel of the Conduct and Competence Committee. The Panel was satisfied that granting the consent order rather than having a contested hearing would not be detrimental to the public interest in this case.

The allegations made against the registrant were primarily conduct matters relating to one service user. The Panel was satisfied that by agreeing to conclude the case by way of a one year Caution Order, it was providing the appropriate level of public protection and represented a proper disposal of the case. The Panel noted that since the registrant's return to work on an agreed return to work schedule, they had made excellent progress, their performance had improved and it was confirmed that there were no concerns about their fitness to practise. The Panel also recognised that the registrant had never denied the errors made and recognised the need to deal with the matters that contributed to their failings.

The information provided by the registrant and his employer was sufficient to demonstrate that this was a serious, one-off incident and there was a limited risk of repetition. The application was granted by the Conduct and Competence Committee.

Consent case study 2

Consent to a Voluntary Removal Agreement was granted in a case relating to a radiographer. The registrant had been convicted for drink driving and was alleged to have taken an amount of unauthorised leave from work.

The registrant informed the HCPC that they fully admitted the allegation and no longer wished to practise as a radiographer.

The Panel considering the application to dispose of this case by way of a Voluntary Removal Agreement was satisfied that voluntary removal was not disproportionate in this case and afforded the appropriate level of public protection. The Panel took into account that the registrant had confirmed that she no longer had the desire or physical capacity to return to her profession in the future.

The Panel considered that, whilst the allegation was serious, the case did not raise wider public interest questions which required the matter to be considered at a contested hearing. The Panel granted the application and the registrant was voluntarily removed from the HCPC Register.

Discontinuance

Following the referral of a case for hearing by the Investigating Committee, it may become necessary for the HCPC to apply to a panel to discontinue all or part of the case. This may occur when new evidence becomes available or because of emerging concerns about the quality or viability of the evidence that was considered by the Investigating Committee.

In 2016–17, allegations were discontinued in full in 32 cases. This is an increase of six cases from 2015–16.

Discontinuance case study

The HCPC applied to discontinue proceedings in full in relation to a practitioner psychologist who was alleged to have inappropriately advised a former NHS Trust patient to attend their private practice for treatment. It was also alleged that the psychologist gave the patient their email address so that the patient could remain in contact and arrange to receive private treatment with them, instead of through the NHS.

The matter was considered by the Investigating Committee who determined there was a case for the registrant to answer and referred the case for a hearing. However, further evidence gathered by the HCPC following the referral indicated that there was no longer a realistic prospect of the HCPC proving the allegation. The new evidence and further information obtained from the patient did not support the allegation, but supported the registrant's account of events.

The Panel agreed it was not in the public interest to continue proceedings against the registrant. This was because of emerging concerns about the

viability of the evidence considered by the Investigating Committee, in light of the further witness evidence obtained by the HCPC. This showed that the patient had raised the subject of private treatment (not the psychologist), the psychologist had considered the patient's needs and / or vulnerabilities and had referred the matter to professional colleagues who were able to make decisions about the patient's treatment. The further evidence also clarified that the registrant had provided their email address at an early stage in the therapeutic relationship to aid a particular type of therapy they were providing.

The application was granted by the Conduct and Competence Committee and the case was discontinued.

Conduct and Competence Committee Panels

Panels of the Conduct and Competence Committee consider allegations that a registrant's fitness to practise is impaired by reason of misconduct, lack of competence, a conviction or caution for a criminal offence, or a determination by another regulator responsible for health or social care. Some cases may have a combination of these reasons for impairment in their allegations.

Misconduct

Consistent with previous years, in 2016–17, the majority of cases heard at a final hearing related to allegations that the registrant's fitness to practise was impaired by reason of their misconduct. Some cases also concerned other types of allegations concerning lack of competence or a conviction. Some of the misconduct allegations that were considered included:

- attending work under the influence of alcohol;
- bullying and harassment of colleagues;
- breach of professional boundaries with service users or service user family members;
- breach of confidentiality;
- misrepresentation of qualifications and / or previous employment;
- failure to communicate properly and effectively with service users and / or colleagues;
- posting inappropriate comments on social media;
- acting outside scope of practise;
- falsifying service user records; and
- failure to provide adequate service user care.

The case studies below give an illustration of the types of issues that are considered where allegations relate to matters of misconduct. They have been based on real cases that have been anonymised.

More details about the decisions made by the Conduct and Competence Committee can be found at www.hcpts-uk.org.

Misconduct case study 1

A Panel of the Conduct and Competence Committee found that a practitioner psychologist (the registrant), during their practice as a forensic psychologist, had conducted assessments on a child which were not age appropriate and had not explained the limitations of these assessments in their report.

The Panel imposed a Conditions of Practice Order for a period of 12 months.

The registrant had attended the hearing and was represented.

The Panel heard live evidence from the registrant and an expert witness instructed by the HCPC. The registrant made a number of admissions during the course of their evidence. The Panel accepted the evidence of the expert witness as reliable and found all but two of the factual particulars set out in the allegation proved.

The Panel then went on to consider whether the facts found proved amounted to misconduct or lack of competence. Having regard to only one sample of substandard work undertaken by the registrant, the Panel concluded that this did not represent a fair sample upon which the Panel could make a judgment as to the registrant's overall competence. However, the Panel determined that the registrant had failed to apply an age appropriate test on a child as a result of omitting to check the child's age, and failed to undertake corrective action when they realised their error. The Panel determined that the registrant's actions breached the standards expected of him and amounted to misconduct.

When considering the registrant's current fitness to practise the Panel were of the view that the registrant's conduct had the potential to harm the child who had been assessed by the registrant. Furthermore, the Panel considered that the Registrant had demonstrated little insight, limited remorse and no evidence of reflection. The Panel also considered that a finding of impairment was necessary to mark the misconduct and uphold proper standards of behaviour and conduct of practitioner psychologists, and to maintain public confidence in the profession.

Accordingly, the Panel found that the registrant's fitness to practise was impaired on both the personal and public component.

When considering sanction, the Panel determined that taking no further action or imposing a Caution Order would not adequately reflect the seriousness of the registrant's misconduct nor provide a means by which the registrant could demonstrate remediation of his misconduct. However, the Panel noted that the registrant had a previous unblemished career of some 20 years, and that the single serious lapse in conduct was not indicative of a deep seated deficiency on the registrant's part. The Panel considered that a Conditions of Practice Order would afford the registrant the opportunity to demonstrate insight and professional development. The Panel determined that a Suspension Order would have a disproportionate and punitive effect. The Panel concluded that the appropriate sanction, therefore, to protect the public and to satisfy the wider

public interest was a Conditions of Practice Order, which it imposed for a period of 12 months.

Misconduct case study 2

A Panel of the Conduct and Competence Committee found that an operating department practitioner (the registrant) had posted a series of inappropriate comments on a social media site.

The registrant was suspended from the Register for a period of 12 months.

The registrant attended the hearing and was represented.

The employer's investigating officer and the registrant provided evidence at the hearing. The Panel found the registrant to be honest in their evidence, but that they sometimes struggled to give clear and succinct answers to some of the questions asked. The Panel found the investigating officer to be impartial, consistent and credible in their evidence.

Having heard all of the evidence, the Panel found all of the facts proved. It concluded that the comments that the registrant had made were inappropriate in all circumstances and threatening in some. The Panel was especially concerned that a member of the public, particularly a patient, might lose confidence in the Trust if they saw the registrant's comments. The Panel determined that the registrant's conduct did amount to misconduct.

The Panel considered whether the Registrant's fitness to practise was currently impaired by reason of his misconduct.

The Panel considered that the registrant had demonstrated some insight. They had apologised and acknowledged that they were at fault and had also removed themselves from the social network site and attended a series of counselling sessions. The registrant was not, however, able to fully explain the coping strategies that he had learnt and they had focused primarily on the personal impact of their failings and not the wider implications of their actions.

The Panel determined that the registrant's fitness to practise was currently impaired. It found that the registrant's actions would have impacted on the public confidence in the profession and that a finding of impairment was also required in order to maintain professional standards.

When determining sanction, the Panel determined that the nature of the misconduct was too serious to make no order. It considered that a caution order was inappropriate because it was not an isolated incident and the Panel was concerned about the registrant's level of insight. The Panel also considered that a Conditions of Practice Order was neither verifiable nor workable and that it would not meet the gravity of the misconduct.

The Panel therefore concluded that a Suspension Order, for a period of 12 months, was the appropriate and proportionate sanction that reflected the

gravity of the misconduct. The Panel was satisfied that this Order would protect the public and maintain the confidence of the public in the regulator and the profession.

Lack of competence

In 2016–17, lack of competence allegations were most frequently cited as the reason for a registrant's fitness to practise being impaired after allegations of misconduct. This is consistent with previous years.

Some of the lack of competence allegations considered included:

- failure to provide adequate service user care;
- inadequate professional knowledge; and
- poor record-keeping.

The case studies below give an illustration of the types of issues that are considered where allegations relate to a lack of competence. They have been based on real cases that have been anonymised.

More details about the decisions made by the Conduct and Competence Committee can be found at www.hcpts-uk.org.

Lack of competence

A Panel of the Conduct and Competence Committee found that a biomedical scientist (the registrant) had failed to adequately perform basic laboratory techniques and work unsupervised.

The Panel imposed a Conditions of Practice Order for a period of 12 months.

The registrant had attended the hearing and was represented. They admitted all of the alleged facts and that these amounted to a lack of competence. The Panel heard live evidence from four witnesses who had previously worked with the Registrant. They also heard from the registrant.

Having heard all of the evidence, the Panel determined that all of the factual particulars were found proved, and that they amounted to a lack of competence. Furthermore, the registrant had been afforded training and support by her previous employer to address the deficiencies identified in her practice, but her performance had not improved to the requisite standard.

When considering the registrant's current fitness to practise, the Panel determined that although the registrant's lack of competence was remediable, in light of documentation provided by the registrant's current employer, the deficiencies identified in the registrant's practice had not yet been remedied. Accordingly, the Panel found that the registrant's fitness to practise was impaired on both the personal and public component.

In determining the appropriate sanction, the Panel considered the aggravating and mitigating features of the case. The mitigating features included the registrant's engagement with fitness to practise proceedings, demonstration of some insight and remorse and that no actual harm was inflicted upon patients. The aggravating features included the registrant's deficiencies in her practice being repeated on a number of occasions, and that attempts to remediate her repeated failings had only limited success to date.

The Panel determined that taking no further action would be wholly inappropriate. Given that the lack of competence demonstrated by the registrant was not isolated in nature, the Panel determined that a Caution Order would not be sufficient to protect the public. The Panel considered that a Conditions of Practice Order would afford the registrant the opportunity to remedy their lack of competence. It also concluded that a Suspension Order would have a disproportionate and punitive effect. In all the circumstances, the Panel concluded that the appropriate sanction to protect the public and to satisfy the wider public interest was that of a Conditions of Practice Order for a period of 12 months.

Convictions / cautions

Criminal convictions or cautions were the third most frequent ground of allegation considered by Panels of the Conduct and Competence Committee in 2016–17. The allegation either solely related to the registrants conviction(s) or caution(s) or they also included other matters amounting to another ground, for example, misconduct.

Some of the criminal offences considered included:

- theft;
- fraud;
- shoplifting;
- possession of drugs and / or possession of drugs with the intent to supply;
- receiving a restraining order and breach of a restraining order;
- driving under the influence of alcohol;
- failure to provide a specimen;
- assault (common or by beating);
- possession of pornographic images; and
- sexual offences.

More details about the decisions made by the Conduct and Competence Committee can be found at www.hcpts-uk.org.

Conviction case study

A Panel of the Conduct and Competence Committee considered an allegation that a paramedic had been convicted of fraud, having given false information to obtain a prescription.

The Registrant did not attend the hearing, nor was he represented.

The Panel had before it the relevant Certificate of Conviction, which was sufficient to prove that the registrant had been convicted of the offence. The Panel went on to consider whether the registrant's fitness to practise was currently impaired.

The events leading to the conviction involved the registrant abusing their position of trust on two occasions. They had used a false name to obtain a prescription. The registrant had admitted the offence upon arrest and had been open and honest with both the police and his employers during their investigations. The registrant had accepted that they had been dishonest and that this was an abuse of trust. The Panel took the view that the registrant had not provided sufficient evidence of remediation or any steps taken that would lower the risk of a repetition. The registrant's action would bring the profession into disrepute and as there was not sufficient evidence that the registrant had adequately remediated their behaviour, the Panel concluded that the registrant's fitness to practise was currently impaired.

Having considered each of the available sanctions in ascending order of severity, the Panel decided that a Striking Off Order was the most appropriate sanction in this case. It considered that a Striking Off Order was applicable in cases where there was a serious, deliberate or reckless act involving an abuse of trust, including dishonesty. The registrant had provided little evidence of remediation, their current practice or intentions. There was also very limited engagement with the HCPC or the hearing. The registrant had provided no testimonials and no evidence that they had reflected on their behaviour and that this presented a real risk of harm. The registrant's deliberate and reckless behaviour, his lack of remediation, reflection, and engagement with the HCPC, and his breach of trust and dishonesty were so serious as to necessitate a Striking Off Order.

Health Committee Panels

Panels of the Health Committee consider allegations that registrants' fitness to practise is impaired by reason of their physical and / or mental health. Many registrants manage a health condition effectively and work within any limitations their condition may present. However the HCPC can take action when the health of a registrant is considered to be affecting their ability to practise safely and effectively.

The HCPC presenting officer at a Health Committee hearing will often make an application for proceedings to be heard in private. Often sensitive matters regarding registrants' ill-health are discussed and it may not be appropriate for that information to be discussed in a public session.

The Health Committee considered thirteen cases in 2016–17, this is slightly less than the eighteen cases in 2015–16. Of those cases one resulted in a conditions of practice, two were not well founded at the impairment stage, five were suspended, and five were removed using our consent processes.

Suspension and conditions of practice review hearings

All suspension and conditions of practice orders must be reviewed by a panel before they expire. A review may also take place at any time at the request of the registrant concerned or the HCPC.

Registrants may request reviews if, for example, they are experiencing difficulties complying with conditions imposed or if new evidence relating to the original order comes to light.

The HCPC can also request a review of an order if, for example, it has evidence that the registrant concerned has breached any condition imposed by a panel.

In reviewing a suspension order, the panel will look for evidence to satisfy it that the issues that led to the original order have been addressed and that the registrant concerned no longer poses a risk to the public.

If a review panel is not satisfied that the registrant concerned is fit to practise, it may:

- extend the existing order or
- replace it with another order.

In 2016–17, 222 review hearings were held. Table 23 shows the decisions that were made by review panels in 2016–17. Similar to the final hearing stage, the HCPC and the registrant concerned may seek to conclude a review case without the need for a contested review hearing. In 2016–17, none of the review cases were disposed of using voluntary removal agreements. We have reviewed our consent processes this year, but the requirement remains for the registrant to engage in the process prior to the review hearing in agreeing a sanction.

Table 23 Review hearing decisions

	Adjourned/ Part Heard	Article 30(7)	Caution	Conditions of practice	Order revoked	Struck off	Suspension	Consent - removed	Consent - caution	Consent - conditions	Consent - suspension	Total
Arts therapists	0	0	0	0	1	0	0	0	0	0	0	**1**
Biomedical scientists	0	0	0	5	9	6	4	0	0	0	0	**24**
Chiropodists / podiatrists	0	0	0	0	0	1	1	0	0	0	0	**2**
Clinical scientists	0	0	0	0	0	0	0	0	0	0	0	**0**
Dietitians	0	0	0	0	0	0	0	0	0	0	0	**0**
Hearing aid dispensers	0	0	0	1	2	0	0	0	0	0	0	**3**
Occupational therapists	1	0	0	3	4	2	2	0	0	0	0	**12**
Operating department practitioners	1	0	0	0	0	7	7	0	0	0	0	**15**
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	**0**
Paramedics	1	0	0	5	6	3	6	0	0	0	0	**21**
Physiotherapists	0	0	0	1	5	2	1	0	0	0	0	**9**
Practitioner psychologists	0	0	0	2	4	0	6	0	0	0	0	**12**
Prosthetists / orthotists	0	0	0	0	0	0	0	0	0	0	0	**0**
Radiographers	2	0	0	2	2	4	6	0	0	0	0	**16**
Social workers in England	1	0	3	16	22	24	34	0	0	0	0	**100**
Speech and language therapists	0	0	0	2	2	1	2	0	0	0	0	**7**
Total 16/17 YTD	**6**	**0**	**3**	**37**	**57**	**50**	**69**	**0**	**0**	**0**	**0**	**222**

Tables 24 and 25 set out the outcomes of the reviews of the suspension and conditions of practice orders in the period 2016–17

Table 24 Suspension orders

Review Activity	Number	%
Suspension reviewed, suspension confirmed	54	42.2
Suspension reviewed, replaced with conditions of practice	8	6.3
Suspension reviewed, struck off	41	32.0
Suspension reviewed, caution imposed	2	1.6
Suspension reviewed, removed by consent	0	0.0
Suspension reviewed, no further action	23	18.0
Total	**128**	**100.0**

Table 25 Conditions of practice orders

Review activity	Number	%
Conditions reviewed, replaced with suspension	11	13.3
Conditions reviewed, struck off	9	10.8
Conditions reviewed, conditions confirmed	15	18.1
Conditions reviewed, conditions varied	12	14.5
Conditions reviewed, no further action	38	43.4
Conditions replaced, removed by consent	0	0.0
Total	**85**	**100**

Three suspension order review and three conditions of practice review hearings were adjourned, part heard and therefore do not appear in Tables 24 and 25. In addition to the review hearings that appear in tables 24 and 25, three reviews resulted in Cautions in 2016-17, which do not require a further review.

Restoration hearings

A person who has been struck off the HCPC Register and wishes to be restored to the Register, can apply for restoration under Article 33(1) of the Health and Social Work Professions Order 2001.

A restoration application cannot be made until five years have elapsed since the striking off order came into force. In cases where the striking off decision was made by the General Social Care Council that period is reduced to three years. In addition, if a restoration application is refused, a person may not make more than one application for restoration in any twelve-month period.

In applying for restoration, the burden of proof is upon the applicant. This means it is for the applicant to prove that he or she should be restored to the Register and not for the HCPC to prove the contrary. The procedure is generally the same as other fitness to practise proceedings, however in accordance with the relevant procedural rules, the applicant presents his or her case first and then it is for the HCPC presenting officer to make submissions after that.

If a panel grants an application for restoration, it may do so unconditionally or subject to the applicant:

- meeting the HCPC's 'return to practice' requirements; or
- complying with a conditions of practice order imposed by the Panel.

In 2016–17, ten applications for restoration were heard. Of these, seven were restored (four with conditions of practice orders), one was not restored and two cases were adjourned to allow the registrant to collect further evidence to demonstrate their fitness to practise.

The role of the Professional Standards Authority and High Court cases

The Professional Standards Authority for Health and Social Care (PSA) is an independent body that oversees the work of the nine health and care regulatory bodies in the UK. The PSA reviews our performance and audits and scrutinises our fitness to practise cases and decisions.

The PSA can refer any regulator's final decision in a fitness to practise case to the High Court (or in Scotland, the Court of Session), if it considers that the decision is not sufficient for public protection. Consideration of whether a decision is sufficient for the protection of the public involves consideration of whether it is sufficient to protect the health, safety and well-being of the public, whether it is sufficient to maintain public confidence in the profession concerned, and whether it is sufficient to maintain proper professional standards and conduct for members of that profession.

In 2016–17, two HCPC cases were referred to the High Court by the PSA. One of these was later withdrawn and one was concluded by the parties consenting to the original Suspension Order being substituted with a Striking Off Order.

Three registrants appealed the decisions made by the Conduct and Competence Committee. Each of these appeals were dismissed by the High Court.

Five JR applications were made in 2016–17. Permission was granted in only one of these and that Judicial Review was dismissed.

The information set out above in relation to the status of the cases was correct at the time of writing this report in April 2017.

Further Information

How to raise a concern

If you would like to raise a concern about a professional registered by the HCPC, please write to us at the following address.

Fitness to Practise Department
Health and Care Professions Council
Park House
184 Kennington Park Road
London SE11 4BU

If you need advice, or feel your concerns should be taken over the telephone, you can also contact a member of the Fitness to Practise Department on:

tel +44 (0)20 7840 9814
freephone 0800 328 4218 (UK only)
fax +44 (0)20 7582 4874

You may also find our Reporting a concern form useful, available at www.hcpc-uk.org.

Appendix – Historical Statistics

Table 1: Total number of cases received 2002–03 to 2016–17

Year	Number of cases	Total number of registrants	% of registrants subject to complaints
2002–03	70	144,141	0.05
2003–04	134	144,834	0.09
2004–05	172	160,513	0.11
2005–06	316	169,366	0.19
2006–07	322	177,230	0.18
2007–08	424	178,289	0.24
2008–09	483	185,554	0.26
2009–10	772	205,311	0.38
2010–11	759	215,083	0.35
2011–12	925	219,162	0.42
2012–13	1,653	310,942	0.52
2013–14	2,069	322,021	0.64
2014–15	2,170	330,887	0.66
2015–16	2,127	341,745	0.62
2016–17	2,259	350,330	0.64

Table 2: Who raised concerns 2010–11 to 2016–17

Type of complaint	2010-11	% of cases	2011-12	% of cases	2012-13	% of cases	2013-14 cases	% of cases	2014-15 cases	% of cases	2015-16 cases	% of cases	2016-17 cases	% of cases
Article 22(6) / Anonymous	166	21.9	284	30.7	58	3.5	77	3.7	65	3.0	57	2.7	65	2.9
Employer	217	28.6	288	31.1	435	26.3	593	28.7	554	25.5	535	25.2	596	26.4
Other	21	2.7	46	5	87	5.3	81	3.9	103	4.7	115	5.4	102	4.5
Other Registrant / professional	75	9.9	52	5.6	99	6	78	3.8	71	3.3	51	2.4	68	3.0
Police	25	3.3	27	3	27	1.6	37	1.8	15	0.7	20	0.9	31	1.4
Professional body	N/A	N/A	N/A	N/A	21	1.3	14	0.7	21	1.0	10	0.5	10	0.4
Public	255	33.6	228	24.6	634	38.3	793	38.3	988	45.5	910	42.8	924	40.9
Self referral	N/A	N/A	N/A	N/A	292	17.7	396	19.1	353	16.3	429	20.2	463	20.5
Total	759	100	925	100	1653	100	2069	100	2170	100	2127	100	2259	100.0

Table 3: Cases by profession 2005–06 to 2016–17

Profession	2005–06	2006–07	2007–08	2008–09	2009–10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Arts therapists	2	4	16	8	5	4	4	7	4	11	8	11
Biomedical scientists	21	18	26	46	39	37	66	37	50	36	47	32
Chiropodists / podiatrists	62	38	40	62	76	78	55	53	71	56	56	69
Clinical scientists	3	2	6	8	4	10	9	9	3	6	7	5
Dietitians	7	6	14	1	12	9	12	12	21	15	17	19
Hearing aid dispensers	0	0	0	0	0	44	19	25	22	18	18	26
Occupational therapists	38	40	45	55	78	62	95	74	105	97	93	84
Operating department practitioners	19	22	38	55	38	39	63	45	63	60	55	57
Orthoptists	0	1	3	0	2	0	2	2	2	2	1	1
Paramedics	43	81	94	99	163	188	252	262	266	231	239	295
Physiotherapists	79	52	85	95	126	104	119	122	134	133	139	183
Practitioner psychologists	N/A	N/A	N/A	N/A	149	118	138	180	157	157	146	143
Prosthetists / orthotists	3	3	3	6	7	1	2	1	2	2	4	2

Radiographers	27	44	32	34	47	40	58	56	59	80	87	75
Social workers in England	N/A	N/A	N/A	N/A	N/A	N/A	N/A	734	1085	1251	1,174	1,226
Speech and language therapists	12	11	22	14	26	25	25	34	25	15	36	31
Total	**316**	**322**	**424**	**483**	**772**	**759**	**919**	**1,653**	**2,069**	**2,170**	**2,127**	**2,259**

Table 4: Cases by route to registration 2010–11 to 2016–17

Route to registration	2010-11	% of cases	2011-12	% of cases	2012-13	% of cases	2013-14 cases	% of cases	2014-15 cases	% of cases	2015-16 cases	% of cases	2016-17 cases	% of cases
Grandparenting	32	4	20	2	6	0.4	0	0	0	0	17	0.8	29	1.3
International	40	5	57	7	50	3	62	3	66	3	79	3.7	98	4.3
UK	687	91	848	91	1597	96.6	2007	97	2104	97	2031	95.5	2132	94.4
Not known	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	759	100	925	100	1,653	100	2069	100	2170	100	2127	100	2259	100

Investigating Committee

Table 5: Allegations where a case to answer decision was reached 2004–05 to 2016–17

Year	% of allegations with case to answer decision
2004–05	44
2005–06	58
2006–07	65
2007–08	62
2008–09	57
2009–10	58
2010–11	57
2011–12	51
2012–13	58
2013–14	53
2014–15	53
2015–16	63
2016–17	71

Table 6: Percentage case to answer, comparison of 2005–06 to 2016–17

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
22(6)/Anon	58	86	61	49	69	72	50	77	64	53	79	83
BPS transfer cases*	0	0	0	0	7	0	0	0	0	0	0	0
Employer	81	84	84	81	80	82	69	73	68	68	73	78
Other	0	0	56	34	79	57	63	70	82	38	57	62
Other registrant / professional	60	46	77	67	62	29	50	27	31	52	93	36
Police	26	28	31	37	50	54	38	47	67	63	67	88
Professional body	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50	89	0	73	50
Public	18	33	29	22	22	22	17	19	16	24	33	47
Self Referral	N/A	N/A	N/A	N/A	N/A	N/A	N/A	41	46	45	55	66

***These are cases that were transferred from the British Psychological Society to the HPC.

Table 7: Representations provided to Investigating Committee Panel by profession 2006–07 to 2016–17

	Case to answer				No case to answer				
Year	No response	Response from registrant	Response from representative	Total case to answer	No response	Response from registrant	Response from representative	Total No case to answer	Total cases
2006–07	40	79	28	147	3	66	4	73	220
2007–08	59	85	9	153	17	68	6	91	244
2008–09	61	131	14	206	21	115	13	149	355
2009–10	70	200	21	291	14	177	7	198	489
2010–11	84	185	25	294	10	195	13	218	512
2011–12	49	182	21	252	28	197	21	246	498
2012–13	86	186	29	301	18	176	28	222	523
2013–14	99	218	43	360	35	256	31	322	682
2014–15	136	256	40	433	28	301	48	377	810
2015–16	131	279	57	467	36	201	35	272	739
2016–17	143	242	58	443	19	142	22	183	626

Interim orders

Table 8: Interim order hearings 2004–05 to 2016–17

Year	Applications granted	Orders reviewed	Orders revoked on review	Number of cases	% of allegations where interim order was imposed
2004–05	15	0	0	172	8.7
2005–06	15	12	1	316	4.7
2006–07	17	38	1	322	5.3
2007–08	19	52	3	424	4.5
2008–09	27	55	1	483	5.6
2009–10	49	86	6	772	6.3
2010–11	44	123	6	759	5.8
2011–12	49	142	4	925	5.3
2012–13	39	151	8	1653	2.4
2013–14	85	166	3	2069	4.6
2014–15	87	367	9	2170	4.0
2015–16	76	260	7	2127	3.6
2016–17	128	324	8	2259	5.7

Final hearings

Table 9: Number of hearings 2004–05 to 2016–17

Year	Interim order and review	Final hearing	Review hearing	Restoration hearing	Article 30(7)	Total
2004–05	25	66	11	1	0	103
2005–06	28	86	26	0	0	140
2006–07	55	125	42	0	0	222
2007–08	71	187	66	0	0	324
2008–09	85	219	92	0	0	396
2009–10	141	331	95	0	0	567
2010–11	171	404	99	2	1	677
2011–12	197	405	126	3	1	732
2012–13	194	228	141	1	1	565

2013–14	265	267	160	4	1	697
2014–15	332	351	166	5	0	854
2015–16	346	320	171	8	1	846
2016–17	466	445	216	8	0	1135

Table 10: Representation at final hearings 2006–07 to 2016–17

	Type of representation		
Year	Registrant	Representative	None
2006-07	13	46	43
2007-08	17	80	59
2008-09	21	74	80
2009-10	44	114	98
2010-11	41	160	113
2011-12	38	155	94
2012-13	31	102	95
2013-14	39	119	109
2014-15	71	114	166
2015-16	56	100	164
2016-17	64	164	217

Suspension and conditions of practice review hearings

Table 11: Number of review hearings 2004–05 to 2015–16

Year	Number of review hearings
2004–05	11
2005–06	26
2006–07	42
2007–08	66
2008–09	92
2009–10	95
2010–11	99
2011–12	126
2012–13	141
2013–14	160
2014–15	236

2015–16	202
2016–17	222