

# performance review 2019/20

## GENERAL MEDICAL COUNCIL





## ABOUT THE PERFORMANCE REVIEW PROCESS

**We aim to protect the public by improving the regulation of people who work in health and care. This includes our oversight of 10 organisations that regulate health and care professionals in the UK. As described in our legislation, we have a statutory duty to report annually to Parliament on the performance of each of these 10 regulators.**

Our performance reviews look at the regulators' performance against our [Standards of Good Regulation](#), which describe the outcomes we expect regulators to achieve. They cover the key areas of the regulators' work, together with the more general expectations about the way in which we would expect the regulators to act.

In carrying out our reviews, we aim to take a proportionate approach based on the information that is available about the regulator. In doing so, we look at concerns and information available to us from other stakeholders and members of the public. The process is overseen by a panel of the Authority's senior staff. We initially assess the information that we have and which is publicly available about the regulator. We then identify matters on which we might require further information in order to determine whether a Standard is met. This further review might involve an audit of cases considered by the regulator or its processes for carrying out any of its activities. Once we have gathered this further information, we decide whether the individual Standards are met and set out any concerns or areas for improvement. [These decisions are published in a report on our website.](#)

Further information about our review process can be found in a [short guide, available on our website](#). We also have a [glossary of terms and abbreviations](#) we use as part of our performance review process available on our website.

### The regulators we oversee are:

General Chiropractic Council • General Dental Council • General Medical Council • General Optical Council • General Osteopathic Council • General Pharmaceutical Council • Health and Care Professions Council • Nursing and Midwifery Council • Pharmaceutical Society of Northern Ireland • Social Work England



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# General Medical Council

## performance review report 2019/20

At the heart  
of everything  
we do is  
one simple  
purpose:  
protection  
of the public  
from harm

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## The General Medical Council

# key facts & stats

The General Medical Council (GMC) regulates doctors in the United Kingdom.

As at 30 September 2020, the GMC was responsible for a register of:

**336,747 professionals**

**Annual registration fee is: £406**

### The GMC's work includes:

- ▶ setting and maintaining standards of practice and conduct; maintaining a register of qualified professionals;
- ▶ assuring the quality of medical education and training;
- ▶ requiring doctors to keep their skills up to date through continuing professional development; and
- ▶ taking action to restrict or remove from practice registrants who are not considered to be fit to practise.

### Standards of Good Regulation met for 2019/20 performance review

	<b>General Standards</b>	<b>5/5</b>
	<b>Guidance and Standards</b>	<b>2/2</b>
	<b>Education and Training</b>	<b>2/2</b>
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	<b>Fitness to Practise</b>	<b>5/5</b>

Meeting, or not meeting, a Standard is not the full story about how a regulator is performing. You can find out more in the full report.

# The General Medical Council

## Executive summary

How the GMC is protecting the public and meeting the Standards of Good Regulation



This report arises from our annual performance review of the GMC and covers the period from 1 September 2019 to 31 August 2020. The GMC is one of 10 health and care professional regulatory organisations in the UK which we oversee. We assessed the GMC's performance against the [Standards of Good Regulation](#) which describe the outcomes we expect regulators to achieve in each of their four core functions. We revised our Standards in 2019; this is the first performance review of the GMC under the new Standards.

To carry out this review, we collated and analysed evidence from the GMC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback.

We also utilised information available through our review of final fitness to practise decisions under the Section 29 process<sup>1</sup> and conducted a check of the accuracy of the GMC's register. We used this information to decide the type of performance review we should undertake. Further information about our review process can be found in our [Performance Review Process guide](#), which is available on our website.

We recognise that the coronavirus pandemic has placed unprecedented pressures on health and care professionals and regulators. Regulators have had to change their plans and priorities to support the response to the emergency, while ensuring that the public continues to be protected. The consequences of the pandemic will continue to affect regulators for some time. In response to the pandemic, we committed to taking a flexible and proportionate approach to our performance reviews. This included flexibility about timescales, and limiting our enquiries to those we considered necessary to gain assurance about public protection. We will take account of how the pandemic has affected regulators in our assessments of their performance and will not criticise regulators for decisions made in good faith in reaction to the crisis or for delays which are an inevitable corollary of the crisis.

### The GMC's performance during 2019/20

As a result of our initial review, we concluded that we required further information about the GMC's approach to education quality assurance during the coronavirus pandemic, registration checks, fitness to practise timeliness, the Rule 12 process, expert witnesses and feedback from complainants. Following a targeted review, we concluded that the GMC has met all the Standards in 2019/20.

<sup>1</sup> 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 \(as amended\)](#).

## General Standards

When we revised the Standards, we introduced a new set of General Standards. There are five Standards covering a range of areas including: providing accurate, accessible information; clarity of purpose; equality, diversity and inclusion; reporting on performance and addressing organisational concerns; and consultation and engagement with stakeholders to manage risk.

The GMC provides accurate and accessible information about its registrants, regulatory requirements, guidance, processes and decisions on its website. We consider that the GMC demonstrates that it is clear about its purpose and its business plans are in line with its statutory purpose. The implementation of the temporary register demonstrated that the GMC ensures that all relevant areas of the organisation are involved in new policy and processes.

## Other key developments and findings

### Guidance

The GMC has published updated guidance on consent, which includes consideration of the recommendations of the Paterson Inquiry and Cumberlege Review (Standard 7, paragraphs 7.4 and 7.5). It issued guidance and information for doctors throughout the coronavirus pandemic.

### Virtual quality assurance visits

As a result of the pandemic, the GMC paused its quality assurance and enhanced monitoring processes in April 2020. In July 2020, it started conducting virtual visits at new medical schools and those with training in enhanced monitoring. We were satisfied that the GMC's approach to virtual visits prioritised the areas of greatest risk and was proportionate (Standard 9, paragraphs 9.8 to 9.12).

### Historical registration processes

Last year we reported that the GMC was conducting checks of the qualifications of overseas graduates who had joined the GMC register by a particular route to registration. This year GMC has paused the checks due to the pandemic and this year will reconsider the proportionality of pursuing the outstanding qualifications. We will keep this under review (Standard 10, paragraphs 10.2 and 10.3).

### Rule 12 reviews and expert witnesses

We received several concerns from members of the public about the GMC's Rule 12 process (which enables it to review decisions to close complaints). The information we reviewed from the GMC showed that it undertook considerable quality assurance of its work and did not indicate significant problems in the process (Standard 15, paragraphs 15.6 to 15.9). We also received concerns about the suitability of expert witnesses in Fitness to Practise cases and the quality of their work. We were satisfied that the GMC monitors this work closely to address the concerns we received (Standard 15, paragraphs 15.10 to 15.12). We received concerns about non-disclosure agreements that the GMC required complainants to sign before seeing some expert reports. We will keep this matter under review.

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### **Tone of voice**

We had received concerns about the tone of the GMC's correspondence, which had also been identified by the Paterson Inquiry. The GMC provided us with the findings of its most recent audit of complaints, a description of when and how it obtains feedback from patients and the improvements it has made since the experiences of those involved in the Paterson Inquiry. This did not raise concerns, and we will continue to monitor the GMC's work in this area (Standard 18, paragraphs 18.5 to 18.9).

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# How the General Medical Council has performed against the Standards of Good Regulation

## General Standards

**Standard 1: The regulator provides accurate, fully accessible information about its registrants, regulatory requirements, guidance, processes and decisions.**

- 1.1 The General Medical Council (GMC) website<sup>2</sup> sets out its role, purpose, strategic aims, international activities and legislation. It details the GMC's role and statutory purpose as set out by the Medical Act 1983 (the Act), and the areas that its work covers.
- 1.2 In January 2020 the GMC launched its new online register, which it said would improve accessibility, and to which there is a link on the website homepage. The website states that unregistered practice or the use of a protected title is against the law and there is information about action the GMC can take if someone is practising illegally, and advice on how to report such concerns to the GMC.
- 1.3 The GMC provides information about joining the register for both UK and international applicants, as well as for doctors applying to restore their registration. There is detailed guidance about the requirements and process for registration, the evidence which may be requested and the checks that will be made during the decision-making process. The website also provides information for the public and doctors about revalidation, the GMC's continuing fitness to practise process.
- 1.4 The GMC website also provides guidance about medical education standards, aimed at education and training providers, students and trainees. This includes information about the standards medical training organisations are expected to meet and what newly qualified doctors must know and be able to do.
- 1.5 The website has a section with information on concerns about doctors. This explains what happens when a concern is submitted, guidance about whether the GMC will investigate and the action that can be taken against a doctor. There is guidance about how to raise a concern and how a referrer can assist with the GMC's enquiries. Information is also available about alternative organisations that may be better placed to deal with concerns. The website has links to the Medical Practitioners Tribunal Service (MPTS) website, as well as GMC, Investigation Committee and appeals decisions.
- 1.6 The GMC publishes several reports on its website<sup>3</sup>, including about fitness to practise, such as the number of enquiries the GMC considered, their outcomes, and the outcome of investigations and tribunals. The interactive data explorer tool offers a range of data about the register, revalidation, fitness to practise, and training.

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<sup>2</sup> [www.gmc-uk.org](http://www.gmc-uk.org)

<sup>3</sup> [www.gmc-uk.org/about/what-we-do-and-why/data-and-research/medical-practice-statistics-and-reports](http://www.gmc-uk.org/about/what-we-do-and-why/data-and-research/medical-practice-statistics-and-reports)

- 1.7 The GMC's accessibility statement outlines how the GMC has made its website accessible and provides details about how to obtain information in other formats, such as in Braille, easy read, another language or as an audio file.
- 1.8 We have seen evidence that the GMC provides information about its registrants, regulatory requirements, guidance, processes and decisions which appears to be accurate and accessible, for both registrants and the public. We are satisfied that this Standard is met.

**Standard 2: The regulator is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.**

**Clarity of purpose**

- 2.1 The GMC's statutory purpose is set out in section 1 of the Act, which states that the GMC's objectives are:
  - to protect, promote and maintain the health, safety and well-being of the public
  - to promote and maintain public confidence in the medical profession
  - to promote and maintain proper professional standards and conduct for members of that profession.
- 2.2 On its website the GMC states that the work it does, as set out by the Act, covers five areas: the medical register; standards for doctors; education and training; revalidation; and addressing concerns. The GMC told us that it plans and prioritises its activity through its business plan which ensures it delivers against its statutory functions. It also states its 'ambitions for change' are set out in its corporate strategy.
- 2.3 The GMC's 2020 business plan outlines some of its key activities for 2020, such as working with others to address pressures on the profession, continuing work to develop and implement the Medical Licensing Assessment, developing a model for the regulation of Medical Associate Professionals (MAPs) and embedding learning from major public inquiries. We have seen the GMC's progress in some of these activities, however we note that some may be inevitably delayed as an impact of Covid-19.
- 2.4 The corporate strategy sets out the GMC's intention to '*shift the emphasis of our work from acting when things have gone wrong to supporting all doctors in delivering the highest standards of care*'. The first aim of the corporate strategy is 'supporting doctors in delivering good medical practice', and the GMC is taking forward issues highlighted in three independently chaired reviews,<sup>4</sup> through its *Supporting a profession under pressure*<sup>5</sup> programme.
- 2.5 We considered whether there may be a potential conflict between the GMC's programme of work to support the medical profession and its role as a regulator.

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<sup>4</sup> *Caring for doctors, caring for patients, Fair to refer?*, and *A review of gross negligence manslaughter and culpable homicide in medical practice*.

<sup>5</sup> [www.gmc-uk.org/about/how-we-work/corporate-strategy-plans-and-impact/supporting-a-profession-under-pressure](http://www.gmc-uk.org/about/how-we-work/corporate-strategy-plans-and-impact/supporting-a-profession-under-pressure)

The GMC acknowledged that this work is not within its statutory functions, but as a result of its research, it believes there is a clear evidence base for the significant impact that poor doctor wellbeing has on patient safety. It told us that as a result, its work in supporting a profession under pressure supports its regulatory role in protecting, promoting and maintaining the health, safety and wellbeing of the public. We note that the GMC's approach is informed by its research, and we acknowledge that it is important for the GMC to have the confidence of the profession. We also consider that the GMC should continue to monitor and manage the potential risks and conflicts in this area, which might include how it is perceived.

### **Application of policies and learning across functions**

- 2.6 The GMC told us that it works collaboratively across its functions. It follows a framework when developing new policies, which includes an expectation to evaluate and review new policies after implementation. The GMC told us about how its fitness to practise directorate implements policy changes and that its Business Transformation Team develops guidance and training to support the implementation of new processes. The GMC gave us an example of a lessons learned review being carried out after guidance for case examiners was reviewed, and it told us that improvements were recommended. We have seen that the GMC uses the opportunity of review to improve a new policy and ensure that it is reinforced and produces the intended outcomes.
- 2.7 The GMC told us that its staff training programme and guidance promote the consistent application of policies and that compliance is monitored using its case management system, which also allows it to obtain and analyse data to inform its activities. The GMC also told us that it has strategies to ensure that policies are applied correctly and consistently. It told us that its internal audit programme provides independent assurance and that it conducts compliance audits internally on high risk processes and operational decisions.
- 2.8 We saw an example of how the GMC shares learning across the organisation. As part of its response to the coronavirus pandemic, the GMC developed a removal of temporary registration policy, which explains how it will handle concerns about doctors on the temporary register. The GMC told us that this required the registration and fitness to practise teams to interact and work together to develop new procedures.

### **Conclusion against this Standard**

- 2.9 We have seen that the GMC publishes clear information about its role, statutory purpose and objectives. We acknowledge that the GMC has explained how its work to support the profession is linked to better outcomes for patients and the public and we will continue to monitor the GMC's activities in this area. We are satisfied that this Standard is met.

## **Standard 3: The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator**

**and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics.**

- 3.1 The GMC has an equality, diversity and inclusion (EDI) statement on its website and its EDI strategy seeks to achieve benefits for patients and service users, for example, ensuring that doctors are equipped to treat the diversity of patients, ensuring doctors understand their duty to provide quality care for all patients, and raising awareness of the GMC's expectations of the care that patients should receive. We saw that information about the GMC's EDI work is included in its annual report, which states that the GMC values diversity 'within the medical profession and within the GMC very highly' and that it is committed to building on the work it has already done.
- 3.2 The GMC has a dedicated EDI team that is responsible for developing and embedding strategies across the organisation. It also has employee networks and training programmes relating to EDI and a Strategic EDI Advisory Forum to listen and respond to the experiences of doctors with a diverse range of backgrounds and interests. It also has a Black and Minority Ethnic (BME) doctors' forum. The GMC told us that it regularly reviews the diversity of its associates, and that the composition of the MPTS compares well with figures for courts and the wider UK population.

#### **Equality and diversity data**

- 3.3 The GMC routinely collects registrants' EDI data upon registration and in March 2019 asked all doctors to update their information held by the GMC, so that it could identify issues that doctors might face and work it can do to address those issues. The GMC has used information it holds about doctors to inform its work, for example by conducting research and providing free workshops for doctors new to the UK to support and help them understand the ethical issues they are likely to encounter.

#### **Research conducted by the GMC to inform itself about EDI issues**

- 3.4 The GMC's independently commissioned research, *Fair to refer?* considered why some groups of doctors are referred to the GMC for fitness to practise issues more than others. The report found that Black, Asian and Minority Ethnic (BAME) doctors are more than twice as likely to be referred than white doctors. The GMC told us that it is making progress in taking forward the recommendations from the report and has identified areas for action. The GMC told us that other research showed a correlation between tribunal hearing outcomes and a doctor's engagement with the process. As a result of this, the GMC has made efforts to emphasise to doctors the importance of representation in the fitness to practise process, to try to ensure a fair outcome.
- 3.5 In February 2020 the GMC conducted research<sup>6</sup> to understand more about differences in attainment in postgraduate specialty training of UK-graduated BAME trainees compared to UK-graduated white trainees.

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<sup>6</sup> *What supported your success in training?* [www.gmc-uk.org/about/what-we-do-and-why/data-and-research/research-and-insight-archive/what-supported-your-success-in-training](http://www.gmc-uk.org/about/what-we-do-and-why/data-and-research/research-and-insight-archive/what-supported-your-success-in-training)

- 3.6 The GMC told us that it uses the information it holds to analyse and report on statistical trends in medical education and practice in the UK. It reports on diversity statistics annually, in its *State of Medical Education and Practice in the UK*<sup>7</sup> report.

#### **Equality impact assessments**

- 3.7 The GMC provided us with its equality analysis document for new projects, which considers background, evidence, reviewing and monitoring. It also provided us with a guidance document for considering equality and diversity in projects, which includes requirements to comply with the Public Sector Equality Duty.
- 3.8 The GMC told us that it updates the equality analysis document as a project progresses, with the completed assessment available at the conclusion of the project. The GMC provided us with equality analysis examples for two of its projects: the Better Signposting Programme and the Regulation of MAPs. The equality analysis for these projects showed that the GMC has evaluated the proposed projects in detail, considered the demographic in the case of MAPs, identified areas that might impact those with protected characteristics, and the further questions and monitoring to be considered. These documents also demonstrate the GMC's ongoing evaluation of equality and diversity considerations within the projects.

#### **Reasonable adjustments**

- 3.9 We saw details about the policies the GMC has about reasonable adjustments, relating to doctors, the public and its staff. These include guidance about adjustments for those taking the GMC's assessments, the reasonable adjustments policy and the learning disabilities policy. The GMC also told us that its case management system allows it to record whether an individual requires reasonable adjustments.
- 3.10 The GMC has a telephone service to assist those who may not have the capacity to provide information online or by email. The GMC has several support services, such as its Patient Liaison Support Service and Doctor Support Service. The GMC had plans to pilot an advocacy service in 2019 through a mental health charity for those who may not be able to access fitness to practise processes, however we have not seen any further information about the progress of this project.

#### **Conclusion against this Standard**

- 3.11 We have seen that many of the GMC's projects seek to identify issues relating to EDI that doctors may face, with a view to addressing them. We have seen examples of the work the GMC does to promote EDI within the organisation, as well as the consideration of the impact of a new project on protected characteristics. The GMC appears to have a clear commitment to EDI in its work and we are satisfied that this Standard is met.

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<sup>7</sup> The most recent report can be found here, [https://www.gmc-uk.org/-/media/documents/somep-2020\\_pdf-84684244.pdf?la=en&hash=F68243A899E21859AB1D31866CC54A0119E60291](https://www.gmc-uk.org/-/media/documents/somep-2020_pdf-84684244.pdf?la=en&hash=F68243A899E21859AB1D31866CC54A0119E60291)

#### **Standard 4: The regulator reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public inquiries and other relevant reports about healthcare regulatory issues.**

- 4.1 Section 52A of the Act requires the GMC to report, on an annual basis, on its equality and diversity arrangements, the efficiency and effectiveness of fitness to practise processes and its strategic plan. The GMC includes this information in its annual report.<sup>8</sup> The Act also requires that the MPTS publishes, on an annual basis:
- a report about the nature and volume of cases referred to the MPTS
  - a report on the exercise of the MPTS's functions, including a description of equality and diversity arrangements
  - a report on learning points identified by the MPTS, and proposals to address these.

These reports are published on the MPTS website.<sup>9</sup>

- 4.2 The GMC holds around seven Council meetings a year at which updates are provided by the GMC's Committees. The GMC has six statutory committees<sup>10</sup> and three non-statutory committees<sup>11</sup> whose work is overseen by the Council. This year, Council meetings have included updates on the GMC's Corporate Strategy and Business Plan, the review of the guidance on consent and the regulation of physician associates (PAs) and anaesthesia associates (AAs).
- 4.3 The GMC told us about its processes to 'give voice to' concerns about its operation and to act on them, such as its Serious Event Reviews (SER) and its Freedom to Speak Up Guardian. The GMC told us that the SER process involves identifying the circumstances that led to an event and any actions or improvements to be made as a result. The first report of the GMC's Freedom to Speak Up Guardian was produced in May 2020, and the GMC says it has taken lessons from the issues raised.
- 4.4 The GMC website has a page with information on complaining about the GMC and providing feedback about its services. The GMC told us about some improvements it has made as a result of learning points from complaints, such as updating its correspondence to provide clearer wording, implementing guidance around recording communication needs and carrying out refresher training to address potential underreporting of complaints.
- 4.5 The GMC told us that its Patient Liaison Team requests feedback from complainants involved in the fitness to practise process and this information is fed back to inform learning about the quality of the service it provides and to make

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<sup>8</sup> [www.gmc-uk.org/about/how-we-work/corporate-strategy-plans-and-impact/annual-reports](http://www.gmc-uk.org/about/how-we-work/corporate-strategy-plans-and-impact/annual-reports)

<sup>9</sup> [www.mpts-uk.org/about/how-we-work/reports-and-management](http://www.mpts-uk.org/about/how-we-work/reports-and-management)

<sup>10</sup> The Registration Committee, Registration Appeals Committee, Investigation Committee, the MPTS Committee, the MPT Committee and the Interim Orders Tribunals Committee.

<sup>11</sup> The Audit and Risk Committee, the Investment Committee and the Remuneration Committee.

improvements. The GMC also told us that it requests feedback from doctors who use the Doctor Contact Service and those going through the registration process.

### Action taken in response to inquiries and reports

- 4.6 In response to policy reports that highlighted the need to support doctors to better understand local contexts and cultural differences, the GMC will incorporate more content about sexual misconduct into its *Welcome to UK Practice* programme in 2021.
- 4.7 The GMC told us that following the publication of the Paterson Inquiry report<sup>12</sup>, it has worked with other organisations to consider how similar cases might be handled now. The Paterson Inquiry included criticisms of the GMC in relation to its correspondence with patients who raised concerns, the time taken to deal with concerns and the GMC's five year rule.<sup>13</sup> The Inquiry also recommended that there should be a period of reflection on diagnosis and treatment included in the process of patients giving consent. The GMC told us that it recognised a potential overlap with the Independent Medicines and Medical Devices Safety Review (Cumberlege Review)<sup>14</sup> and therefore decided to postpone the publication of its revised consent guidance to consider whether the findings from both reports might affect the guidance. We note that the revised consent guidance was published in September 2020, outside this review period. The GMC told us that it will review how the cases involved in the Paterson Inquiry were handled and that in response to the Cumberlege Review, it revised its supporting information guidance for revalidation to emphasise that individuals must not just manage their conflicts of interest but also declare them where appropriate. The revised guidance provides additional examples of quality improvement activities which address the themes of the Cumberlege Review, such as compliance with patient safety alerts.
- 4.8 We saw that in April 2020, in light of the change to abortion law in Northern Ireland, the GMC provided some further guidance for doctors after the new legal framework was published in March 2020.

### Conclusion against this Standard

- 4.9 We have seen that the GMC publishes reports about its performance in different areas, in line with its statutory duty. We have seen information about the processes that it has to report and act on concerns raised about the organisation and its processes for handling complaints. We are satisfied that this Standard is met. We note that the GMC has been subject to criticism from public inquiries, such as the Paterson Inquiry and Cumberlege Review, and we have seen examples of the GMC taking action in response to these reports. We will continue to monitor this work.

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<sup>12</sup> [www.gov.uk/government/publications/paterson-inquiry-report](http://www.gov.uk/government/publications/paterson-inquiry-report)

<sup>13</sup> According to Rule 4(5) of the GMC's Fitness to Practise Rules 2004, the GMC cannot investigate concerns if more than five years have passed since the incident occurred, unless it is in the public interest to do so.

<sup>14</sup> [www.immdsreview.org.uk/index.html](http://www.immdsreview.org.uk/index.html)

## **Standard 5: The regulator consults and works with all relevant stakeholders across all its functions to identify and manage risks to the public in respect of its registrants.**

- 5.1 The GMC posts formal consultations on its website and they are promoted to stakeholders. In this review period the GMC has conducted one consultation: a call for evidence to obtain views on remote consultation and prescribing via telephone, video-link or online,<sup>15</sup> so that the GMC can ensure that its advice on these topics remains up to date.

### **Working relationships with stakeholders and sharing information**

- 5.2 Members of each of the GMC's UK advisory forums include patient groups, professional bodies, unions, employers, healthcare providers and Chief Medical Officers. Each of the UK's devolved administrations; Scotland, Wales and Northern Ireland, have an advisory forum to contribute to the GMC's work and ensure that its policies apply consistently across the UK. The GMC told us that it holds roundtable events which allow stakeholders to contribute to the development of policies in relation to medical education.
- 5.3 At its Council meeting in February 2020, the GMC said it would engage widely, including with the profession, employers and patients, to understand the scope of practice of PAs and AAs in order to define appropriate standards and develop revalidation options. The GMC says it is currently engaging with stakeholders to develop its approach and has set up a community of interests to invite involvement in this work.
- 5.4 The GMC told us that it has 31 memoranda of understanding in place, to support education, registration processes, quality assurance and the sharing of concerns. These include the Care Quality Commission, Healthcare Professionals Crossing Borders,<sup>16</sup> NHS Counter Fraud Service and the Regulation and Quality Improvement Authority. The GMC also told us about its 'Designated Body Dashboard' which allows it to share data with regulators across the four UK countries.
- 5.5 The GMC's Patient Safety Intelligence Forum (PSIF) considers and shares risks to patient safety and medical practice, and the GMC says that discussions at PSIF have resulted in external engagement and improvements being made. The GMC's Employer Liaison Service (ELS) provides the GMC with a way to encourage learning and communication with healthcare providers, particularly in relation to fitness to practise and revalidation.
- 5.6 The GMC told us that it has taken a leadership role in bringing together regulators to work to address sexual misconduct concerns with an aim to raise awareness amongst employers, registrants and members of the public about the role regulators can play. It delivered a cross-regulator workshop on this topic in this review period.

### **Signposting**

- 5.7 As a result of research commissioned by the GMC, it launched its 'Better Signposting Project' to improve public understanding about its process, to signpost

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<sup>15</sup> <https://gmc-mpts.smartconsultations.co.uk/consultations/66>

<sup>16</sup> A partnership of approximately 50 professional healthcare regulators across Europe.

patients as early as possible and to work with organisations to ensure that they advise the public about when to raise a concern with the GMC.

### Conclusion against this Standard

- 5.8 We have seen evidence that the GMC has several projects and strategies to engage with organisations across the UK and with its stakeholders. We have also seen that it acts on issues identified as a result of this engagement and makes improvements. Similarly, we note that the GMC has processes to share intelligence and information with other organisations, both in the UK and in Europe. We are satisfied that this Standard is met.

## Guidance and Standards

### Standard 6: The regulator maintains up-to-date standards for registrants which are kept under review and prioritise patient and service user centred care and safety.

- 6.1 The GMC's primary standards document for doctors is *Good Medical Practice*,<sup>17</sup> which came into effect in April 2013 and was most recently updated in April 2019. The GMC describes *Good Medical Practice* as 'the core guidance for all registered doctors' and the foundation on which the rest of its guidance is built. It outlines the duties of a doctor registered with the GMC and sets out four domains. It also includes some explanatory guidance which doctors are expected to be familiar with, covering topics such as the use of social media, and personal beliefs and medical practice.
- 6.2 We have seen some indicators of how the GMC keeps its standards under review, including its consultation and horizon-scanning activities, as well as its consideration of the outcomes of the Paterson Inquiry and Cumberlege Review in relation to its guidance on consent.
- 6.3 At the start of the coronavirus pandemic the GMC confirmed that *Good Medical Practice* still applied, and it issued advice for doctors practising during the pandemic, discussed in further detail at Standard 7.
- 6.4 *Good Medical Practice* provides clear Standards for registrants and the GMC's activities demonstrate that it is alive to the need to keep the Standards up to date. We are satisfied that this Standard is met.

### Standard 7: The regulator provides guidance to help registrants apply the standards and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises patient and service user centred care and safety.

- 7.1 The GMC provides a range of guidance to supplement *Good Medical Practice*. This includes the explanatory guidance that the GMC says it expects newly qualified doctors to be familiar with.

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<sup>17</sup> [www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice](http://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice)

- 7.2 The 32 pieces of ethical guidance the GMC provides are set out in 11 categories and the GMC says ‘they should be followed as far as practical in the circumstances’. The topics covered include confidentiality, prescribing and candour and raising concerns. The GMC has created resources such as flow charts and case studies to help doctors put the guidance into practice. The GMC also publishes guidance which applies to doctors, students and medical education institutions.
- 7.3 The GMC’s website explains that when it develops guidance it includes a wide range of people including patients, doctors, lawyers, regulators, employers and educators.

### Guidance on consent and decision-making

- 7.4 We noted in our report last year that the GMC had planned to publish its updated guidance about consent in the first quarter of 2020. In this review period the GMC tested the guidance with frontline doctors and reported that this group considered that the standards expected of all doctors were reasonable.
- 7.5 The GMC postponed the publication of the new guidance to enable it consider recommendations in the Paterson Inquiry report and the Cumberlege Review. Following that consideration and as noted at Standard 4 above, the guidance was published in September 2020, to be effective from November 2020.

### Other guidance

- 7.6 The GMC co-published high-level principles for health professionals on remote consultations and prescribing, which align with its own guidance, as well as advice for patients. As we noted at Standard 4, the GMC launched a call for evidence on this topic, to ensure that its guidance remains up to date.
- 7.7 We reported last year that the GMC had published guidance for doctors on being a ‘reflective practitioner’. In this review period, the GMC has published a supplement to this guidance for students, which explains the importance of reflection and how it can be used as a student and later in a doctor’s career.
- 7.8 The GMC’s *Welcome to UK Practice* workshop is designed to support doctors who qualified outside the UK and who are new to UK practice, to help them ‘navigate key areas of cultural and ethical difference’. It was developed by the GMC in response to the disproportionate rate of fitness to practise referrals of internationally qualified doctors. We reported last year that the GMC had added more workshops due to increased demand and in April 2020 the GMC reported to its Council that it has ‘delivered significant growth in attendance’.
- 7.9 We saw from the start of the coronavirus pandemic, that the GMC advised doctors that they should continue to follow existing guidance ‘as far as is practical in the circumstances’ and that ‘in some extreme cases some doctors may have to depart from established procedures to care for patients’. The GMC used its ethical hub to provide advice to doctors on the most common questions it had been asked during the pandemic.
- 7.10 As we noted at Standard 4 above, following the change to abortion law in Northern Ireland in April 2020 the GMC provided additional information for doctors. It published information on its website reminding them of their responsibilities according to guidance and drawing their attention to the GMC’s *Personal beliefs*

and medical practice guidance.<sup>18</sup> This guidance has been updated to note that the relevant sections of the Offences Against the Persons Act 1861 were repealed, and signposts to the relevant legislation.

### Conclusion against this Standard

- 7.11 We have seen evidence that the GMC provides guidance to supplement *Good Medical Practice* and to address specific areas of practice which it regularly reviews. We have also seen that the GMC takes steps to provide additional clarity on specific topics when necessary, such as during the coronavirus pandemic and following the abortion law change in Northern Ireland. We are satisfied that this Standard is met.

## Education and Training

**Standard 8: The regulator maintains up-to-date standards for education and training which are kept under review, and prioritise patient and service user centred care and safety.**

- 8.1 In its standards of UK medical education, the GMC sets out the standards that medical training organisations are expected to meet in the delivery of training, as well as the outcomes that medical students and doctors in training should achieve by the end of their training. The standards and outcomes are set out over five publications<sup>19</sup> which cover the management and delivery of medical education and training, requirements for postgraduate criteria, incorporating skills into postgraduate training and the standards required for both provisional and full registration with the GMC.
- 8.2 The GMC's *Welcomed and valued* guidance was introduced in May 2019 for education organisations to support disabled medical students and doctors. The guidance outlines the expectations for medical education organisations and states that organisations must comply with UK equality legislation and they must meet the GMC's standards and requirements for medical education training.
- 8.3 Last year we reported that following a recommendation by the Parliamentary and Health Service Ombudsman, the GMC had asked all medical schools to comment on how eating disorders are taught and covered, including the exposure that medical students get to eating disorders as part of their clinical attachments. The GMC published a briefing<sup>20</sup> outlining the results of this survey and says it has 'encouraged medical schools to undertake some further reflection on the findings from the survey, both to identify where there is common ground and where education and training could be strengthened'.
- 8.4 In last year's report we noted that the GMC has been working to address how doctors can move between specialties more easily. The GMC asked the Academy of Medical Royal Colleges (AoMRC) to review its arrangements to support trainees

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<sup>18</sup> [www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/personal-beliefs-and-medical-practice](http://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/personal-beliefs-and-medical-practice)

<sup>19</sup> [www.gmc-uk.org/education/standards-guidance-and-curricula/standards-and-outcomes](http://www.gmc-uk.org/education/standards-guidance-and-curricula/standards-and-outcomes)

<sup>20</sup> [www.gmc-uk.org/-/media/documents/eating-disorders-briefing.pdf](http://www.gmc-uk.org/-/media/documents/eating-disorders-briefing.pdf)

who wanted to transfer to another specialty and the AoMRC published new guidance<sup>21</sup> in June 2020.

### Conclusion against this Standard

- 8.5 We have seen that the GMC clearly sets out the standards for education and training, and the standards refer to *Good Medical Practice*. We have also seen evidence of the GMC taking action to develop areas in need of review and improvement, such as eating disorders and the flexibility of postgraduate training. We are satisfied that this Standard is met

**Standard 9: The regulator has a proportionate and transparent mechanism for assuring itself that the educational providers and programmes it oversees are delivering students and trainees that meet the regulator’s requirements for registration, and takes action where its assurance activities identify concerns either about training or wider patient safety concerns.**

- 9.1 The GMC quality assures medical schools, postgraduate training bodies, local education providers and curricula and assessment criteria for specialty and GP training programmes.

### Medical training quality assurance review

- 9.2 The GMC has been reviewing its quality assurance programme with the aim of regulating more collaboratively and flexibly and moving away from large-scale visits every five years to a risk-based approach where organisations will be required to sign a declaration and complete a self-assessment which will then be assessed by the GMC.
- 9.3 Following a pilot, the GMC reported to its Council in February 2020 that it is ready to roll out the new process. The GMC says that all medical schools and postgraduate training organisations will complete their first declaration and self-assessment before December 2021. The GMC will introduce a governance framework to ensure decisions are consistent and fair, and it will conduct two full reviews of the process in the next five years to check how the process is working.
- 9.4 The GMC publishes a list of approved programmes on its website and this is updated fortnightly. The GMC also publishes a list of sites which are approved, but subject to GMC conditions.

### Enhanced monitoring

- 9.5 The GMC has an ‘enhanced monitoring’ process to intervene when it has concerns about an organisation. It publishes information about the process on its website.
- 9.6 In this review period, seven concerns about training providers appear to have been escalated to the enhanced monitoring process and the GMC has taken action by:
- monitoring the progress of three training providers
  - putting a plan in place for three training providers

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<sup>21</sup> [www.aomrc.org.uk/reports-guidance/guidance-for-flexibility-in-postgraduate-training-and-changing-specialties](http://www.aomrc.org.uk/reports-guidance/guidance-for-flexibility-in-postgraduate-training-and-changing-specialties)

- checking the sustainability of one training provider.

The GMC's website shows that five concerns were resolved in this review period.

- 9.7 The GMC has also made developments to its process in this review period; it now sets 'fixed' deadlines for evidence of improvements and has a process for considering the removal of trainees when improvements are not made.

### **Covid-19**

- 9.8 In March 2020, the GMC paused visiting organisations in person due to the pandemic. Other assurance activity, such as engagement, continued throughout the year and activity including visits to some medical schools and enhanced monitoring took place virtually from June 2020. The GMC told us that the planned roll out of its new proactive quality assurance also continued as planned with minor adjustments to the timetable as needed.
- 9.9 We asked the GMC how it identified and managed risks arising from the inability to carry out site visits, and how it considered the potential impact of pausing site visits.
- 9.10 The GMC told us that all quality assurance visits are now conducted virtually by default, but it can conduct an on-site visit if necessary. It told us that when prioritising visit activity, the main factor in its considerations was patient safety, as well as risk and urgency.
- 9.11 The GMC gave us examples of how it prioritised visits, such as final pre-student visits to new schools due to take a first cohort of students in September 2020 and a school being visited for the first time. Of those schools due to be visited as part of a cycle, the GMC prioritised those with higher risk or outstanding concerns and took other steps to monitor those that were not high risk, such as conducting shorter meetings.
- 9.12 In addition to prioritising its visit activity, the GMC told us it took steps to mitigate possible risks, such as losing the level of assurance an onsite visit provides, by seeking further information before the visit to inform its approach, focusing discussions on key areas of risk and testing the virtual environment before conducting the visit.

### **Conclusion against this Standard**

- 9.13 The GMC's move to a risk-based system of quality assurance is consistent with right-touch principles. The approach, in principle, does not raise any concerns; however it is too early to assess the impact of those changes, and we will continue to monitor how the GMC implements its new approach, including how it identifies and manages any associated risks. During the pandemic, the GMC used the information it holds to categorise and prioritise its visit activity. We are satisfied that this Standard is met.

# Registration

## **Standard 10: The regulator maintains and publishes an accurate register of those who meet its requirements including any restrictions on their practice.**

10.1 In January 2020 the GMC launched its new online register. The GMC says that the factual content has not changed, but it has made several improvements including better filtering, clearer prompts and visual cues. The GMC's website includes a guide to the medical register which explains the information held on the register and how to find a doctor's record, the types of registrations, checks for employers, and unregistered medical practice.

### **Historical registration processes**

10.2 In last year's report we referred to checks that the GMC was conducting as a result of details of a woman from New Zealand who forged a medical qualification to gain admission to the GMC register. After the GMC checked the qualifications of all those who had registered by the same route, it reviewed its historical registration processes to identify other routes to registration at risk of fraudulent applications. The GMC started to conduct checks of the qualifications of overseas graduates who took a route to registration that meant they did not sit the PLAB assessment and who had had fitness to practise action taken against them in relation to serious dishonesty. We sought an update from the GMC on these checks.

10.3 The GMC told us that although it has requested verification for all of those registrants identified for its checks, it has only received confirmation for 80 doctors, leaving 171 doctors whose qualifications have not been verified. The GMC paused the checks to focus on the pandemic and said it would consider in 2021 whether it is proportionate to pursue those outstanding, taking into account the risk to patient safety. Given the circumstances of the pandemic, we acknowledge that it was reasonable for the GMC to pause these checks this year and review its plans.

### **Credentialing**

10.4 We reported last year that the GMC was continuing to work on its credentialing project. The GMC describes a credential as 'a new process to formally recognise a doctor's expertise in a specific area of practice'. We reported that it had published the framework and that it was set for a phased introduction with five early adopters. We asked the GMC for an update on the project. It told us that it anticipates that the five early adopters to the credentialing project will have been considered for approval by mid-2021 and that it is continuing to develop its policy and processes.

### **Register check**

10.5 We checked a sample of entries on the register and found no causes for concern.

### **The temporary register**

10.6 We asked the GMC for information about the temporary register of retired practitioners it had created to help deal with the coronavirus pandemic and, in particular, whether it had received any concerns about temporary registrants or had found any errors in adding individuals to the register.

10.7 The GMC told us that it has received 19 fitness to practise referrals about doctors on the temporary register and had revoked the licence to practise of 18 of those. It added that no doctor had their registration/licence to practise revoked as a result of clinical issues that occurred during the pandemic. It had not identified any instances of doctors being granted temporary registration inappropriately. It appears that the GMC is managing the temporary register appropriately.

### Conclusion against this Standard

10.8 The information the GMC provides about its register is generally clear and the online register is user-friendly. We note the update on the credentialing project, and that the GMC will reassess the proportionality of pursuing the outstanding register checks. We are satisfied that this Standard is met.

## Standard 11: The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.

11.1 In order to practise in the UK, doctors must hold a licence to practise as well as being registered with the GMC. Doctors may be registered with the GMC without a licence to practise to 'show they are in good standing' with the GMC. The GMC website provides information about the registration processes for UK, EEA and non-EEA applicants. The website also provides information for applicants about appealing a registration decision; what they can appeal against and how they can appeal.

### Medical Licensing Assessment (MLA)

11.2 The MLA, comprised of the Applied Knowledge Test and the Clinical and Professional Skills Assessment, is intended to be an assessment for UK medical students and International Medical Graduates, with the aim of creating a common threshold for safe practice. The GMC has taken initial steps towards the implementation of the MLA, however full implementation has been delayed due to the coronavirus pandemic. UK medical students graduating in 2024-25 will need to pass the MLA.

### Application processing data

11.3 The table below shows the number of applications received by the GMC in the last three financial years.<sup>22</sup>

Total applications received by year	2017/18	2018/19	2019/20
UK graduate	7,194	7,273	7,436
EU/EEA graduate	2,696	3,390	3,134
Non-EU/EEA graduate	5,326	7,574	10,643
Total	15,216	18,237	21,213

<sup>22</sup> The data therefore does not include doctors who were added to the temporary register during the coronavirus pandemic.

Total % change	+7%	+20%	+16%
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11.4 The data shows that there has been a slight rise in registration applications from UK graduates this year, while the number of applications from EU/EEA graduates has decreased. The number of applications from non-EU/EEA graduates has increased by over 3,000 from last year and has doubled since 2017/18. The GMC's *State of Medical Education and Practice* report noted the significant increase in non-EU/AA graduates, 'International Medical Graduates' (IMGs), and said that some of this increase could be attributed to the GMC granting automatic registration in some cases to help support the pandemic. It notes there was a drop in IMG registrations after March, coinciding with the national lockdown which subsequently affected the GMC's PLAB testing and ID checks.

11.5 The table below sets out the median time taken in working days to process the different types of registration application.

Median time (in days) to process registration applications:	2017/18	2018/19	2019/20
UK graduate	1	1	1
EU/EEA graduate	27	24	28
Non-EU/EEA graduate	15	16	18

11.6 The time to process applications from UK graduates has remained stable. The time to process applications from EU/EEA graduates and non-EU/EEA graduates has increased since last year, but we do not consider the increase to be significant.

### Registration appeals

11.7 The GMC has received a 10% increase in the number of registration appeals, however it has concluded significantly more, 77%, than last year. The proportion of appeals upheld, rejected and withdrawn remains similar to previous years and as with last year, no appeals were upheld where no new information was presented by the applicant. We remain satisfied that this process is working fairly and efficiently.

### Conclusion against this Standard

11.8 From the information we have seen, the GMC's registration system appears to be working efficiently and fairly and is clearly explained on its website for all groups of applicants. We are satisfied that this Standard is met.

## Standard 12: 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.

12.1 Information on the GMC's website makes it clear that doctors who practise medicine must have a licence to practise and if they do not, the GMC will investigate. It also

provides information about how to report someone believed to be practising illegally, as well as a link to the medical register for the user to check a doctor's registration.

- 12.2 The GMC has the power to prosecute individuals who misuse the title or practise illegally and we are aware that it has an approach which, in previous years, we have been satisfied is appropriate.
- 12.3 We have not received any information this year to suggest that there are concerns about the GMC's approach to these cases. We are satisfied that this Standard is met.

### **Standard 13: The regulator has proportionate requirements to satisfy itself that registrants continue to be fit to practise.**

- 13.1 Section 29A of the Act states that the GMC must make provisions for revalidation, which it describes as 'evaluation of a medical practitioner's fitness to practise'.
- 13.2 The GMC's process requires different types of information and processes for assessing fitness to practise, depending on the level of supervision of doctors' work in the environment in which they practise. It includes requirements to obtain feedback from patients.
- 13.3 The GMC ran a consultation from April to July 2019 about proposals to improve how patient feedback is collected and used in revalidation. The GMC published a report<sup>23</sup> on the consultation in November 2020, together with revised guidance.<sup>24</sup>
- 13.4 During the coronavirus pandemic, the GMC pushed back revalidation dates to ease pressure on doctors and responsible officers. The GMC told us that doctors remained subject to the standards required for revalidation but it acknowledged that for many doctors, evidencing this during the pandemic was unrealistic. It told us that it has made all responsible officers aware of the flexibilities within the revalidation system to vary dates in line with local needs, and that many doctors had revalidated despite their date being changed.
- 13.5 The information the GMC provides about revalidation explains the processes and requirements clearly and makes it clear that annual appraisals should be focused on the GMC's Standards, *Good Medical Practice*. The GMC has also recognised the valuable role patients and members of the public can play in revalidation. We are satisfied that this Standard is met. We will continue to monitor how the GMC considers the effect of delaying revalidation due to the pandemic.

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<sup>23</sup> [www.gmc-uk.org/-/media/documents/patient-feedback---final-report\\_pdf-82038264.pdf](http://www.gmc-uk.org/-/media/documents/patient-feedback---final-report_pdf-82038264.pdf)

<sup>24</sup> [www.gmc-uk.org/registration-and-licensing/managing-your-registration/revalidation/revalidation-resources/guidance-on-developing-and-implementing-formal-patient-feedback-tools](http://www.gmc-uk.org/registration-and-licensing/managing-your-registration/revalidation/revalidation-resources/guidance-on-developing-and-implementing-formal-patient-feedback-tools)

## Fitness to Practise

### Standard 14: The regulator enables anyone to raise a concern about a registrant.

- 14.1 The GMC’s website has a link on the homepage about how to make a complaint about a doctor. There is also an information video which explains which matters can be considered by the GMC. The GMC’s *Charter for patients, relatives and carers* (‘the Charter’)<sup>25</sup> promises that the GMC will help a complainant find the best way to raise a concern; if the concern is not something the GMC can deal with, it will try to help the complainant find the right place. The GMC also has guidance for staff about signposting complainants to other organisations. We have not received any concerns to suggest that the GMC cannot be contacted to raise concerns.
- 14.2 The data we have received for this review period shows the GMC’s performance at the early stages of the fitness to practise process is consistent with last year and we have not seen any information to indicate a concern about decisions not to take forward concerns made at the initial stage of the process. We are satisfied that this Standard is met.

### Standard 15: The regulator’s process for examining and investigating cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.

#### Timeliness in fitness to practise

- 15.1 Ensuring that cases are dealt with as quickly as is consistent with a fair resolution is a key element of this Standard. The data in relation to timeliness for this review period is shown in the table below.

Median time (weeks) from:	Annual 2016/17	Annual 2017/18	Annual 2018/19	Annual 2019/20	Q1 2020/21
Receipt to final IC/CE decision	37	29	30	34	37
IC/CE to final hearing	36	27	33	35	23
Receipt to final hearing	107	104	80	89	61

- 15.2 Last year the GMC told us that the complexity of its cases and delays in obtaining information at investigation stage can lead to delays, and that it had increased the resource in its investigation and legal teams to ensure that cases progress as quickly as possible. This year, the GMC’s performance has deteriorated in all three

<sup>25</sup> [www.gmc-uk.org/about/what-we-do-and-why/charter-for-patients-relatives-and-carers](http://www.gmc-uk.org/about/what-we-do-and-why/charter-for-patients-relatives-and-carers)

of the main annual timeliness measures. The GMC told us that there was no single explanation for the deterioration in timeliness, and that case complexity continues to be a factor. It told us that it continues to try to monitor and improve timeliness, such as by using its provisional enquiries process<sup>26</sup> for less serious concerns. We note that the GMC remains one of the better-performing regulators against our dataset measures for timeliness.

15.3 The GMC told us that its ability to progress cases is likely to be affected by the pandemic for some time and has taken a number of steps to mitigate this. These include using provisional enquiries to consider the context of the pandemic, reflecting on the proportionality of investigations and additional resource in its investigations and hearings teams.

15.4 The table below shows that there has been an increase in the number of every bracket of cases older than 52 weeks. We asked the GMC whether it had identified any reasons for the increase in open older cases, and it told us that the same factors that affect timeliness apply to the number of older cases. It told us that a significant number of cases are delayed due to external processes, and that some of the older cases are particularly complex.

	2017/18 annual	2018/19 annual	2019/20 annual
Cases 52-103 weeks old	324	458	513
Cases 104-155 weeks old	131	145	176
Cases ≥156 weeks old	99	103	111
Total cases over 52 weeks old	554	706	800

## Rule 12

15.5 In this review period we received several concerns which highlighted issues with the GMC's Rule 12 process.<sup>27</sup> The GMC told us that it has reviewed its Rule 12 process and has a programme of improvement in place. We asked for more information about this.

15.6 The data we received about the number of Rule 12 requests was not concerning: it did not suggest that the GMC receives an unreasonable number of requests; the breakdown of outcomes at each stage appeared consistent with what we would expect if the process was working properly. The GMC explained that it carries out regular audits of Rule 12 cases. It provided us with the outcome of its latest annual Rule 12 audit, which had clearly considered cases in detail. Its findings raised no cause for concern.

<sup>26</sup> The GMC obtains limited information at the start of a case to determine whether a full investigation is required.

<sup>27</sup> Rule 12 of the GMC's [Fitness to Practise Rules](#) allows certain decisions made by the GMC to be reviewed if the decision is considered to have been materially flawed or there is new information that might have led to a different decision.

- 15.7 The GMC told us that its programme of improvement for the Rule 12 process includes identifying ways to improve the transparency and efficiency of the process and that it considers feedback from complainants as part of this work. The GMC identified that the time taken to make Rule 12 decisions was a significant factor in customer experience and was a driver for the improvements it has made. The GMC has a clear plan to improve the existing process and will keep the process under review.

### **Expert witnesses**

- 15.8 We also received a number of concerns about the GMC's process for instructing expert witnesses, including in relation to the content of their reports and their suitability for the particular case.
- 15.9 The GMC told us that it seeks information about an expert's expertise and suitability to prepare a report in advance and collects feedback about the expert's performance from the legal team that obtains the report, the case examiners who made decisions using the report and the legal team responsible for the case when an expert provides evidence at a hearing.
- 15.10 We consider that the checks the GMC conducts address the concerns we received and should prevent errors being made. We note that the concerns we received arose in a very small number of cases and do not indicate a fundamental problem with the GMC's approach.

### **Non-disclosure agreements**

- 15.11 We received some concerns from individuals who were either denied access to an expert witness report or were provided with one and asked to sign a non-disclosure agreement. We therefore asked the GMC for some information about its process for requesting non-disclosure agreements, its rationale and for an indication as to whether complainants are routinely asked to sign these.
- 15.12 The GMC told us that non-disclosure agreements are used in specific circumstances to ensure that expert reports are only used to enable a complainant to better understand the decision. This is to comply with a legal limitation that expert reports can only be disclosed if it is in the public interest. It told us that its approach was informed by legal advice.
- 15.13 We have reservations about the use of non-disclosure agreements; in our view, the public interest and public protection are likely to be served by information being available. However, we note that the GMC has taken legal advice in reaching its current approach and we recognise that there are a number of different interests involved and that it may be inappropriate for individuals to use such reports for a purpose for which they are not intended. We will continue to monitor how the GMC uses non-disclosure agreements and do not consider that this matter affects our assessment of the GMC's performance against this Standard.

### **Conclusion against this Standard**

- 15.14 The GMC monitors the progression of its cases, has processes in place to prevent unnecessary delays and has made adjustments to address the disruption to its casework caused by the pandemic. The information it has provided about Rule 12 does not indicate that there are concerns about the fairness of the process, and we have also seen information about the improvements the GMC has already made to

the process. We have received information about the checks and controls it has in place for the evidence provided by expert witnesses and will continue to review the use of non-disclosure agreements. We are satisfied that this Standard is met.

**Standard 16: The regulator ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator’s standards and the relevant case law and prioritise patient and service user safety.**

- 16.1 The GMC publishes guidance<sup>28</sup> for decision-makers in fitness to practise cases on its website. In this review period, the GMC and MPTS produced several updates in relation to these documents:
- Revised sanctions guidance
  - Guidance for medical practitioners tribunals on restoration following erasure
  - Guidance for medical practitioners tribunals on restoration following voluntary or administrative erasure
  - Guidance for decision makers on requests to relax or revoke sanctions or interim orders in response to Covid-19
  - Directing reviews in medical practitioners tribunal hearings; a circular provided to MPTS associates.
- 16.2 Following a pilot in 2015, a recommendation that doctors with restrictions undertake assurance assessments before they can return to unrestricted practice was approved by the GMC’s Executive Board in June 2019. The GMC states that if a doctor’s practice has been subject to restrictions and the GMC believes they can be lifted, it ‘may’ ask a doctor to have an assurance assessment to provide objective evidence that the concerns have been resolved.

**MPTS hearings**

- 16.3 The MPTS ensures that all new cases receive pre-hearing case management, regardless of their length and case type, in order to achieve ‘a more efficient and effective tribunal service’. The MPTS produced guidance for parties and representatives about this procedure. The MPTS Quality Assurance Group meets each month to review a sample of written tribunal determinations, from which learning points are issued to tribunal members and any concerns are incorporated into future tribunal training.

**The fairness of decisions and the right to appeal**

- 16.4 The GMC told us that it will commission a fitness to practise fairness audit to look into whether decisions made throughout the fitness to practise process are consistent with guidance provided to staff.

**The dataset**

- 16.5 There has been a slight increase in the number of investigation committee and case examiner decisions this year which corresponds with the slight increase in referrals

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<sup>28</sup> [www.gmc-uk.org/concerns/information-for-doctors-under-investigation/how-we-make-decisions](http://www.gmc-uk.org/concerns/information-for-doctors-under-investigation/how-we-make-decisions)

received. The data also shows that the proportion of cases resulting in advice, a warning, caution or undertakings is comparable to last year, indicating a consistency in the GMC's decision making at the case examiner and investigation committee stage of the fitness to practise process.

- 16.6 We continue to review MPTS decisions and in this review period we were notified of 378 final decisions. We exercised our power of appeal in one case and joined the GMC's appeal in another, which was upheld in this review period.
- 16.7 We also continue to write to the GMC and MPTS to share learning points identified from the cases we review. The GMC and MPTS replied to these and outlined actions they will take in response.

### Conclusion against this Standard

- 16.8 In this review period, the GMC has updated guidance to decision-makers to support consistent decision making, including in response to relevant case law. The data about decisions made by the case examiners this year remains consistent with last year, and we have not seen cause for concern. The GMC is considering the fairness of its decisions and has commissioned an audit to look into whether decisions made are consistent with guidance to staff. We are satisfied that this Standard is met.

## Standard 17: The regulator identifies and prioritises all cases which suggest a serious risk to the safety of patients or service users and seeks interim orders where appropriate.

- 17.1 This year's data shows an improvement of 1.3 weeks (nine days) from receipt of a complaint to an interim order decision compared to last year. The slight increase since last year of 0.1 weeks (one day) in time to interim order decision after the possible need for one is identified year is not a significant concern.

Median time (weeks) to make interim order decisions:	2018/19	2019/20
From receipt of complaint	9.1	7.8
From receipt of information indicating the need for an interim order	2.6	2.7

The GMC remains one of the faster regulators in interim order timeliness.

- 17.2 There has been an increase in High Court extension applications compared to last year and, as discussed at Standard 15 above, there has been an increase in the number of cases older than 52 weeks. The GMC told us that many of its older cases are waiting for a final hearing, and that these are the types of serious cases that are often subject to interim orders to protect the public, and so an increase in applications to extend interim orders will correlate with an increase in older cases. There were no cases this year where the Court declined to extend an interim order.

Applications to extend interim orders	2017/18	2018/19	2019/20
Applications made	229	214	262

Applications refused	0	1	0
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### Conclusion against this Standard

- 17.3 The data we have seen indicates a significant improvement in the time from receipt of referral to interim order decision compared to last year with no unexplained deterioration in performance. We are satisfied that this Standard is met.

## Standard 18: All parties to a complaint are supported to participate effectively in the process.

- 18.1 The GMC provides guidance for witnesses on its website which includes information about the role witnesses play in the fitness to practise process, the process for providing a witness statement and for giving evidence at a hearing. Information is also provided about independent support for witnesses, provided free and confidentially by the charity Victim Support.
- 18.2 The GMC provides support for patients and complainants through its Patient Liaison Service.<sup>29</sup> The GMC offers a meeting to many of those who raise a concern<sup>30</sup>, as an opportunity for them to ask questions and obtain some further information about the process, as well as having the outcome of the case explained at its conclusion.

### Patient charter

- 18.3 In November 2019 the GMC published a new patient charter, the *Charter for patients, relatives and carers*.<sup>31</sup> This is intended to help patients understand the level of service they can expect to receive from the GMC and was developed and tested with patient and public bodies at roundtable meetings in 2019. The charter includes six promises, which the GMC has started to evaluate its performance against. The GMC says that when it has a sufficient evidence base, it will use the information to improve the service it provides.
- 18.4 The GMC's Doctor Contact Service continues to offer support to doctors on the day of a hearing and, in 2019, helped 129 doctors on 249 occasions. The GMC has received positive feedback on the impact of the service and users have highlighted the benefits of having processes explained to them. The GMC commissioned the British Medical Association (BMA) to run a free support service for doctors under investigation. The service provides emotional support from another doctor who is experienced in providing peer support and is independent from the GMC.

### Tone of voice

- 18.5 One of the themes that appeared more than once within concerns we received was the tone of the GMC's correspondence. An external audit of GMC complaints covering 1 July 2018 to 30 June 2019 (last year's review period) was complimentary of complaints staff and its overall findings in respect of tone of voice were positive. The GMC has decided not to commission further external audits of its complaints

<sup>29</sup> [www.gmc-uk.org/concerns/information-for-patients/how-we-will-deal-with-your-concerns/support-for-patients-and-complainants](http://www.gmc-uk.org/concerns/information-for-patients/how-we-will-deal-with-your-concerns/support-for-patients-and-complainants)

<sup>30</sup> There are some categories of complainant, for example those making a complaint in a professional capacity, where such a meeting might not be appropriate.

<sup>31</sup> [www.gmc-uk.org/about/what-we-do-and-why/charter-for-patients-relatives-and-carers](http://www.gmc-uk.org/about/what-we-do-and-why/charter-for-patients-relatives-and-carers)

handling. However, it retains its ISO10002 complaints handling<sup>32</sup> customer service accreditation.

- 18.6 The Paterson Inquiry criticised the GMC's communication with complainants and patients and we sought further information about how the GMC seeks information and feedback from complainants and the responses it receives.
- 18.7 The GMC explained to us that it offers complainants a meeting at the outset and conclusion of a case and also seeks feedback through a survey. The results of the survey showed high levels of satisfaction with the meeting process.
- 18.8 The GMC says it has made progress since the experiences of those involved in the Paterson Inquiry and that there is more it can do. It told us it has improved its tone of voice in correspondence, developed the process for taking complaints over the telephone and for making reasonable adjustments.
- 18.9 We note that 'enhanced customer service' is part of the GMC's 2018-20 corporate strategy and that 'Making every interaction matter' is a key theme of its new corporate strategy (2021-25). While we noted that some people had told us about concerns about the GMC's correspondence, we did not see evidence of an ongoing, systemic issue with its communication. We acknowledge that the GMC looks to continuously improve its customer service through its corporate strategy, including plans to review the impact of the measures taken.

#### **Conclusion against this Standard**

- 18.10 We acknowledge that the GMC receives positive feedback from complainants and that it specifically asks whether improvements can be made. It has taken action as a result of that feedback and sought to improve since the experiences of those involved with the Paterson Inquiry. We will continue to monitor the GMC's work in this area, in particular to understand how it is able to assure itself that its improvements to the tone of its correspondence have been effectively implemented, and that it is supporting people to participate effectively in its fitness to practise processes. At the moment, we are satisfied that this Standard is met.

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<sup>32</sup> International Organization for Standardization

## Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled a glossary, spelling out abbreviations, but also adding some explanations. [You can find it on our website.](#)

You will also find some helpful links below where you can find out more about our work with the 10 health and care regulators.

### Useful links

Find out more about:

- [the 10 regulators we oversee](#)
- [the General Medical Council](#)
- [the evidence framework we use as part of our performance review process](#)
- [the most recent performance review reports published](#)
- [our scrutiny of the regulators' fitness to practise processes, including latest appeals](#)

**Professional Standards Authority for Health and Social Care**

157-197 Buckingham Palace Road  
London SW1W 9SP

Telephone: **020 7389 8030**

Fax: **020 7389 8040**

Email: [info@professionalstandards.org.uk](mailto:info@professionalstandards.org.uk)

Web: [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

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