

Agenda Item 17(iii)

Enclosure 16

**Health and Care Professions Council
19 September 2018**

HCPC PSA performance report

For discussion

**From Katherine Timms, Head of Policy and
Standards**

Council, 19 September 2018

Professional Standards Authority for Health and Social Care
Performance Review Report 2017-18

Executive summary and recommendations

Introduction

In July 2018, the Professional Standards Authority for Health and Social Care (PSA) published its annual performance review of the HCPC.

The PSA concluded that the HCPC met all of the standards relating to: guidance and standards; education and training; and registration. Of the ten fitness to practise standards, six were judged as not being met.

The attached paper provides the Executive's response to the PSA conclusions in relation to the fitness to practise standards.

Decision

- The Council is invited to discuss the attached paper.

Background information

- The performance review report for 2016-17 and the Executive's response, including detail on the proposed FTP improvement plan, was considered by Council in December 2017. <https://www.hcpc-uk.org/assets/documents/100055F9Enc05-ProfessionalStandardsAuthorityPerformanceReview2016-2017.pdf>

Resource implications

The resource implications associated with the FTP improvement plan have been taken into account in departmental work plans for 2018/2019.

The resource implications associated with the FTP improvement plan has also been included in departmental work plans for 2018/19.

Financial implications

The financial implications, have been included in budget planning for 2018/19.

Appendices

- Appendix A: The performance review process and findings

- Appendix B: PSA performance review report 2017/18

Date of paper

11 September 2018

Professional Standards Authority for Health and Social Care Performance Review Report 2017-18

1. Introduction

- 1.1 In July 2018, the Professional Standards Authority for Health and Social Care (PSA) published its annual performance review of the HCPC for 2017-18. A full copy of the report is appended to this paper (appendix B).
- 1.2 In 2017-18, the HCPC was assessed as meeting 18 of the PSA's 24 Standards of Good Regulation. The HCPC has met all of the standards relating to: guidance and standards; education and training; and registration. Of the ten fitness to practise standard, six were judged as not being met:
- Standard 1: Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant.
 - Standard 3: Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation.
 - Standard 4: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel.
 - Standard 5: The fitness to practise process is transparent, fair, and proportionate and focused on public protection.
 - Standard 6: Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders.
 - Standard 8: All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession.
- 1.3 This paper outlines the performance review process and summarises the PSA's findings.

2. About the performance review process

- 2.1 The PSA oversees the nine regulators of health and social care professionals in the UK and is accountable to Parliament. The PSA is required by law to assess the performance of each of the regulators and to publish a report of its findings each year. The process seeks to check how effective the regulators have been in protecting the public and promoting confidence in health and care professionals; and to identify strengths and areas of concern in order to enable improvement. The PSA reports its assessment of the regulators' performance each year to the UK and Scottish Parliament and to the devolved administrations.
- 2.2 The PSA sets standards of good regulation, against which it assesses the performance of the regulators. For this year's review, the standards are grouped under the four regulatory functions: guidance and standards; education and training; registration; and fitness to practise. The PSA are currently consulting on changes to the standards. We will update Council once these are published.
- 2.3 In January 2018, the PSA carried out an initial review of the HCPC's performance from 1 January 2017 to 31 December 2017. Following this review the PSA decided to carry out a targeted review. After considering the information available, the PSA decided not to undertake an audit, as they had done in 2016-17.

3. Summary of feedback

- 3.1 The PSA highlighted that it had previously identified a number of serious concerns about the HCPC's performance in relation to fitness to practise. It made reference to our acceptance of those findings and the programme of work we have implemented to address them (the FTP improvement plan).
- 3.2 The PSA welcomed the HCPC's positive approach, and recognised it will take some time for us to address the issues but indicated that we have made significant progress over this review period.

4. FTP improvement plan

- 4.1 The FTP improvement plan seeks to address the concerns raised by the PSA. Council are regularly updated on the progress of the FTP improvement plan, and an update will be shared in the FTP performance report at the meeting on 19 September 2018.

Annual review of performance 2017/18

Health and Care Professions Council



About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

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

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

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

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

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

² *Right-touch regulation revised* (October 2015). Available at www.professionalstandards.org.uk/policy-and-research/right-touch-regulation

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About the Health and Care Professions Council

The Health and Care Professions Council (the HCPC) regulates the practice of arts therapists, biomedical scientists, chiropractors/podiatrists, clinical scientists, dietitians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists/orthotists, radiographers and speech and language therapists in the UK, and social workers in England. Its work includes:

- Setting standards for the education and training of practitioners and assuring the quality of education and training provided
- Setting and maintaining standards of conduct, performance, and ethics for practitioners and standards of proficiency for each professional group
- Maintaining a register of practitioners ('registrants') who meet those standards
- Setting standards of continuing professional development to ensure registrants maintain their ability to practise safely and effectively
- Taking action to restrict or remove from practice individual registrants who are considered not fit to practise.

As at 31 March 2018, the HCPC was responsible for a register of 361,061 professionals. Its annual retention fee for registrants is £90.



At a glance

Annual review of performance

Regulator reviewed: **Health and Care Professions Council**

Standards of good regulation

Core functions

Met

Guidance and Standards

4/4

Education and Training

4/4

Registration

6/6

Fitness to Practise

4/10

1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the HCPC.³ More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- It tells everyone how well the regulators are doing
 - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

The Standards of Good Regulation

- 1.4 We assess the regulators' performance against the Standards. They cover the regulators' four core functions:
- Setting and promoting guidance and standards for the profession
 - Setting standards for and quality assuring the provision of education and training
 - Maintaining a register of professionals
 - Taking action where a professional's fitness to practise may be impaired.
- 1.5 The Standards describe the outcomes we expect regulators to achieve in each of the four functions. Over 12 months, we gather evidence for each regulator to help us see if they have been met.
- 1.6 We gather this evidence from the regulator, from other interested parties, and from the information that we collect about them in other work we do. Once a year, we collate all of this information and analyse it to make a recommendation to our internal panel of decision-makers about how we believe the regulator has performed against the Standards in the previous 12

³ These are the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland.

- months. We use this to decide the type of performance review we should carry out.
- 1.7 When considering information relating to the regulator's timeliness, we consider carefully the data we see, and what it tells us about the regulator's performance over time. In addition to taking a judgement on the data itself, we look at:
- any trends that we can identify suggesting whether performance is improving or deteriorating
 - how the performance compares with other regulators, bearing in mind the different environments and caseloads affecting the work of those regulators
 - the regulator's own key performance indicators or service standards which they set for themselves.
- 1.8 We will recommend that additional review of their performance is unnecessary if:
- We identify no significant changes to the regulator's practices, processes or policies during the performance review period; and
 - None of the information available to us indicates any concerns about the regulator's performance that we wish to explore in more detail.
- 1.9 We will recommend that we ask the regulator for more information if:
- There have been one or more significant changes to a regulator's practices, processes or policies during the performance review period (but none of the information we have indicates any concerns or raises any queries about the regulator's performance that we wish to explore in more detail) or;
 - We consider that the information we have indicates a concern about the regulator's performance in relation to one or more Standards.
- 1.10 This targeted review will allow us to assess the reasons for the change(s) or concern(s) and the expected or actual impact of the change(s) or concern(s) before we finalise our performance review report.
- 1.11 We have written a guide to our performance review process, which can be found on our website www.professionalstandards.org.uk

2. What we found – our judgement

2.1 During January 2018 we carried out an initial review of the HCPC's performance from 1 January 2017 to 31 December 2017. Our review included an analysis of the following:

- Council papers, including performance reports and the HCPC's response to our 2016/17 performance review report
- Policy and guidance documents
- Statistical performance dataset
- Third party feedback
- A check of the HCPC register
- Information available to us through our review of final fitness to practise decisions under the Section 29 process.⁴

2.2 As a result of this assessment, we decided to carry out a targeted review of Standards 2 and 3 of the *Standards of Good Regulation* for Registration and Standards 1, 3, 4, 5, 6 and 8 of the *Standards of Good Regulation* for Fitness to Practise.

2.3 We obtained further information from the HCPC relating to these Standards. As a result of a detailed consideration of this further information we decided that the HCPC had met all the Standards for Registration, but had not met Standards 1, 3, 4, 5, 6 and 8 for Fitness to Practise. The reasons for this are set out in the following sections of the report.

Summary of the HCPC's performance

2.4 For 2017/18 we have concluded that the HCPC:

- Met all of the *Standards of Good Regulation* for Guidance and Standards
- Met all of the *Standards of Good Regulation* for Education and Training
- Met all of the *Standards of Good Regulation* for Registration
- Met four of the 10 *Standards of Good Regulation* for Fitness to Practise. The HCPC did not meet Standards 1, 3, 4, 5, 6 and 8.

2.5 In our last report, we identified a number of serious concerns about the HCPC's performance in relation to fitness to practise, which resulted in six of the Standards not being met. The HCPC accepted our findings and has developed and begun a programme of work to address the concerns we identified. We are pleased to see that the HCPC has engaged positively with our findings.

⁴ Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

- 2.6 It is clear from the HCPC's action plan that it understands that it will take some time to address the causes of the issues we found: some of the planned activities are scheduled to run into late 2018 and beyond. At this point, there is not yet enough evidence of sustained improvements available for the HCPC to demonstrate that it now meets the six Standards that were not met in last year's review. Nevertheless, we consider that by acknowledging the problems we found and drawing up a wide-ranging plan to address them, the HCPC has made significant progress during this review period. Our report explains under each Standard below how we reached our decision and what action the HCPC is taking.

3. Guidance and Standards

- 3.1 The HCPC has met all of the *Standards of Good Regulation* for Guidance and Standards during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.

Standard 1: Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care

- 3.2 The HCPC updated its *Standards of Conduct, Performance and Ethics* (SCPE), the core guidance for registrants, in 2016. We have seen no information to suggest that the HCPC's standards have become outdated, and so this Standard continues to be met.

Standard 2: Additional guidance helps registrants apply the regulator's standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centred care

- 3.3 The HCPC has published updated guidance for registrants during 2017:
- In June, it published updated guidance about continuing professional development (CPD), including examples of CPD activities and evidence
 - In September, it published updated guidance about the use of social media. It produced a podcast to accompany the guidance
 - In October, it published updated guidance about confidentiality.

- 3.4 In August 2017, the HCPC, along with the other UK health regulators, published a joint statement about conflicts of interest. It also published a case study to help illustrate the statement for registrants.

Standard 3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and

international regulation and learning from other areas of the regulator's work

- 3.5 As noted above, the HCPC worked with the other UK health regulators to produce a joint statement about conflicts of interest. The HCPC carried out public consultations about the updates it was making to guidance for registrants. It took the responses to the consultations into account when it updated the guidance. For example, after considering the responses to the consultation about updating its confidentiality guidance, the HCPC made changes to introduce additional information about safeguarding and to reflect the different legal context in Scotland.

Standard 4: The standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed

- 3.6 The HCPC continues to publish its standards and guidance through its website. Publications are available in Welsh and other languages and formats on request.
- 3.7 In March 2017, the HCPC published an updated statement of its approach to fitness to practise, which sets out for stakeholders the HCPC's understanding of the purpose of fitness to practise proceedings and its expectations of those involved. In June, it published guidance for the public, *What you should expect from your health and care professional*, including information about how to raise concerns, and contact details for sources of further information or support.

4. Education and Training

- 4.1 The HCPC has met all of the *Standards of Good Regulation* for Education and Training during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.

Standard 1: Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process

- 4.2 We noted in our last report that the HCPC published updated Standards of Education and Training (SETs) and accompanying guidance in June 2017. The revised SETs introduced new requirements about learner involvement and support, and were designed to strengthen the link between the SETs and the SCPE. To develop the revised SETs, the HCPC set up a professional liaison group involving a range of stakeholders, including service users and training providers, and carried out a public consultation.

Standard 2: The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration

- 4.3 The HCPC published its *Education Annual Report 2016* (covering the period from September 2015 to August 2016) in July 2017. The report said that the introduction of a new IT system had enabled the education department to allocate its resources more proportionately. This meant that in 2015/16 it completed 'more approval and monitoring process work than in any other year', while reducing the average time taken to make approval and annual monitoring decisions.⁵
- 4.4 Approval visit reports are published on the HCPC website. The reports confirm that visits took account of the views of students/trainees and patients/service users. Approval visit reports include a recommendation as to whether or not a programme meets all the SETs and, where relevant, conditions or recommendations for further action in relation to particular SETs.⁶ We are satisfied that this Standard continues to be met.

Standard 3: Action is taken if the quality assurance process identifies concerns about education and training establishments

- 4.5 The HCPC continues to investigate concerns received about training programmes, and to take action where its own quality assurance process identifies concerns. In relation to one training course where the HCPC had identified concerns, we saw that it directed that an inspection visit should take place; after considering the visit report, it withdrew approval from the programme.
- 4.6 The *Education Annual Report* says that the HCPC changed its policy so that it investigates concerns received anonymously about training programmes. As a result, in 2015/16 it investigated more concerns than it had done in any of the preceding five years.

Standard 4: Information on approved programmes and the approval process is publicly available

- 4.7 The HCPC website includes detailed information about the approval process for training programmes. There is a searchable list of approved programmes, and copies of approval visit reports are available. The *Education Annual Report* includes an overview of the approval process, with a link to the list of approved programmes.

⁵ HCPC approval is required for all training programmes leading to eligibility for registration with the HCPC. Once approved, programmes are subject to annual monitoring. They must send information to the HCPC to confirm that they continue to meet the SETs.

⁶ Conditions are requirements that a programme must meet to be approved; recommendations may be made to encourage further improvements to a programme, usually when the HCPC considers that a particular SET has been met at or just above the threshold level.

5. Registration

5.1 As we set out in Section 2, we considered that more information was required in relation to the HCPC’s performance against Standards 2 and 3 for registration, and carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that both these Standards were met and therefore the HCPC has met all of the *Standards of Good Regulation* for Registration in 2017/18.

Standard 1: Only those who meet the regulator’s requirements are registered

5.2 We have not seen any information which suggests that the HCPC has added anyone to its register who has not met the registration requirements.

Standard 2: The registration process, including the management of appeals, is fair, based on the regulator’s standards, efficient, transparent, secure, and continuously improving

5.3 We carried out a targeted review of this Standard.

5.4 In our last two reviews of the HCPC’s performance, we carried out targeted reviews against this Standard because we had concerns about its registration appeals process and about variations in the time taken to process international applications. Last year, we found that the HCPC met this Standard because the information it provided showed that it had improved its performance in these areas. Our assessment this year indicated that it has maintained that improved level of performance.

5.5 However, from our consideration of the quarterly performance data the HCPC sends us, as well as its own performance reporting to its Council, we noted that there had been increases in the number of registration appeals received and upheld. The following table summarises the relevant data.

Registration appeals	April 2016 – September 2016	October 2016 – March 2017	April 2017 – September 2017
Received	27	29	41
Concluded	33	31	27
Upheld	5	4	12
% upheld	15%	13%	44%

5.6 We wanted to understand what was causing these increases, and whether they indicated a problem with the HCPC’s registration decisions. We sought further information from the HCPC.

5.7 The HCPC told us that most of the upheld appeals were a result of the change in process it had introduced further to our concerns in previous years.

Under the old process, some appeals would have been conceded without a formal hearing. The process has now been changed so that the registration appeals panel formally records a decision in all cases, even those where HCPC staff identify at an early stage that the appeal should be allowed. Accordingly, we are satisfied that the data now reflects more accurately the appeals received and the HCPC's legal powers for dealing with registration appeals.

- 5.8 We received further data from the HCPC covering the period after we decided to carry out a targeted review against this Standard. As the table above shows, between April and September 2017, the HCPC received 41 registration appeals, an average of almost seven a month. From October 2017 to March 2018, it received 22, below four per month on average. The reduction in the second half of the year meant that the number of registration appeals received for the year, though higher than previous years, did not suggest any cause for concern about the HCPC's processes.
- 5.9 Although the total number of registration appeals for the year was comparable with the previous year, there was an increase in the number of appeals in relation to Continuing Professional Development (CPD).⁷ From April to December 2017, the HCPC received 12 CPD appeals, whereas it received no CPD appeals in 2016/17. We asked the HCPC if it had identified the cause of this increase.
- 5.10 The HCPC explained that the majority of these appeals related to two professions which renewed their CPD cycles in 2016: social workers and operating department practitioners. It explained that it has taken action to engage with registrants in preparation for the next renewal cycle for these professions, in 2018. This included CPD workshops and webinars.

Conclusion against this Standard

- 5.11 The further data we received from the HCPC showed that the number of registration appeals for the year as a whole is not significantly more than last year. The increase in registration appeals recorded as upheld does not indicate that there is a problem with the HCPC's registration decisions, but that it is now recording appeal outcomes more transparently. We did not see evidence that the increase in CPD appeals was a sign of problems in the CPD process, and we note that the HCPC has taken action in light of the increase. We will continue to monitor data about registration appeals, including CPD appeals. Overall, we are satisfied that this Standard is met.

Standard 3: Through the regulator's registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice

- 5.12 We carried out a targeted review of this Standard following our check of the HCPC's register.

⁷ The HCPC can remove a registrant from its register if they fail to comply with CPD requirements. There is a right of appeal against removal on these grounds.

- 5.13 One of the objectives of our register check was to satisfy ourselves that the HCPC's online register correctly displayed details of restrictions on registrants' practice where appropriate. When the HCPC imposes a restriction on a registrant's practice as a result of a fitness to practise hearing, the registrant's entry on the online register provides details of the restriction. The register entry also contains a link to details of the hearing, including a copy of the panel's determination, so that anyone can find out more information about why the registrant's practice had to be restricted.⁸
- 5.14 Although all the entries we looked at in our register check correctly showed where there were restrictions on registrants' practice, there were some cases where the link to the hearing details did not work. This would have made it more difficult for members of the public to find out about restrictions on a registrant's practice.⁹ This issue affected about ten per cent of the cases in our sample where there was a restriction in place on the registrant's practice. We told the HCPC what we had found in our register check and asked it for more information.
- 5.15 The HCPC investigated the issue and told us that it had identified the source of the problem. It said that the action necessary to approve publication of the hearing outcome and the associated link in the register entry had not been taken in some cases. It said that this was the result of human error. It further explained that there was a process in place to carry out a weekly check that hearing decisions had been published, but these checks had not been taking place, possibly as a result of staffing changes.
- 5.16 The HCPC confirmed that it had updated the register entries we told it about following our check, and that it had checked all the other cases where there were restrictions in place, to make sure that the links were working properly. It had also introduced a new process to check that decisions were published on the website within the specified timelines.
- 5.17 We carried out another check of the register after we received the HCPC's response. The links to hearing details worked properly in all the cases in this sample. We are satisfied that our sample was an adequate basis on which to evaluate the effectiveness of the action the HCPC has taken. We may undertake further checks in future to see whether the problem has recurred.
- 5.18 We considered the available evidence about the HCPC's performance in relation to this Standard. Although there was a problem affecting some entries on the online register when we carried out our first register check, the HCPC has now taken action to rectify this. Furthermore, we have not seen evidence that anyone who wanted to find information about a registrant was unable to do so; for example, we did not receive any concerns about this from the public. Even before the issue was resolved, the affected register entries accurately confirmed whether a registrant had a restriction on their

⁸ If a registrant's practice has been restricted because of a health problem, the hearing will have taken place in private, and no further information will be published other than confirmation of the restriction.

⁹ For example, when a registrant is subject to conditions of practice, the conditions are published alongside the determination, not on the register entry. So if the link to the hearing details does not work, it is not easy to find out what conditions the registrant must comply with.

practice, and for how long. We have concluded that this Standard is met this year.

Standard 4: Employers are aware of the importance of checking a health professional's registration. Patients, service users and members of the public can find and check a health professional's registration

- 5.19 The facility to search the HCPC's register is clearly displayed on the front page of its website. There is also an option for employers to search for multiple registrants.
- 5.20 The HCPC frequently uses social media to highlight the importance of registration. It offers registrants free public information packs, which explain the role of the HCPC and how to check that a health professional is registered.

Standard 5: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner

- 5.21 Last year, we carried out a targeted review of this Standard, to understand how the HCPC was dealing with a legislative error relating to orthoptists. A change in the law was intended to allow those orthoptists who were appropriately annotated on the HCPC's register to sell and supply certain medicines. However, due to an error in the legislation, all orthoptists were legally able to sell and supply these medicines. The HCPC introduced a regulatory requirement for orthoptists to complete an approved training course to acquire the annotation before they could sell and supply medicines. We were satisfied that this was a reasonable way to protect the public.
- 5.22 In October 2017, The Human Medicines (Amendment) Regulations 2017 came into force. These amended the previous legislation to add in the requirement for orthoptists to be annotated on the HCPC register before they are legally allowed to sell and supply medicines. Therefore we understand that the problem with the legislation has now been resolved. We have not seen evidence that any orthoptists sought to sell or supply the relevant medicines without the annotation in the intervening period.
- 5.23 The HCPC also continues to publish information about how it investigates allegations of unregistered activity. In December 2017, it announced that it had successfully prosecuted someone who had advertised chiropody services without being registered.

Standard 6: Through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise

- 5.24 We noted in last year's report that the HCPC published revised CPD guidance in June 2017. The revised guidance included minor updates to clarify the CPD requirements. We have not seen any significant changes to the HCPC's CPD system since then. This Standard continues to be met.

6. Fitness to Practise

- 6.1 As we set out in Section 2, we considered that more information was required in relation to the HCPC's performance against Standards 1, 3, 4, 5, 6 and 8 and carried out a targeted review. These were the Standards which the HCPC did not meet in our last review. The issues we looked at, and what we found in our review, are set out under the relevant Standards below.

Standard 1: Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant

- 6.2 This Standard remains unmet this year. The HCPC did not meet this Standard last year because we had serious concerns about its Standard of Acceptance (SOA). The SOA is the threshold the HCPC uses to decide whether to investigate a case referred to it. When we audited a sample of the HCPC's fitness to practise cases last year, we found that the threshold being applied at the SOA was inconsistent and often inappropriately high. This meant that it was creating a barrier to complaints being accepted into the fitness to practise process.
- 6.3 This year, we carried out a targeted review of this Standard to see whether the HCPC had addressed the problems we found last year.
- 6.4 The HCPC took action in response to our 2016/17 report. It carried out its own audits to satisfy itself whether the issues we had found in our audit were still occurring in more recent fitness to practise cases. The findings of these audits, one by the HCPC's quality compliance team and one external independent audit, were consistent with each other and with our audit.
- 6.5 The HCPC arranged targeted training for staff based on the audit findings. It temporarily increased the level of authorisation required to close cases at the SOA stage, to ensure closer scrutiny of these decisions. It also developed new operational guidance for staff about how to apply the SOA. This guidance included specific reference to the HCPC's standards for registrants, including the *Standards of conduct, performance and ethics* (SCPE). In our last report, we had expressed concern about the omission of any mention of the SCPE from the HCPC's SOA guidance.
- 6.6 We have seen that the training materials and revised guidance for staff emphasise that the SOA should not be a barrier to concerns being raised about registrants. They also provide further guidance about other specific concerns we identified in our last report: for example, how staff should interpret the SOA's requirement for credible evidence, and what test they should be applying to decide whether the SOA is met.
- 6.7 The HCPC's action plan includes a full review of the SOA policy, starting in April 2018, with the HCPC's Council due to consider the final version of a revised policy at its September 2018 meeting. The HCPC plans to introduce interim measures before then, with another external audit planned by the end of June 2018 to check how the SOA is being applied.

Conclusion against this Standard

- 6.8 We looked carefully at the further information the HCPC provided. We can see that it has planned actions to address the problems we found with the SOA and its application. These actions include a full review of the SOA, which is due to continue into the second half of 2018.
- 6.9 It will take some time before we see evidence of the impact of the HCPC's planned actions. Until then, we cannot say that the issues we found last year have been successfully addressed so that the SOA is consistently being applied as an appropriate threshold rather than a barrier to complaints. For that reason, this Standard remains unmet for this review period.

Standard 2: Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks

- 6.10 The HCPC continues to have arrangements in place for sharing information with other regulators. This includes referring fitness to practise cases to other regulators where appropriate. In 2017, we have seen that the HCPC has opened fitness to practise cases based on information received from employers, other regulators and the police. This Standard remains met.

Standard 3: Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation

- 6.11 This Standard is not met this year. The HCPC did not meet it last year. Our concerns about the application of the SOA were relevant to this Standard, because we found that some cases were being closed at the SOA stage which should instead have been referred to an Investigating Committee Panel (ICP), whose role it is to decide whether there is a case to answer. If the ICP decides there is no case to answer, the case is closed. If there is a case to answer, the ICP will refer the case for a final hearing.
- 6.12 We expressed concern about the use of legal advice in a number of cases where registrants had referred themselves to the HCPC, as there was no record of a decision-maker assessing the legal advice received. This gave the appearance that the legal advice was effectively the decision, which would not be appropriate.
- 6.13 We also had concerns about some of the cases considered by an ICP. We saw cases where the HCPC's investigation was inadequate, which meant that the allegations considered by the ICP were of poor quality and/or did not reflect the full facts of the matter. As explained in last year's report, we saw a number of cases where the HCPC's investigation had relied excessively on investigations previously carried out by the registrant's employer. These shortcomings may have affected the ICP's decision. We also considered that in some cases the ICP had failed to request further information where this would have been appropriate.

- 6.14 We carried out a targeted review of this Standard to see how the HCPC was addressing the issues we had identified.
- 6.15 The HCPC accepted the findings of our last report. It introduced some changes to how cases are prepared for the ICP, including developing new template documents to help staff and panellists focus on key considerations. It reduced the number of cases to be considered at each ICP, to give more time for the panel to consider each case. It also updated the training provided to panellists. Investigations staff received further training about drafting allegations, informed by the findings of an audit the HCPC carried out in June 2017. This audit found areas for improvement which were consistent with our earlier audit.
- 6.16 The HCPC told us that from November 2017 it piloted a new approach to investigation planning. This was intended to improve the quality of investigations and save time by generating a clear and focused investigation plan at the outset. The HCPC evaluated the pilot scheme in March 2018, and decided to apply this new investigation planning approach more widely from July 2018. The HCPC told us it has provided further training to staff about the new approach and will update its systems and processes accordingly. It plans to evaluate the impact of these changes later in 2018.
- 6.17 The HCPC's action plan includes a review of the provision of legal advice. This is due to be completed by the end of 2018. The review of the SOA (see paragraph 6.7 above) will include consideration of the use of legal advice in self-referral cases. We have already seen that staff training materials emphasise that the purpose of legal advice is to support decision-making by the HCPC, not replace it.

Conclusion against this Standard

- 6.18 According to the information we have received from the HCPC, work is under way to address the concerns we raised last year in relation to this Standard. As noted above, these pieces of work are expected to be completed and evaluated at different points throughout the rest of 2018. As such, we do not yet have evidence available to satisfy us that the HCPC is now making appropriate decisions about whether there is a case to answer. For that reason, this Standard remains unmet.

Standard 4: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel

- 6.19 This Standard is not met this year. The HCPC did not meet it in our 2016/17 or 2015/16 reviews. We carried out a targeted review to seek further information about its performance in relation to risk assessments and interim orders.¹⁰

¹⁰ An interim order allows a regulator to impose restrictions on a registrant's practice while a case is being investigated. The HCPC can apply for an interim suspension or conditions of practice order on the grounds that it is necessary for public protection, in the registrant's own interest or in the wider public interest.

Risk assessments

- 6.20 Our audit last year found widespread weaknesses in the quality of risk assessments. In particular, we found that risk assessments were often failing to identify and analyse risks and to prioritise cases accordingly. The HCPC's own internal audits of risk assessments also identified issues with their quality. We asked the HCPC for more information about the work it has done to improve the standard of risk assessments in fitness to practise cases.
- 6.21 In March 2018, the HCPC provided further training to managers of casework teams about quality assuring risk assessments. It explained that it was developing e-learning tools about risk assessment, which it expects to be in use by June 2018. All new and existing fitness to practise casework staff would use the new tools, which are intended to focus on how to identify and assess risk, and to highlight areas where individual staff members need additional support.
- 6.22 As part of the development of these tools, the HCPC reviewed a sample of recent risk assessments in early 2018. The review found some continuing issues with staff not identifying all the risk factors in a case. We understand that further audits are planned to evaluate the impact of the targeted learning and development activity on the quality of risk assessments.

Interim orders

- 6.23 We have previously had concerns about the HCPC's approach to interim orders. These have included how long it takes to make decisions about interim orders, the adjournment rate of interim order hearings and the HCPC's approach to deciding whether to apply for an interim order. We were concerned that the HCPC was only seeking interim orders where it was confident they would be granted, rather than in all cases where an assessment of the risks indicated that a panel should consider whether an interim order might be necessary.
- 6.24 We noted in our last report that there had been a steep increase in the number of interim order applications. We have seen that the rate of interim order applications this year has continued at a level similar to last year, as the table below illustrates.

Interim order applications	2014/15	2015/16	2016/17	April 2017 to January 2018
Applications considered	80	89	142	132
Applications granted	71	78	128	116
Applications refused	9	11	14	16
Percentage granted	89%	88%	90%	88%

- 6.25 We have seen that the percentage of adjourned interim order hearings has continued to reduce, continuing the positive trend we noted in last year's review. Whereas 21 per cent of interim order hearings were adjourned in the first three quarters of 2015/16, 13 per cent were adjourned in 2016/17, reducing to eight per cent in the period from April 2017 to January 2018.

- 6.26 The time it takes the HCPC to make decisions about interim orders has also reduced this year. In 2016/17, the median time taken to make interim order decisions was 18.9 weeks from receipt of the complaint; although this was an increase from the previous year, it remained similar to the performance of other regulators. This year, the median time taken for the HCPC to make interim order decisions was 14 weeks from receipt of the complaint.

Conclusion against this Standard

- 6.27 The HCPC has plans in place to provide targeted training and support to staff to improve the quality of risk assessments in fitness to practise cases. These measures were not yet in place during the current review period, and the most recent HCPC audit indicates that there are still some issues in this area. Accordingly, this Standard remains unmet. We will seek to understand the impact of the measures taken by the HCPC in our next review.
- 6.28 The data about the HCPC's performance in relation to interim orders this year is encouraging. We will continue to monitor its approach to and handling of interim order applications in the context of our wider concerns about the adequacy of risk assessments.

Standard 5: The fitness to practise process is transparent, fair, and proportionate and focused on public protection

- 6.29 This Standard is not met this year. It was not met last year because we had concerns about several aspects of the HCPC's fitness to practise process. The concerns discussed above about the SOA and risk assessments were relevant to this Standard. In addition, we were not satisfied that the HCPC's processes around discontinuance, disposal by consent and proceeding in a registrant's absence focused adequately on public protection. There were also longstanding concerns about the HCPC's handling of potential health issues in fitness to practise cases. We carried out a targeted review to seek further information from the HCPC about what it has done to address these matters.

Discontinuance and disposal by consent

- 6.30 Discontinuance and disposal by consent are both ways in which a final hearing panel can close a case (or part of a case) which has been referred to it, without a full hearing. A panel can discontinue an allegation, in full or in part, if it decides before the hearing that the allegation cannot be established. If the HCPC and the registrant agree on an outcome for a case, including the registrant's voluntary removal from the register, the HCPC can ask for the panel's agreement to dispose of it by consent.
- 6.31 Because both of these processes mean that an allegation which was referred for a final hearing will be closed without a full hearing, it is important that they contain adequate safeguards for the public interest. Through our review of cases under our section 29 powers,¹¹ we identified concerns about both processes, which contributed to this Standard not being met last year. As

¹¹ See footnote 4, above.

part of our targeted review this year, we asked the HCPC what it has done to address these issues.

- 6.32 The HCPC told us that it has carried out recent audits of cases where allegations had been discontinued or disposed of by consent. The audits identified similar areas for improvement for both processes, including:
- the quality and purpose of legal advice
 - communication with the complaint
 - the clarity and detail of the reasons given for the final panel decision.
- 6.33 The HCPC produces practice notes to give guidance to panels and those appearing before them. The HCPC revised the practice notes for discontinuance and disposal by consent. It told us its revisions took into account our previous concerns and the findings of its audits. It published updated versions of both practice notes in March 2018. It also told us that it has produced updated guidance for staff and provided further training about these issues.
- 6.34 It is clear from the HCPC's response that its work to improve the handling of cases subject to discontinuance or disposal by consent is still in progress. We will continue to review these cases under our section 29 powers.

Proceeding in absence

- 6.35 We identified concerns in our last review about the HCPC's practice note about proceeding in a registrant's absence. We considered that it lacked clarity, which increased the risk of cases being adjourned unnecessarily. However, we noted that the proportion of cases adjourned had declined from the previous year.
- 6.36 The data we obtained this year from the HCPC showed that the adjournment rate continued to fall, for both final hearings and interim order hearings. In total, 19 per cent of final hearings were adjourned, part-heard or cancelled in 2016/17; between April 2017 and January 2018, the rate was 16 per cent. As noted at paragraph 6.25 above, the proportion of interim order hearings adjourned reduced from 13 per cent to eight per cent.
- 6.37 The data we have received this year does not indicate that there have been any problems associated with the practice note about proceeding in absence. We will continue to seek information from the HCPC about the adjournment rates for final hearings and interim order hearings.

Health issues in fitness to practise cases

- 6.38 Registrants' own health, particularly where they have problems with drugs or alcohol, can significantly affect their ability to practise safely. Accordingly, when regulators receive information which might indicate problematic use of alcohol or drugs, such as a drink-driving conviction, they should satisfy themselves that there is no underlying health problem.
- 6.39 The HCPC has previously told us that it takes a case-by-case approach to deciding whether a case might raise concerns about a registrant's health. We looked in our audit last year at a number of such cases, to better understand

how this approach worked in practice. We found a lack of consideration of possible health issues in several cases where the evidence indicated that the registrant might have an underlying health condition. We considered that by investigating these cases as relating to misconduct or convictions only, the HCPC risked failing to address potential health problems which might have an impact on patient safety.

- 6.40 The HCPC accepted the findings of our last report. Its action plan in response to the report includes a review of the approach to identifying and investigating health allegations. The HCPC has told us that it has begun work on a new policy, which it expects to submit to its Council for approval in May 2018. Once the new policy is approved, the HCPC will develop supporting processes and guidance for staff.
- 6.41 We understand that it will take some time for the HCPC to review and improve its management of cases which might raise concerns about registrants' health. It will then be some time later before we see the impact of any new approach. In the meantime, we have continued to see cases under our section 29 powers where we had concerns about how the HCPC had dealt with possible health issues. We have taken forward concerns with the HCPC about these individual cases as appropriate.

Conclusion against this Standard

- 6.42 As noted above, the HCPC's work to improve the application of the SOA and the quality of risk assessments is still in progress, and we will monitor the outcomes of this work. Similarly, the HCPC has begun reviewing its approach to cases which might raise issues about registrants' health, but it will take some time before this work is complete and we might expect to see its impact.
- 6.43 The HCPC has revised its practice notes for discontinuance and disposal by consent, and updated guidance for staff, but again we have yet to see whether these changes will address our previous concerns about these processes.
- 6.44 We note the wide-ranging work the HCPC has underway to address the concerns we identified about its fitness to practise process. Until that work is completed and we have seen evidence that it has been effective, we cannot be assured that the HCPC's fitness to practise process is appropriately focused on public protection. Consequently, this Standard remains unmet this year.

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

- 6.45 This Standard is not met this year.
- 6.46 We carried out a targeted review, because the HCPC did not meet this Standard last year, and we wanted to understand its performance in relation

to timeliness, including the action it was taking to improve. We noted that the HCPC told us last year about a range of actions it had planned or taken to improve performance in timeliness, including a restructure of its fitness to practise directorate.

Performance and improvement measures

6.47 We collect a regular dataset from all the regulators, including about how long it takes them to deal with fitness to practise cases. The table below sets out the HCPC's performance against some of the key dataset measures of timeliness this year and the previous three years.

Measure	2014/15	2015/16	2016/17	2017/18
Median weeks from receipt to ICP decision	33	37	34	41
Median weeks from ICP decision to final panel decision	39	44	49	49.6
Median weeks from receipt to final panel decision	73	88	97	92
Total open old cases ¹²	472	533	483	587
Standard 6 met	Yes	No	No	No

6.48 As the table shows, the HCPC's performance against the dataset timeliness measures this year is mixed in comparison with its performance last year, when it did not meet this Standard. While the overall median time from receipt to final decision has improved, performance against some other measures has deteriorated. The median time taken to reach ICP decisions has increased, and there has been a significant increase in the number of old cases still open.

6.49 In response to our targeted review, the HCPC told us that it has carried out a qualitative review of the impact of the realignment of its fitness to practise directorate. This identified some benefits as well as some areas for further development. The HCPC said that it was difficult to assess the impact of the realignment on case progression, because this would have been affected by the other changes in the course of the year.

6.50 The HCPC also confirmed that it expects its action plan to have some impact, in the short term at least, on the time it takes to progress cases. For example, the extra checks it introduced on SOA decisions (see paragraph 6.5) slowed down the rate at which cases were closed at the earliest stage of the fitness to practise process.

6.51 The HCPC has developed a case progression plan to work alongside the wider improvement plan. The case progression plan includes targeted interventions for certain categories of cases. It was approved by the HCPC's Council in March 2018. The HCPC is also developing new performance indicators for case progression in fitness to practise.

¹² See table at paragraph 6.54, below.

6.52 It will take some time for the effect of the HCPC’s initiatives on case progression to become clear. We will continue to receive the regular dataset from the HCPC, which will allow us to monitor any significant changes in the time it takes to progress cases to ICP decisions and final hearings.

Dataset clarification

6.53 Our dataset includes details of how many old cases each regulator has open. We ask each regulator to confirm the number of open cases it has older than one, two and three years since receipt. We think it is helpful to know how many old cases a regulator has open, and in particular whether this is increasing or decreasing over time. An increasing number of old cases on hand might indicate that a regulator is finding it difficult to keep up with its caseload.

6.54 During this review, we have become aware of a misunderstanding affecting the way we have presented some of the data from the HCPC in previous reviews. We had understood that the HCPC would give us the numbers of cases older than one, two and three years separately; the HCPC had understood that it would provide these figures cumulatively – that is, with cases older than two or three years included in the figure given for cases older than one year, and so on. As a consequence, some cases will have been double-counted when we calculated how many old cases the HCPC had open. The following table confirms the accurate figures for the number of old cases the HCPC had open at the end of the financial year for this year and each of the three preceding years.¹³

Number of open old cases:	2014/15	2015/16	2016/17	2017/18
52-104 weeks old	378	344	334	444
104-156 weeks old	80	146	91	105
>156 weeks old	14	43	58	38
Total old cases	472	533	483	587

6.55 We are pleased to be able to clarify this misunderstanding. The overall number of old cases still open in the HCPC’s caseload was significantly smaller than we had previously understood it to be.

6.56 We considered the impact of the misunderstanding, including whether we needed to re-evaluate our previous conclusions about the HCPC’s performance against this Standard. We are satisfied that this is not necessary. There have been no occasions where we decided that the HCPC did not meet this Standard based on a misunderstanding of how many open old cases there were. We discussed in previous reviews whether the number of old cases had increased or decreased since the previous year. But even though the figures we used were affected by the misunderstanding, the overall trends for increases or decreases in old cases were as we reported.

¹³ The table also includes minor corrections of previous years’ data, based on the latest information the HCPC has supplied.

- 6.57 During 2017, we worked with all the regulators to agree an updated version of the dataset they provide us. This was to ensure that the data we receive is relevant and reflects developments in the regulators' fitness to practise processes. The updated dataset includes explanatory notes for regulators, based on our discussions with them, to make clear how to calculate the data they supply. This should mean that there is little risk of misunderstandings about the dataset in future. We anticipate that regulators will start using the updated dataset from April 2018.

Conclusion against this Standard

- 6.58 The HCPC's performance in relation to timeliness during this review period was mixed in comparison with last year, when this Standard was not met. As we have not seen evidence of significant improvement in how long it takes the HCPC to progress cases, this Standard is not met.

Standard 7: All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process

- 6.59 This Standard was met last year. Although we had concerns about the quality of the HCPC's correspondence and how clearly it explained its decisions, we found that parties to fitness to practise cases were generally kept updated. We also saw some examples of good customer service.
- 6.60 We have not seen significant changes this year to how the HCPC keeps people updated about fitness to practise cases. We note that some of the work planned by the HCPC to improve its handling of fitness to practise cases might have an effect on how it keeps people updated and supports them to participate in the process. We will take this into account in monitoring the HCPC's progress against its action plan. This year, we are satisfied that this Standard continues to be met.

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

- 6.61 This Standard is not met this year. The Standard was not met in our last review, because we had concerns about the HCPC's decision-making at various points in the fitness to practise process:
- Decisions to close cases for not meeting the SOA (see paragraph 6.2)
 - ICP decisions that there was no case to answer (see paragraphs 6.11 to 6.13). Our audit also noted that in some cases the ICP's determination did not demonstrate that it had fully considered the case, because the reasoning provided was brief and inadequate, and/or indicated that the ICP had misunderstood or failed to address significant evidence in making its decision
 - Decisions to discontinue cases or close them by consent (see paragraphs 6.30 to 6.31).

6.62 We considered the information provided by the HCPC in response to our targeted review. As explained elsewhere in this report, the HCPC has planned action to address a wide range of issues arising from our last report. This includes reviews of the SOA and the processes for discontinuance and disposal by consent, as well as actions to improve the standard of decision-making by the ICP. Some of this work is already underway, and some of it is scheduled for later in 2018.

Health and Care Professions Tribunal Service (HCPTS)

6.63 We noted in our last review that the HCPC launched its new fitness to practise adjudication service, the HCPTS, in April 2017. At around the same time, it also established the Tribunal Advisory Committee (TAC). The TAC is responsible for providing guidance to the HCPTS on practice and procedure, and to the HCPC on the recruitment, training and assessment of panellists. At the time of our last review, we were unable to assess the impact of these steps. We said that we would consider them in this review.

6.64 Under our section 29 powers, we review all final fitness to practise decisions made by the HCPTS. Throughout this year, we have continued provide learning points to the HCPC in respect of individual decisions where appropriate. We also appealed to the High Court in respect of one decision. However, our reviews under section 29 have not identified any significant new issues arising from the introduction of the HCPTS.

6.65 We have seen that the TAC has been meeting and reporting to the HCPC's Council as planned. A published report from the HCPC to the TAC in November 2017 said that there had been no significant operational problems arising from the launch of the HCPTS, and no adverse feedback from stakeholders. The report also included feedback from learning points we had shared with the HCPC following our section 29 reviews.

6.66 From the available evidence, the HCPC has introduced the HCPTS and TAC as planned. We have not seen evidence of new concerns arising from this development.

Conclusion against this Standard

6.67 The HCPC has planned actions to improve the standard of decision-making at the initial and final stages of its fitness to practise process. These actions are scheduled to continue into late 2018. At present, we do not have evidence on which to form a view about the effectiveness of the action the HCPC is taking. On that basis, this Standard remains unmet.

Standard 9: All fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders

6.68 This year, like last year, we experienced problems or delays in obtaining complete information from the HCPC about final fitness to practise hearings in a small number of cases. However, there was no risk to the public arising from these issues, and the overall proportion of cases affected was very small. We are satisfied that this Standard continues to be met.

Standard 10: Information about fitness to practise cases is securely retained

- 6.69 The HCPC reported a serious data breach to the Information Commissioner's Office in late 2017. The ICO decided that it did not need to take any further action in relation to the breach.
- 6.70 The HCPC achieved recertification of ISO 27001, the international standard for information security management, following a review. Therefore, we can be assured that the HCPC has robust processes in place to keep information secure. In that context, we are satisfied that the data breach, although serious, was an isolated incident.¹⁴ Accordingly, this Standard remains met.

¹⁴ According to the statistical data we receive from the HCPC, this is the first breach it has had to report to the ICO since 2014/15, at which time it had not yet gained ISO 27001 certification.

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