

September Board meeting Wednesday, 18 September 2024



Executive report

1. Summary

- 1.1 In addition to our statutory duties, the key priorities for the organisation at this point in time are: (1) the website development project; (2) the business plan and fees consultation 2025/26; (3) promoting and supporting legislative reform for the regulators; and (4) closely monitoring the performance of the NMC, including its response to the recommendations in the Independent Culture Report.

2. Recommendations

- 2.1 The Board is asked to note the Executive report and to ask any questions of the Chief Executive and Directors.

3. CEO stakeholder engagement

- 3.1 Between the July 2024 and September 2024 Board meetings, the Chief Executive attended a number of stakeholder engagement events, including the following.
- Attending a board meeting at SWE.
 - Meetings (together with the Chair) with the Acting CEO and Chair of the NMC.
 - Meeting the Interim Ombudsman at the PHSO.
 - Attending meetings organised by NHS England on the new Leadership and Management Framework and possible future regulation of NHS managers (including a briefing on social care from Skills for Care).
 - Attending the quarterly information-sharing meeting with the DHSC and officials from the devolved administrations; together with other DHSC meetings to discuss the performance of the NMC.
 - A meeting (together with the Director of Regulation and Accreditation) with the DfE sponsor team for SWE.
 - A meeting with the Chair of the Patient and Client Council (including the PSA Board member for Northern Ireland) to organise a joint seminar in November 2024.
 - Visits (with the Chair) as part of the GOC Optical Practices' Familiarisation Programme.
 - Recording an Institute of Regulation podcast on right touch regulation and systems regulation.

- Attending the CLEAR international conference in Baltimore, USA (presenting on the use of ‘safe space’ investigations in health and social care).
- 3.2 Looking forward, the Chief Executive will attend further stakeholder engagement events before the next Board meeting, including the following.
- Meeting the chief executives of all the regulators as part of the business plan and fees consultation.
 - Meeting the Patient Safety Commissioner for England.
 - Attending the quarterly information-sharing meeting with the DHSC and officials from the devolved administrations.
 - Making presentations at the Westminster Health Forum (‘How can regulation support workforce strategies while keeping patients safe?’) and the Canadian Regulators’ Network (‘What is good regulation?’).

4. **Summary of risks**

- 4.1 We have assessed the top three known risks facing the Authority as: (1) the backlogs of fitness to practise cases in some regulators; (2) the lack of clarity about the use of Disclosure and Barring Service (DBS) and other criminal record checks by regulators and registers; and (3) the implications of the independent reviews of the NMC and the impact on regulatory effectiveness and public protection.

5. **Regulation and Accreditation**

Performance review

Reporting

- 5.1 In June, we published the [report for the GOsC](#), which has met all of the Standards.
- 5.2 In August, we published the [report for the HCPC](#), which has met 16 out of 18 of the Standards. We found that it is still taking too long to progress cases, so it did not meet Standard 15. We concluded that Standard 17 was not met as we identified weaknesses in the HCPC’s oversight of cases handled by its external legal providers. As a result, a registrant had been able to practise for three months after they had been charged with a serious offence against a patient, exposing the public to serious risk.

NMC

- 5.3 Since the publication of the Independent Culture Review (ICR) report that was published on 9 July 2024, we have reviewed its findings and recommendations, and have engaged regularly with the NMC. We have also established an independent oversight group which will receive regular updates on the NMC’s progress, scrutinise the impact of measures introduced by the NMC to improve its culture and performance, and provide insight and advice on further actions required. The first meeting of the group was held on 9 September 2024.

- 5.4 Because we are awaiting the outcome of the two further independent reviews (that focus on fitness to practise cases and the handling of whistleblower disclosures) before finalising our report, we will not meet the KPI for publishing the NMC's report due for September 2024. It is likely that we will need to undertake further work following receipt of the further investigation reports, which we expect to be completed later in 2024.
- 5.5 In light of the ICR, we are reflecting on our oversight of the NMC and all the regulators. We have conducted a risk analysis to determine whether the ICR identified issues that could have reasonably been picked up in our performance review assessments.
- 5.6 We are also considering the implications that the ICR may have on the other regulators. We are reassessing their risk profiles and we have written to them, encouraging them to share their reflections and any concerns they have about their workplace culture with us.
- 5.7 There has been significant interest in the NMC review and will continue to be as the further independent reviews are published in the coming months, and as NMC undertakes its change programme. In our role establishing the oversight group and monitoring NMC's progress, we intend to regularly provide updates to stakeholders and the public on this work in the coming period. This will be done via our website, newsletters, social media, as appropriate.

Regulator approach to complaints about registrants expressing views on sensitive issues

- 5.8 Recently, there have been several high-profile cases regarding freedom of expression, particularly relating to gender-critical and socio-political beliefs. As this is a developing area of debate, we considered it useful to review the regulators' approaches.
- 5.9 We conducted a review of the regulators' policies and guidance documents and found that there was a range of approaches - with some regulators having detailed guidance, others with less guidance and one with no guidance at all. We consider that can add value here by working to bring a level of consistency.
- 5.10 We are working with our colleagues in the Policy team to develop clear expectations of how the regulators are to deal with sensitive issues. We will be leading discussions on this with the regulators at the policy forum on 19 September 2024.
- 5.11 We will consider how we approach other issues where the need for a co-ordinated approach between the Performance Review and Policy team arises. This would involve collaboration with the regulators to coordinate their approaches on areas of commonality as well as emerging risks.

5.12 On a related matter, we are awaiting the publication of the response to the consultation on the NHS Constitution for England. This may have implications for regulators in terms of the registration of sex/gender and patient access to same sex care (sex being defined as biological sex).

Section 29

5.13 The table below sets out the key statistics so far for this financial year, compared to the same period in the previous financial year. The number of decisions received from regulators has slightly decreased over the last couple of months and is lower than the same period last year. We have lodged 10 appeals so far in the 2024/25 financial year.

	1 April 2024 – 31 August 2024	Same period 2023
Decisions received by the PSA	942	1016
Detailed Case Reviews (DCRs) completed	28	38
Statutory deadline decisions	8	6
Case meetings held:		
• Sufficient	2	3
• Insufficient but no appeal	2	0
• Insufficient and appeal	2	6 ¹
Appeals lodged	10	9
Learning points sent	47	70

5.14 Three appeals have been lodged since the previous Board meeting (NMC/Chauhan, GPhC/Ahmed, NMC/Nowak). Seven appeals have been settled by agreement (NMC/Ainsworth, NMC/Appleton, NMC/Moffatt, NMC/Mann, HCPC/Anderson, HCPC/Boyle, NMC/Zivurawa) and settlements are being explored in several other cases. One appeal was withdrawn (NMC/Flanagan). All other Section 29 litigation is progressing.

5.15 The appeal and detailed case review workload continues to be high for the Section 29 team, and coupled with the turnover and changes in staff, this has

¹ Including one decision to join as a party to a GMC appeal and two decisions to confirm statutory deadline referrals

continued to impact the team's ability to progress work outside of business as usual.




Appointments

- 5.16 Since the last update to the Board, we have provided the Privy Council with advice concerning four appointments process. These concerned two processes of the GCC; its recommendation of a single registrant candidate to join its Council and its recommendation of four candidates for reappointment to its Council. We also considered the GOsC's recommendation for a single lay candidate and the GOC's recommendation of two lay candidates. We were able to advise the Privy Council that it could have confidence in all four of these processes.
- 5.17 We have considered three advance notices for ongoing processes including recently received plans from the NMC to identify a registrant candidate to recommend. We noted that the NMC is seeking a registrant member with senior level experience in leading change to assist it as it seeks to improve its culture and effectiveness.

Accredited Registers

Operational delivery

- 5.18 At the end of August, our performance against KPIs is as follows:

KPI	Met / Not Met	Performance	Direction of change since July Board
90% of full reassessments within three years	Met	96% (27 out of 28)	
90% of annual checks within one year	Met	96% (27 out of 28)	
95% of conditions are reviewed within two months of due date:	Not Met	72% (62 out of 88)	
100% of targeted reviews completed within four months:	No active targeted reviews since KPI introduced	N/A	Amended in April 2024 – not reported previously
90% of decisions on new Standard One	Not met	50% (2 out of 4)	Introduced in April 2024 – not reported previously

applications made within four months			
90% of decisions on full accreditation (standards 2-9) made in eight months of receipt	No active full applications since KPI introduced	N/A	Introduced in April 2024 – not reported previously

5.19 At a general level, performance has been affected by:

- changes in staffing in the last six months,
- the impact of new applications, and
- a heightened workload from completing assessments against Standard Nine (Equality, Diversity and Inclusion) for all but three recently accredited ARs.

5.20 We anticipate the impact of staff changes and Standard Nine assessments to reduce by the next report for the Board. However, there remains potential for new Standard 2-9 applications to materialise because of recent Standard One outcomes that are likely to convert into full applications. In addition, there are three new further Standard One applications anticipated prior to the end of the calendar year.

5.21 Performance for reviewing conditions within two months of the due date is primarily attributed to four ARs, with a total of 24 conditions, not responding to conditions by the due date. In two cases these relate to assessments from last financial year that contribute to the rolling average and where conditions have now been met. In two further cases, our assessments in this financial year have concluded that some conditions have not been met and therefore Panel decisions have been required. By the time of the Board Meeting, Accreditation Panels will have considered both cases.

5.22 There are two conditions that were overlooked owing to an administrative error in the Accreditation Team that mixed up deadlines for submission for two batches of responses from the same AR. In this case, the AR has responded to the conditions and the assessment process is determining the outcome.

5.23 We anticipate improvement in performance for this KPI before the next Board report owing to old cases being removed from the rolling average and the potential for re-issued conditions for the more recent cases. The KPI is expected to be met in January 2025.

5.24 Performance on new applications is affected by the complexity of individual cases or the general factors affecting team performance outlined above. Now that assessments against Standard Nine for existing registers are complete, we anticipate these impacts will be reduced and support adherence to the target where cases are not complex. Predicting return to the KPI target is currently challenging as receipt of applications is not predictable, however, as the

numbers of applications are small meaning that one to two new applications can significantly alter performance quickly.

Accreditation decisions

- 5.25 Since the last meeting of the Board, Accreditation Panels have considered three new applications for Standard One Assessments. In two cases the Panels have reached the conclusion that Standard One is met (The Association of Traditional Chinese Medicine, and Interpersonal Psychotherapy UK). We anticipate full applications from these applicants to materialise prior to the end of the calendar year. In one case (the International Foundation for Therapeutic and Counselling Choice (IFTCC)), where a decision was made that Standard One was not met, an appeal has been lodged.
- 5.26 A further Accreditation Panel decision is anticipated in September 2024 for the National Association of Care and Support Workers.

6. Standards and Policy

Policy and research

Consultation responses

- 6.1 Since the last Board meeting we have not responded to any consultations. This is a consequence of the lull in consultations published during the pre-election sensitivity period.

Commissioned research

- 6.2 In 2023 the PSA commissioned consumer research to seek the views of the public, registrants of statutory and accredited registers and non-clinical managers on the potential value, benefits and risks of a common code of conduct for all health and social care professionals. We wanted to explore the potential of a common code to support retention, multi-disciplinary working and consistency in regulatory decision-making while reducing complexity in the system. We will be publishing the full research report and a short paper outlining next steps in November 24 to coincide with the launch of our new website.

Legislative reform

The Government's legislative reform programme

- 6.3 The GMC is currently analysing the responses to its proposed rules, standards and guidance for regulating anaesthesia associates and physician associates². It is still expected that Anaesthesia and Physician Associates will become regulated by the GMC by the end of the year.
- 6.4 We are awaiting updates on the status of the previous Government's plans for the wider legislative reform programme, to be rolled out sequentially to all the regulators, with the exception of Social Work England.

PSA reform guidance – Accepted Outcomes and Rulemaking

² [Regulating anaesthesia associates and physician associates: consultation on our proposed rules, standards and guidance - GMC \(gmc-uk.org\)](https://www.gmc-uk.org/standards-and-guidance)

- 6.5 Our two guidance documents, on use of Accepted Outcomes and Rulemaking, designed to support reformed regulators to make best use of their new powers in this area, will be published by the end of September. The consultation responses were very supportive overall of the guidance. We also received suggestions for improvements to the guidance, which we have incorporated into the final versions.

Communications

Stakeholder engagement

- 6.6 The new Stakeholder Relationship Management system went live at the end of July. It has the potential to help significantly with enhancing our interactions with a broad range of external stakeholders. Since go-live we have been building up use and organisational understanding about the best practices to adopt to maximum the value it provides.
- 6.7 In July, we issued our first parliamentary bulletin to new and continuing parliamentarians. We sent a briefing explaining who we are and some of the key issues we are working on to those less likely to be aware of us and who have some background or interest in health and social care and/or regulation. We also sent introductory letters to the new Secretaries of State and relevant ministers at the Department of Health and Social Care (DHSC) and Department of Education and by the time of the Board meeting will also have written to the new First Minister of Wales.
- 6.8 Now that the summer parliamentary recess is over, we will be seeking targeted meetings with those parliamentarians who have shown interest in our work off the back of our communications, including our manifesto. We will also be making contact with the chairs of relevant Westminster select committees once appointed this month. The next parliamentary bulletin is scheduled for October.
- 6.9 The new Director of Policy and Communications has been having introductory meetings with key partners, focusing initially on patient representative and patient safety organisations. These are being used an opportunity to identify common objectives and potential areas of collaboration.

Website

- 6.10 There has been good progress made on the website redevelopment project since the last Board meeting. We have completed our series of workshops to refine our requirements and gathered user feedback (from regulators, registers and service-users) on our existing website to help shape an improved user experience on the new site. The Project Board has signed off the new site map and wireframe and we are now moving into the development of the design for the new site as well as completing our content review. Our intention is to have a less cluttered, more concise website in future which is easier to navigate and more attractive to the user.

Brand

- 6.11 Following the June workshop, work has begun on refreshing our brand. This aims to evolve and modernise our brand and provide guidelines for how our content should look and feel in the digital space. Our existing set of guidelines

were produced some time ago and did not account for our digital needs. The refresh will also ensure that our brand elements consider the accessibility needs of our users and give us the tools to present our content in a more appealing way. This work is happening alongside the website redevelopment work and is feeding into that to ensure that the new website aligns with our refreshed brand.

7. Intelligence and Insight

Research

- 7.1 At the time of writing we are about to publish the provisional programme and launch registration for our 17 October research conference, on which we are working in collaboration with Professor Louise Wallace from the Open University and Professor Rosalind Searle from Glasgow University. The main component of the day will be presentations on findings from the NIHR-funded Witness to Harm project, with attendees able to choose parallel sessions on other research focussed on sexual misconduct and improving fitness to practise. We have previously invited stakeholders to express interest in attending, and have compiled a list of 56 who will receive the registration details first. We are working towards a total attendance of c.150.
- 7.2 The first presentation and discussion session in our sexual misconduct project will take place on 6 September. Catherine Hinwood OBE, Director of NHS England's Domestic Abuse and Sexual Violence (DASV) Programme, will present the work of the programme including the sexual safety in healthcare organisational charter, and future plans. At the time of writing, 63 people are registered to attend, including regulators, accredited registers and other stakeholders.
- 7.3 The Assistant Director (Intelligence and Insight) has accepted an invitation from NHS England to be a member of its Expert Advisory Group for the DASV programme, for a year in the first instance.

Commissions and projects

- 7.4 Work proceeds on our commission from the General Teaching Council for Scotland. We are now into the second phase of the project in which the bulk of the analysis will occur, including an audit of closed fitness to teach cases. This phase will end at the end of the calendar year, with the project to complete by the end of February 2025.

8. Corporate Services

IT

- 8.1 The email security policies have been reviewed, and both Exchange Online Protection (EOP) and Standard Protection have been enabled. These measures help prevent malicious emails from reaching inboxes and detect phishing and spam emails. Since implementing these changes, there has been a noticeable reduction in impersonation emails reaching their intended targets, and more spam is being quarantined.

Finance

8.2 The Finance Report is on the agenda.

People

8.1 We welcome Rachael Culverhouse-Wilson into the role of Head of Legal.

8.2 We welcome Rebecca Senior-Carroll back from maternity leave and into the role of Lead Lawyer.

8.3 Wai Sze Leung will be leaving us as the Communications Assistant on 24 September 2024. Kelsey O’Dea has been appointed as her permanent replacement.

8.4 Candace Imison has joined us as a Non-Executive Director from 1 September 2024.

8.5 We have three candidates for the Work Experience Scheme which runs from 27 August to 13 September.

Governance

8.6 The Accredited Registers internal audit is now complete and actions are in progress.

8.7 The next internal audit will be finance controls and this is currently being scoped.

EDI

8.8 In July the new EDI action plan was discussed at SMT. The action plan moves away from an annual plan and instead covers 2024/25 – 2025/26 to be in line with our business planning development work.

8.9 In August, we published our first EDI self-assessment report [Equality and diversity \(professionalstandards.org.uk\)](#) alongside reflections of our progress on EDI. A link to the summary report was sent to the Regulators and Accredited Registers.

KPIs up to 31 July 2024

Our performance against our KPIs is set out below:

Area of work	Key performance indicators	Performance to date in 2024/25
Section 29 decisions	Number of cases received [compared with same period last year]	942 [1016]
	Number of Cases considered at a case meeting or statutory deadline meeting [compared with same period last year]	19 [19]
	Appeals lodged [compared with same period last year]	10 [9]
	100% of relevant decisions considered within statutory deadline [compared with last year]	100% [100%]
Performance Reviews	100% of 2024 performance reviews published within three months of end of review period	50% (1/2) ³
Public concerns about Regulatory bodies	100% of concerns acknowledged within five working days since 1 April 2024	99% (148/149) ⁴
Accredited Registers – current processes	90% of Registers have a full assessment within three years of the previous assessment.	96% (27 out of 28)
	90% of decisions about the annual check within one year of the previous assessment.	96% (27 out of 28)
	95% of Conditions are reviewed within two months of when they were due.	72% (62 out of 88)
	100% of targeted reviews are completed within four months of the date initiated.	No active targeted reviews since KPI introduced

³ This KPI was missed for one regulator as after the final Panel, further information came to light which raised public protection concerns. The new information was put before the Panel who determined that it was material to the current assessment and that it would reconvene to consider it. This meant the performance review was published two months later than planned.

⁴ No new late acknowledgements since the previous report.

	<p>90% of decisions about new Standard 1 applications are made within four months of receipt.</p> <p>90% of decisions about full accreditation (Standards 2-9) are made within eight months of receipt.</p>	<p>50% (2 out of 4)</p> <p>No active full applications since KPI introduced</p>
Finance	Budgeted income / expenditure variance less than 5%	1.6% [1,678/1,704]
ICT	<p>85% of helpdesk calls to be closed within 1 day</p> <p>System unavailability below 10 hours</p>	<p>100% [114/114]</p> <p>0 hours</p>
Information security	No incidents reported to the Information Commissioner's Office	0
Information requests (FOI / SAR / EIR)	<p>All (100%) Subject Access Requests dealt with within statutory deadlines</p> <p>All (100%) Freedom of Information Act requests dealt with within statutory deadlines</p>	<p>100% [0/0]</p> <p>100% [7/7]</p>
Complaints	<p>100% of complaints acknowledged in five days</p> <p>Response to all complaints to be completed within 28 days</p>	<p>100% [3/3]</p> <p>100% [3/3]</p>
Social media	<p>Total number of followers across our social media channels (compared with same period last year in brackets)</p> <p>Number of new followers across our social media channels (compared with same period last year in brackets)</p> <p>Number of engagements with our social media posts (compared with same period last year in brackets). <i>Engagements include likes,</i></p>	<p>7,259 (5,949)</p> <p>553 (158)</p> <p>1,494 (924)</p>

	<i>reactions, comments, replies and shares.</i>	
Website usage	<p>Year-to-date data on website usage from April 2024 to date with same period last year in brackets</p> <ul style="list-style-type: none"> • Total page views across the website • Check a Practitioner landing page and practitioner specific pages • Accredited Registers home page and related Accredited Registers pages 	<p>221,368 (184,243)</p> <p>64,531 (63,587)</p> <p>38,561 (31,506)</p>