

Annual review of performance 2018/19

Health and Care Professions Council



About the Professional Standards Authority

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

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

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

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.¹ We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

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

¹ *Right-touch regulation revised* (October 2015). Available at www.professionalstandards.org.uk/policy-and-research/right-touch-regulation.

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About the Health and Care Professions Council

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

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

As at 31 March 2019, the HCPC was responsible for a register of 369,139 professionals. Its annual retention fee for registrants is currently £90.



At a glance

Annual review of performance

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

Standards of good regulation

Core functions

Met

Guidance and Standards

4/4

Education and Training

4/4

Registration

6/6

Fitness to Practise

4/10

1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the HCPC.² More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- it tells everyone how well the regulators are doing
 - it helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

The Standards of Good Regulation

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

² These are the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland.

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

2. What we found – our judgement

- 2.1 During January 2019, we carried out an initial review of the HCPC's performance from 1 January 2018 to 31 December 2018. Our review included an analysis of the following:
- Council papers, including performance reports and the HCPC's response to our 2017/18 performance review report
 - Policy, guidance and consultation documents
 - Statistical performance dataset
 - Third party feedback
 - A check of the HCPC register
 - Information available to us through our review of final fitness to practise decisions under the Section 29 process.³
- 2.2 As a result of this assessment, we recommended that a targeted review be carried out of Standards 1, 3, 4, 5, 6 and 8 of the *Standards of Good Regulation for Fitness to Practise*.
- 2.3 We obtained further information from the HCPC relating to these Standards. As a result of a detailed consideration of this further information we decided that the HCPC had not met Standards 1, 3, 4, 5, 6 and 8 for Fitness to Practise. The reasons for this are set out in the following sections of the report.

Summary of the HCPC's performance

- 2.4 For 2018/19 we have concluded that the HCPC:
- Met all of the *Standards of Good Regulation for Guidance and Standards*
 - Met all of the *Standards of Good Regulation for Education and Training*
 - Met all of the *Standards of Good Regulation for Registration*
 - Met four of the 10 *Standards of Good Regulation for Fitness to Practise*. The HCPC did not meet Standards 1, 3, 4, 5, 6 and 8.
- 2.5 This year the HCPC has not met the six Standards that were not met in last year's review. We first identified concerns about these Standards in our 2016/17 performance review and identified major problems with the way in which the HCPC managed the initial triage and investigation of complaints, together with a number of other areas of decision-making. The HCPC accepted our concerns and developed a fitness to practise improvement plan

³ 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 \(as amended\)](#).

to address the concerns we raised about its performance. Action to implement that plan was completed in March 2019.

- 2.6 We understand from the HCPC's own assessment that its improvement plan aims to improve its operational performance in fitness to practise by:
- identifying the processes and practices which contributed to our decision that it did not meet six of the 10 *Standards of Good Regulation* for fitness to practise
 - changing policy, processes and procedures to address the concerns identified in our report
 - introducing and piloting new roles and ways of working
 - embedding the behaviour and culture required to improve and sustain its performance against the *Standards of Good Regulation*
 - identifying the resources needed to facilitate the improvements required in fitness to practice
 - measuring the impact of the measures introduced to address the shortcomings identified in its performance in fitness to practise.
- 2.7 We recognise that this was a significant piece of work involving major investment which the HCPC has taken seriously. We consider that it was appropriate for the HCPC to take this action given the scale of our concerns and accept that it was unlikely that these concerns could have been addressed successfully in a shorter timeframe. However, we and the HCPC agree that it would not have been possible for us to judge the effect of its implementation on the cases that we would have been able to look at in our review of performance in 2018/19. For these reasons, we have decided that we cannot say that the HCPC has met these Standards. We expect to be in a position to audit performance as part of next year's review and to assess the effectiveness of the implementation of the plan.

3. Guidance and Standards

- 3.1 The HCPC has met all of the *Standards of Good Regulation* for Guidance and Standards during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 3.2 The information we reviewed this year did not suggest that the HCPC's Standards of Conduct, Performance and Ethics (SCPE) which was published in 2016, has become outdated.
- 3.3 In addition to the SCPE, which set out the ethical framework that registrants must meet, the HCPC has Standards of Proficiency (SOPs) for each of the 16 professions it regulates. The SOPs sit underneath the SCPE and set out:

- the threshold standards considered necessary to protect the public, which are tailored and specific to each profession
- expectations of registrants' knowledge and abilities when they start practising
- what service users and the public should expect from registrants.

3.4 The HCPC did not review any of its SOPs in the performance review period and the evidence we assessed did not suggest that the SOPs do not reflect up to date practice or fail to adequately prioritise patient and service user safety. At the time of writing this report the HCPC commenced a review of all its 16 SOPs and we will report on this work in our next performance review report. We are satisfied that this Standard is met.

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

3.5 The HCPC has continued to issue guidance to its registrants about specific issues. In the period under review the HCPC:

- updated its confidentiality guidance to reflect the principles outlined in the General Data Protection Regulation (GDPR)
- published a blog on end of life care which outlined how the SCPE aligns with the national framework for end of life care and directed registrants to a website⁴ which is being developed into a knowledge hub providing information and resources to assist registrants
- reflected on the guidance it developed last year to support registrants to understand how its standards apply to social media. In October 2018, its blog reiterated to registrants the importance of maintaining confidentiality and provided advice on using platforms such as WhatsApp, LinkedIn and Twitter
- published a blog in December 2018 which focused on the introduction of the GDPR. The blog reflected on frequently asked questions about how registrants can ensure their practice in this area continues to meet the requirements of the SCPE.

3.6 As a result, we are satisfied that this Standard is met.

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

⁴ The blog directed registrants to <http://endoflifecareambitions.org.uk/> which is the website for the National Palliative and End of Life Care Partnership. The resources on the website have been developed for professionals.

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

- 3.7 The HCPC has not developed new guidance, or made significant changes to existing standards guidance in this review period and so the involvement of stakeholders has not arisen. However, we have seen evidence that the HCPC takes account of learning from other areas to inform its approach to the development of guidance and standards documents.
- 3.8 In September 2018, the HCPC considered our *Lessons Learned Review* report which looked at the Nursing and Midwifery Council's handling of concerns about midwives' fitness to practise at the University Hospitals of Morecombe Bay NHS Foundation Trust. We note that the HCPC considered each of the key areas we identified and outlined the improvement opportunities it identified for itself in response.
- 3.9 Following on from the publication of the Williams review,⁵ the HCPC publicly committed itself to considering whether it should produce specialist guidance to registrants about being an expert witness. The HCPC said it would consider the need for this guidance after the Academy of Medical Royal Colleges (AoMRC) had completed the work recommended by the review. We note that in May 2019, outside of the review period, the AoMRC published its guidance for healthcare professionals acting as professional or expert witness. The HCPC confirmed that the advice set out in the guidance is consistent with its standards and guidance.
- 3.10 The HCPC formally considered the report of the Gosport Independent Panel.⁶ Although the report focused on medical professionals, nurses and pharmacists, the HCPC recognised the issues raised potentially impact all healthcare professionals. As such, it reviewed the report and identified the key issues relating to its work. The HCPC has told us that the findings of this report fed into its new Whistleblowing policy and Sanctions policy which were published in April and July 2019 respectively and which we will take into account in the next performance review. We are satisfied that this Standard is met.

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

- 3.11 The HCPC continues to publish its standards and guidance documents on its website and they are available in alternative formats on request.

⁵ In February 2018, professor Sir Normal Williams was commissioned by the Secretary of State for Health to lead a rapid policy review into gross negligence manslaughter in healthcare settings. It was published in June 2018 and is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717946/Williams_Report.pdf.

⁶ The Gosport Independent Panel were commissioned to investigate long-term, inappropriate administration of opioid drugs at Gosport War Memorial Hospital between 1989 and 2000.

- 3.12 In December 2018, the HCPC updated its website in accordance with the good practice guidelines promoted by the Web Accessibility Initiative. The updated website has been designed to be more user friendly as information is now stored by hubs which contain information relevant to particular types of stakeholders. The groups of stakeholders are:
- Members of the public
 - Registrants
 - Employers
 - Education providers
 - Journalists and media
 - Students and applicants.
- 3.13 The new website allows for easy access of the standards and guidance documents on mobile or other devices, and is print friendly. The HCPC has also collated its existing guidance and new information for registrants on applying the standards to their practice in a new area called 'meeting our standards'.
- 3.14 Information on action the HCPC can take if its standards and guidance are not adhered to features prominently on the website. We are satisfied that this Standard is met.

4. Education and Training

- 4.1 The HCPC has met all of the *Standards of Good Regulation* for Education and Training during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 4.2 Each of the 16 professions overseen by the HCPC has its own set of Standards of Education and Training (SET). This year the HCPC has taken steps to ensure its SETs remain linked to the SCPE.
- 4.3 In late 2017 the HCPC consulted on proposals to change the threshold level of qualification for entry to the register for paramedics. This is the compulsory level of education and training considered necessary for entry onto the register and all education programmes approved by the HCPC must deliver students who meet that level. The consultation also sought views on how the SET threshold should change, and the timescales for implementing this.
- 4.4 The HCPC sought views on raising the threshold level of qualification for entry onto the paramedic register for several reasons:

- Most of its existing approved paramedic courses deliver a qualification which exceeds the threshold level currently set
- In recent years there has been a shift in service models from those based on transferring service users to hospital to paramedics assessing, treating, managing and deciding on the appropriate care pathway for patients
- External reports⁷ have argued that a degree qualified paramedic workforce is necessary to improve outcomes for service users.

- 4.5 Following the conclusion of this consultation, the HCPC raised the SET threshold level of qualification for entry onto the register for paramedics to degree-level. This change does not impact students already enrolled and studying on approved paramedic programmes. Current programmes delivering below degree-level outcomes will not be able to take on new students from 1 September 2021; and the HCPC will withdraw approval for these programmes. As of March 2018, the HCPC no longer accepts new applications for paramedic programmes that do not meet the revised SET threshold level.
- 4.6 As this was the first time the HCPC has increased the threshold level of qualification for entry onto its register, the HCPC developed and published a policy statement which provides information on the circumstances when it will consider amending the SET levels. The policy makes it clear that the HCPC will consult with stakeholders on any proposed changes and the timetable for their implementation.
- 4.7 In October 2018, the HCPC sought views on its proposals to amend the Standards for Prescribing (SfP) which were introduced in 2013, before the SCPE came into effect in 2016. The SfP were reviewed to ensure they remained effective and took account of changes in practice, guidelines and legislation. A key aspect of the review was to consider aligning the standards with the Royal Pharmaceutical Society's competency framework. We note that the consultation document refers to the work the HCPC completed with stakeholders when developing the proposals, and reaffirmed its commitment to prioritising patient and service user safety and patient and service user centred care.
- 4.8 From the information we have reviewed, we are satisfied that this Standard is met.

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

- 4.9 We have noted in paragraph 4.3 above that the HCPC increased the threshold SET level of qualification for approved paramedic courses starting

⁷ The Paramedic Evidence Based Education Project (PEEP) report in 2013 and Health Education England's work considering how the PEEP report should be taken forward.

in September 2021. As a result of this change the HCPC has worked with education providers to ensure their courses will deliver students who meet the new threshold requirements for entry onto the paramedic section of its register from September 2024.

- 4.10 The HCPC reported that one provider had indicated they intended to continue delivering a paramedic programme which delivered students at a level broadly equivalent to the new threshold level set by the HCPC. The HCPC did not accept that the programme would in fact meet its requirements. The HCPC therefore took action to assure itself that the programme which is currently approved would deliver students that meet its new requirements for entry onto the register.
- 4.11 The HCPC conducted a site visit alongside a structured assessment of the programme. As well as providing the information and documentation ordinarily required as part of the quality assurance process, the provider was also required to map the content of the programme to the new entry level threshold. We considered this to be an appropriate and proportionate approach to exploring whether the programme will deliver students who meet the HCPCs requirements. At the time of writing, the HCPC had not reported its decision on whether the course will meet the revised SET.
- 4.12 We are satisfied that this Standard is met.

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

- 4.13 This Standard was met last year. This year, we have seen evidence that the HCPC took action to address concerns identified by its quality assurance processes about an education provider.
- 4.14 In February 2018, the HCPC recommended to its Education and Training Committee (ETC) that a programme should not be approved following a review by its assessors which identified that some of the conditions previously placed on the programme did not appear to have been complied with. The provider challenged this assertion and submitted additional information for the ETC to consider.
- 4.15 Following a review of the additional information by the ETC, the conditions were determined to have been met and the programme approved, with the provider required to submit evidence of ongoing compliance with a number of areas through an annual monitoring audit.
- 4.16 We are satisfied that this Standard is met.

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

- 4.17 The HCPC has not made any changes to the information it publishes about approved programmes and the approval process. Its website continues to include detailed information about its processes for approving programmes. As we noted in paragraph 3.12 above, the HCPC updated its website in this review period and it now provides targeted information through a series of

hubs. The hub for education providers contains all relevant information about SETs. We are satisfied that this Standard is met.

5. Registration

- 5.1 The HCPC has met all of the *Standards of Good Regulation* for Registration during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 5.2 The information we reviewed does not indicate that the HCPC has added anyone to its register who has not met its requirements for registration.
- 5.3 In November 2018 it came to light that a doctor was able to register and practise in the UK for over 20 years as a result of fraudulent qualifications. Following this, the HCPC reviewed its own processes for the validation of qualifications submitted from applicants who obtained their qualifications from outside the EU/EEA area. The HCPC also considered the likelihood of such a situation occurring and the risks of its register containing individuals who submitted fraudulent materials to support their application to join the register.
- 5.4 This review did not identify any areas of concern, and the findings will be used to inform work the HCPC is currently completing with its third-party suppliers who support its work to verify and authenticate the identity and other documents submitted by applications. We will monitor how the findings of the review are used by the HCPC and will report as appropriate in our next assessment of the HCPC's performance in this area.
- 5.5 We are satisfied that this Standard is met.

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

- 5.6 We carried out a targeted review of performance against this Standard as we received information from a third-party organisation which referred to delays experienced in processing initial applications to join the register from individuals who had obtained their qualifications from outside the EU/EEA area. We are aware that the HCPC met with the third-party organisation to discuss its processing of international applications.
- 5.7 The information we received suggested there may be delays in the processing of applications from the point at which the HCPC decides it is able to progress the application until the scrutiny fee is paid by the applicant. We decided to seek further information from the HCPC because we wanted to understand what was causing the delays reported to us and whether they indicated a more general problem with the way in which the HCPC was processing such applications.

5.8 In its response, the HCPC told us that these arrangements ended in September 2018. The HCPC also told us that it did not hold profession specific information about the average time taken to process initial applications to join its register and that its service standard of 60 working days for applications from outside the EU/EEA area was met every month throughout 2018 apart from in June 2018.

5.9 The HCPC explained to us that it could not fully review the delays reported to us by the organisation as it did not have the details of the cases which experienced the delays reported. However, the HCPC observed that the timeframes reported to us included the time taken by the applicant to pay the scrutiny fee, which is outside its control. We also noted that the third-party organisation stated it had received assurances from applicants that the scrutiny fee is usually paid within one or two days of the receipt of the request from the HCPC. We have not been able to test this.

5.10 Our statistical dataset showed us the number of applications the HCPC has processed from non-EU/EEA applicants in the last three years. This is recorded in the table below:

	2016/17	2017/18	2018/19
Number of non-EU/EEA applications processed	3,542	3,056	4,019

5.11 The delays reported to us account for around four per cent of the non-EU/EEA applications processed by the HCPC in 2018/19. As we have not seen evidence that these delays have been replicated in a larger proportion of registration applications processed by the HCPC, and the HCPC has met the service standards it set for itself in this area, we cannot at this time determine that the delays reported to us indicate a problem with the HCPC’s processes in respect of these applications.

5.12 It is not clear to us that the data provided by the HCPC captures all of the time taken to process initial applications to join its register. There is a possibility that this is the case across other regulators overseen by the Authority. This is because the dataset does not require regulators to record the time it takes them to determine if an application contains all of the information it needs to process the application for registration. We consider that this should be looked at as part of our wider work on the performance of the regulators in 2019/20.

Registration processing times

5.13 The HCPC has not reported any changes to its registration process this year.⁸ The median time taken to process initial registration applications from receipt of a completed application⁹ to approval decision is provided in the table below:

Median time (working days) from receipt of	Q1 17/18	Q2 17/18	Q3 17/18	Q4 17/18	Q1 18/19	Q2 18/19	Q3 18/19

⁸ The 2018/19 performance review period consists of Q4 17/18 and Q1–Q3 18/19.

⁹ The Statistical dataset defines a completed application as an initial registration application including all required information so that it can be progressed to a registration decision by the regulator.

completed application to approval decision							
UK	5	6	6	3	5	8	7
EU/EEA	43	49	56	50	58	47	49
International	42	47	58	39	56	40	49

5.14 The table shows that the processing times for UK applications has fluctuated between three to seven working days this year, and appears to be linked with the number of applications received and the examination cycle. The table also shows that there has been some variation in the processing times for applications received from EU/EEA and international applications. However, these variations do not give rise to concerns about performance in this area

Registration appeals

5.15 The table below records the outcome of registration appeals since 2015/16.

Registration appeals	15/16	16/17	17/18	Q1 18/19	Q2 18/19	Q3 18/19
Received	49	54	63	20	17	23
Concluded	57	64	56	20	20	14
Of those concluded, the number:						
Upheld	16	9	25	8	9	7
Rejected	36	32	25	7	7	5
Withdrawn	6	16	0	4	4	0

5.16 We note that there has been a substantial increase in the number and proportion of cases where the appeal has been upheld. This may suggest problems with the original decision-making process and we will monitor in future years, noting that the numbers, in the context of the number of registrants, are small.

Conclusion against this Standard

5.17 Although one organisation reported delays in the time it took the HCPC to process applications to join its register and we will continue to monitor this Standard, overall, the information we have reviewed this year does not indicate that the HCPC is failing to process applications to join its register efficiently.

5.18 We are satisfied that this Standard is met.

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

5.19 Last year we noted that, where the HCPC had imposed restrictions on a registrant's registration, the online register provided details of the restriction alongside a link to the details of the hearing but that, as a result of human error, the links did not work in approximately 10 per cent of the cases in our sample. The HCPC rectified this.

- 5.20 This year, the checks we completed on a sample of entries on the HCPC's register did not identify any errors or anomalies in the information provided. We are satisfied that this Standard is met.

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

- 5.21 We have reported in paragraph 3.12 that in December 2018, the HCPC launched a new website. The register check continues to feature prominently, and users can search for individuals by surname or registration number against a profession. The multiple registrant search facility which we have referred to in our previous reports is available in the employer hub of the new website.
- 5.22 In our assessment this year we have seen that the HCPC continues to use social media to promote awareness of registration and the importance of checking a health and social worker's registration status. We are satisfied that this Standard is met.

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

- 5.23 This year the HCPC has not published information about the outcomes of its work on the misuse of its protected titles. However, its new website has a section which highlights the action it will take if someone is using a title they are not entitled to use. The website also includes guidance on the use of the terms 'assistant', 'student' and 'trainee' in the professions it regulates. The guidance advises that someone is not likely to be committing an offence if they use a prefix which clearly indicates they are not fully qualified.
- 5.24 During this review period, the HCPC considered the findings of an audit it commissioned into how protection of title, health and character, and declaration cases were following its published guidance and looking into the concerns raised. We are satisfied that this Standard is met.

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

- 5.25 This Standard was met last year when we noted that we had not seen any significant changes to the HCPC's system for Continuing Professional Development (CPD). The HCPC requires registrants to:
- maintain a continuous, up-to-date and accurate record of their CPD activities
 - demonstrate that their CPD activities are a mixture of learning activities relevant to current or future practice
 - seek to ensure that their CPD has contributed to the quality of their practice and service delivery

- seek to ensure that their CPD benefits the service user
- on request, present a written profile (which must be their own work and supported by evidence) explaining how they have met the standards for CPD.

5.26 We note this year that the HCPC considered an internal audit report which reviewed its processes in this area and measured the extent to which CPD assessors are appropriately qualified, trained and understand their roles and responsibilities. We are satisfied that this Standard is met.

6. Fitness to Practise

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

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

- 6.2 This Standard was not met last year or in 2016/17, when we determined that the HCPC's application of its Standards of Acceptance (SOA) prevented complainants raising concerns about individuals on the HCPC's register.
- 6.3 In our last performance review, we reported on the action taken by the HCPC to ensure the SOA was being applied correctly and that it was progressing complaints within its jurisdiction. We determined that this Standard remained unmet as the HCPC had not fully implemented all of the changes in its policies, processes and procedures which it developed to address the concerns we raised about the SOA and its application. It had also not reviewed the effectiveness of those interventions as the FTP improvement project was not expected to conclude until March 2019. As a result, we could not assess if the SOA was being consistently applied as an appropriate threshold.
- 6.4 As part of its implementation plan for addressing the concerns we identified in the 2016/17 Review, the HCPC has replaced the SOA with a new threshold criteria policy in January 2019. However, throughout this review period, the HCPC continued to use the SOA to determine whether it should conduct an investigation into concerns received.
- 6.5 We carried out a targeted review to establish if the HCPC had resolved our concerns about its application of the SOA and to understand the work that had been undertaken so far.
- 6.6 Following the publication of our report, the HCPC streamlined decision making at the initial stages of its fitness to practise process by reducing the number of individuals authorised to agree a decision to close a case for not meeting the SOA. It also delivered additional training and provided enhanced

support to staff who reviewed decisions to close cases under the SOA. The HCPC told us that it withdrew this senior manager sign-off of decisions in a risk-based manner between January-March 2018, after it was satisfied that the additional training delivered to staff was embedded across the organisation.

- 6.7 In its response to our targeted review this year, the HCPC told us that it commissioned external solicitors to conduct an audit of some of the closure decisions made by staff after it withdrew the senior manager sign-off of decisions to close cases under the SOA. The purpose of this review was to establish whether decisions made after the removal of its enhanced arrangements and the additional training were appropriate. The audit reviewed a sample of decisions made in April and May 2018. The HCPC reported to us that this audit found that the decisions made were acceptable and consistent and had improved following the changes. The HCPC did not report to us that this audit identified concerns about the application of the SOA.
- 6.8 We looked carefully at the additional information the HCPC provided to us and the work it has completed in this area this year. We note that the audit looked at a very small number of cases closed shortly after the additional training was delivered to staff and that the HCPC did not fully demonstrate how it was assured that the SOA was being applied appropriately by staff throughout the period under review.
- 6.9 We decided that due to the nature of our concerns about the application of the SOA and the absence of information on the quality of decisions made throughout the year, we could not be assured that the findings from this audit accurately reflect how the SOA was being applied by the HCPC throughout the period under review. We therefore cannot be satisfied that this Standard is met.

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

- 6.10 This Standard was met last year when we noted that the HCPC has arrangements in place for sharing information with professional regulators and others within the relevant legal frameworks.
- 6.11 This year the HCPC published the findings of a review of its current memoranda of understanding (MOUs) which identified 11 such arrangements were in place with a range of organisations. The review noted that an MOU is not the sole means of engagement with other organisations, and the absence of an MOU does not mean a failure to share relevant information. A key outcome of the review was an agreement that an MOU will now only be proposed where one of the following conditions are met:
- to enhance public protection
 - to boost public confidence in the parties and the HCPC's registered professions
 - to access information the HCPC otherwise would not be aware of.

6.12 We are satisfied that this Standard is met.

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

6.13 The HCPC did not meet this Standard last year as the changes planned to address the concerns we raised about its performance against this Standard were not completed and therefore we were not able to assess their impact on decisions concerning whether there is a case to answer.

Threshold criteria policy

6.14 As we reported last year, the HCPC accepted the findings arising from the audit we completed in January 2017, and it developed a programme of work to improve its performance in fitness to practise. A key aspect of this programme was its commitment to reviewing its SOA. This year, following its comprehensive review of the SOA, the HCPC developed, consulted on and approved a new threshold criteria policy for fitness to practise. This policy replaced the SOA and was effective from January 2019.

6.15 An aim of the threshold criteria policy is to improve the quality of decisions made about fitness to practise. The HCPC anticipates that the policy may result in fewer cases being closed by its staff and more cases being considered by the Investigating Committee Panel (ICP).

Operational enhancements to assist decision-making

6.16 As we have reported under Standard one above, this year the HCPC phased out the enhanced arrangements it introduced to facilitate consistency in decision-making against the SOA following its receipt of our concerns about its performance in this area. The HCPC told us that it implemented this change in a risk-based manner, phasing out the enhanced arrangements after it was satisfied that its new processes had embedded appropriately.

6.17 The HCPC also told us about the changes it introduced to reinforce the independence of the ICP and to ensure that a greater proportion of cases are considered by it. This included:

- ensuring that all cases identified as meeting the SOA progress to the ICP
- ceasing the practice of case managers presenting cases to the ICP
- specialist dedicated support for the ICP through the introduction of a new IC Manager role that is responsible for managing and coordinating the caseload of the ICP, influencing the training of panel members and identifying and managing quality/training issues amongst HCPC staff
- updating guidance for producing case investigation reports and presenting information to the ICP.

6.18 The HCPC also delivered additional training to ICP panellists in this review period. The training focused on the role of the ICP and improving the quality of its decisions. In November 2018, panellists recruited to the new dedicated

ICP Chair role received specialist training which centred on chairing meetings effectively and ensuring decisions meet the standards required by the HCPC. The HCPC anticipates that as well as helping to ensure that the threshold criteria policy is applied correctly, these changes will improve the quality and consistency of decisions made by panels after the threshold decision.

- 6.19 In its response to our targeted review, the HCPC told us about the structural changes it made to its fitness to practise teams and performance of the ICP this year. We understand the additional staffing resources it provided to the department and the introduction of specialist teams and roles facilitated an improvement in the performance of the ICP. The HCPC explained to us that through its performance information it can show that despite increasing the number of cases considered by the ICP since October 2018, it has not experienced an increase in the number of cases where the ICP decided further investigation was required. This appears to suggest that the performance of its case teams has been sustained despite the introduction of significant changes to its structure, policies and processes.
- 6.20 The HCPC also shared with us the findings of a targeted audit it commissioned to look at 30 per cent of the decisions made by the ICP between January and June 2018. As well as evaluating the quality of the investigation and documentation presented to the ICP, the audit assessed the quality of the decisions made by the ICP. The audit identified that 55 per cent of the decisions made by the ICP met or exceed the quality threshold established by the HCPC. It also found that in 11 per cent of the cases audited, the ICP should have amended the allegation but did not do so.
- 6.21 We closely reviewed the findings the HCPC shared with us as we were particularly concerned that 45 per cent of the ICP decisions reviewed did not meet the quality threshold set by the HCPC and the ICP failed to amend allegations as required in around 11 per cent of the cases looked at. The HCPC informed us that the audit proposed four recommendations which have subsequently been introduced.
- 6.22 Due to the timespan of the ICP decisions reviewed and the timing of further changes made in response to the HCPC's internal targeted audit, the information we obtained through our targeted review did not provide sufficient assurance that the HCPC has adequately addressed the problems we identified in its fitness to practise processes which led us to determine that it was not making appropriate case to answer decisions. We are satisfied that this Standard is not met.

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

- 6.23 This Standard is not met this year. This HCPC has not met this Standard since we introduced changes to our performance review process in 2015/16.
- 6.24 We completed a targeted review this year because we wanted to assess the extent to which the operational changes made to address our concerns about its performance in this area had improved the HCPC's identification and management of risk in fitness to practise cases.

Risk Assessments

- 6.25 During 2018, the HCPC changed the structure and composition of its fitness to practise department. One of the key changes was the introduction of a Case Reception and Triage team to consider whether the HCPC has the statutory power to investigate the concern referred. Within this team, a specialist Triage Officer assesses whether the case is within its jurisdiction, evaluates the risks arising in the complaint and where necessary prioritises and escalates cases to the Serious Cases Team, which was also established in the period under review. The HCPC told us that the Serious Cases Team, which has specialist skills to deal with these cases, fast tracks cases identified as high risk to its ICP to consider whether an interim order is required.
- 6.26 The HCPC has also developed an e-learning risk assessment training module which all staff in its fitness to practise department were required to complete. The module, which was developed internally, includes a step-by-step guide to assessing risks in fitness to practise cases, and staff are required to achieve a mark of at least 60 per cent before they are deemed to have successfully completed the module. The HCPC reported to us that 100 per cent of its case management staff have successfully completed the module, and that in November 2018, it conducted an audit of risk assessments completed in 253 cases. The purpose of the audit was to evaluate the impact of the e-learning and more individualised development provided to Case Managers earlier in the year. The audit established that in 85 per cent of the risk assessments completed, the correct conclusion had been reached and there were no instances identified where there was a missed opportunity to apply for an interim order. The HCPC also told us that the e-learning module remains accessible to staff and that it updated its risk assessment form to include prompts for considering and recording information when completing a risk assessment.
- 6.27 The HCPC anticipates that these changes will help to ensure that the improvements it has identified in the quality of risk assessments completed will be sustained.

Interim orders

- 6.28 For the period under review, our statistical dataset shows that there has been an increase in the number of applications made to the High Court seeking an extension to an interim order. This is indicated in the table below.

	2016/17	2017/18	Q1 18/19	Q2 18/19	Q3 18/19
Number of High Court extensions to interim orders applied for	21	38	16	14	14

- 6.29 As this is a measure we use to assess how serious cases are progressed by the regulators overseen by the Authority, the performance reported in this area raises a concern that the HCPC may not be adequately prioritising, investigating and progressing serious cases. We will continue to monitor its performance in this area.

Adjournment rate for interim orders

6.30 Over the last two review periods, we have considered the rate at which applications for interim orders (IOs) have been adjourned since we were concerned that public protection may not have been prioritised by panels when deciding whether to proceed in the registrant’s absence or adjourn proceedings. Last year we noted that the proportion of cases adjourned has declined from the previous year and that data we received did not indicate there had been problems associated with the practice note about proceeding in absence. This year, the practice note for interim orders was revised to emphasise that ‘the purpose of the IO is to manage risk, and that applications to adjourn should only be granted in the most compelling circumstances’. Since the practice note has been in place, four of the interim order applications considered (8.5 per cent of the total considered) have been adjourned. In the six months before the practice note was introduced, 13 cases were adjourned (11 per cent of the total considered).

6.31 However, the dataset shows that there has been an increase in the time taken to apply for an interim order from receipt of the information indicating the need to apply for one. This is indicated in the table below.

Median time to interim order decision (weeks):	2016/17	2017/18	Q1 18/19	Q2 18/19	Q3 18/19
From receipt of referral	18.9	14	18.0	14.1	15.9
From decision there is information indicating the need for an interim order	2.9	2.85	3.6	4.3	3.9

6.32 So, whilst the number of interim order adjournments have reduced in the period under review, this is against a backdrop of an increase in the time taken to obtain an interim order. We do not yet know the reasons for this and will therefore continue to monitor this area closely.

Conclusion against this Standard

6.33 This year the HCPC has made significant and wide-ranging structural changes to ensure that every complaint it receives is assessed for risk on receipt and where necessary is directed to a specialist team which investigates and progresses cases identified as posing a high risk. In addition to this, it has ensured that all staff working in fitness to practise have completed and passed its e-learning training module to a satisfactory level. The findings of the audit the HCPC completed on the impact of this training appear encouraging, and the HCPC is confident that the improved performance reported in the audit can be sustained.

6.34 The data we have received about the HCPC’s performance in relation to this Standard is mixed. In the period under review we have seen:

- an increase in the median time taken to obtain an interim order following receipt of the information indicating the need for one
- an increase in the number of applications made to extend interim orders
- the audit of risk assessments completed in November 2018 identified that the correct conclusion was not reached in 15 per cent of the risk assessments reviewed in the audit.

- 6.35 We carefully considered the additional information we received from the HCPC during the targeted review, and we note the successful introduction and delivery of the bespoke e-learning module which all relevant staff have completed. However, we note that apart from the findings of the audit on risk assessments which was completed in November 2018, the information we reviewed did not tell us about the quality of risk assessments completed throughout the period under review. We are also mindful that the structural changes were not fully operational until the last quarter of this review period and may not yet be fully embedded. As a result, the HCPC has not been able to share with us its evaluation of the impact of these changes and the extent to which it has been assured that all complaints were reviewed on receipt and that serious cases were prioritised and where appropriate referred to a panel to consider an interim order.

- 6.36 For these reasons we are satisfied that this Standard is not met.

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

- 6.37 This Standard is not met this year. It was not met last year because the interventions the HCPC told us it had introduced to address our concerns about its application of the SOA had not been fully implemented. As a result, we could not assess whether the concerns we identified had been addressed. This year we conducted a targeted review of performance in this area because we wanted to be assured that the changes made had not resulted in the HCPC operating a fitness to practise process that is not transparent, fair, proportionate and focused on public protection.

Threshold criteria policy

- 6.38 As we have outlined under Standard 1 for Fitness to Practise above, this year the HCPC developed a new threshold criteria policy to replace the SOA. It is anticipated that the threshold criteria policy will address the concerns we raised about the SOA as it:

- introduces a new triage stage which is a simple assessment of whether a concern can be considered by the HCPC. Only cases that fall outside the jurisdiction of the HCPC can be closed at this stage
- identifies and prioritises cases considered to be high risk, streaming them to a specialist team. All cases identified as high risk will be deemed to meet the threshold
- is clearly aligned to the HCPC's SCPE
- requires cases to proceed to the ICP once the threshold is deemed to be met.

- 6.39 We note that throughout this year the HCPC designed and delivered all the necessary training, procedures and processes documents/guidance required to assist the implementation of the policy. However, as the threshold criteria policy was introduced outside this review period, we are not able to fully assess its impact on our longstanding concerns in fitness to practise. We will conduct a thorough review on the impact of this policy in our next

performance review as the policy will have been operational for approximately one year. This will allow us to review a broad sample of cases through which we can assess the HCPC's application of these new arrangements and their impact on the fairness and transparency on fitness to practise.

Guidance for panels

- 6.40 In the first half of this review period, the Tribunal Advisory Committee (TAC)¹⁰ approved a new practice note to govern the HCPC's approach to the disposal of cases by consent. The practice note clarifies the information that must be presented to the panel and sets out the requirement to have regard to the public components of impairments.
- 6.41 This year the TAC approved a practice note for proceeding in the absence of a registrant. In our 2016/17 performance review report we expressed concerns that public protection may not have been adequately prioritised when panels were considering whether or not to proceed when a registrant was not in attendance. The practice note, which was introduced in September 2018, makes it clear that panels must ensure there is adequate focus on public protection.

Changes to the website

- 6.42 As we reported in paragraph 3.12, during this review period, the HCPC has revised its website to make it more accessible for users. This included enhancing the quality of information relating to the fitness to practise process and tailoring its documentation about how to raise a concern. Additionally, the introduction of the specialist triage officer role is expected to improve the quality of signposting provided to members of the public and others whose complaints the HCPC is not able to consider.
- 6.43 The HCPC reported to us that in January 2019, it introduced new online self-referral guidance for registrants who are considering referring matters for the HCPC to consider. This guidance has been designed to help registrants understand when and how they should refer matters to the HCPC. The guidance is focused on public protection in that it encourages registrants to refer health matters that may impact their ability to practise. The guidance has also increased transparency about fitness to practise proceedings as it sets out the circumstances when action may be taken.

Health in fitness to practise cases

- 6.44 Last year we reported that the HCPC was developing a new policy on its approach to identifying and investigating cases that may raise concerns about a registrant's health. This year the HCPC approved a new policy outlining its approach to how it will investigate health matters. The policy was introduced in January 2019 and makes clear that the HCPC will take action where the information provided indicates that there is a risk to public

¹⁰ The Tribunal Advisory Committee is responsible for providing guidance to the HCPC Tribunal Service on practice and procedure and to the HCPC in the recruitment, training and assessments of panelists.

protection, to public confidence in the profession or to the registrant themselves.

- 6.45 We welcome the introduction of this policy as it provides a framework which appears to address the concerns we previously identified about a lack of consideration of possible health issues in cases, despite the HCPC's stated position at the time that it adopts a case-by-case approach to deciding whether a case might raise concerns about a registrant's health.

Conclusion against this Standard

- 6.46 As we have reported elsewhere in this report, the HCPC has completed a significant programme of work this year which it is confident will address the problems we identified with its arrangements for fitness to practise. However, as a substantial proportion of these changes were introduced towards the end of this review period, the changes were not embedded when we completed our assessment. This meant we were not able to complete our own assessment of these changes because the sample of closed cases where these new arrangements were applied was likely be small and would not accurately reflect the processes operated by the HCPC this year.
- 6.47 Additionally, the qualitative information we received and reviewed in this area did not tell us about the extent to which the processes operated throughout January-December 2018 had sufficiently addressed our concerns about fitness to practise. As a result, we are satisfied that this Standard is not met.

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

- 6.48 This Standard was not met last year and following our assessment of the information we obtained and reviewed from the HCPC, it is not met this year.
- 6.49 We carried out a targeted review of this Standard because we wanted to understand the available performance information in more detail as the information initially available to us showed a further decline in the HCPC's performance in this area. We also wanted to look at whether the case progression strategy the HCPC told us about last year had been effective.

The Statistical dataset

- 6.50 The statistical dataset for the period under review shows it is taking the HCPC longer to investigate and progress cases through its fitness to practise process. The following table compares the HCPC's performance in the key measures we report on over the last three years.

	2015/16	2016/17	2017/18	2018/19 Q1	2018/19 Q2	2018/19 Q3
Median weeks from receipt to ICP	37	34	41.1	55.6	56.3	61.1
Median weeks from ICP to final panel decision	44	49	49.6	55	52.4	48.3

Median weeks from receipt to final panel decision	88	97	92	101.8	111.1	102.6
Open cases aged 52-103 weeks old	344	334	444	500	583	567
Open cases aged 104-155 weeks old	146	91	105	141	135	142
Open cases aged over 156 weeks old	43	58	38	33	34	33

- 6.51 The size of the HCPC's caseload has increased considerably since 2015/16 and reflects the increase in the number of concerns received about individuals on its register. We can see that from March 2018:
- the median time from receipt of a complaint to consideration by the ICP has lengthened, increasing in each quarter during the period under review
 - the median overall time from receipt of a complaint to final decision of the final panel decision has increased
 - the number of cases aged between 52-155 weeks has increased considerably
 - the number of cases aged over 156 weeks has reduced.
- 6.52 As the table shows, the HCPC's performance in the progression of cases has deteriorated since the last review period as, while the number of cases aged over 156 weeks has reduced, the number of cases aged 52-155 weeks has increased significantly compared to the figures reported to us in March 2018. The HCPC told us that its ability to progress its older cases has been constrained by the significant and sustained increase it has experienced in the number of new cases received each month. Its analysis of the new cases received in the period under review shows a significant increase in the number of complaints received about social workers.
- 6.53 The HCPC has previously told us that cases involving social workers are usually more complicated as they often involve more than one individual on its register, and the complainants require additional support to provide the information required to assess and progress their complaint. In recognition of the increase in numbers and the additional resources required to properly assess these cases, the HCPC has made further changes to the structure of its department to further develop staffing expertise in the management of these cases.

Case progression strategy

- 6.54 In its response to our targeted review, the HCPC told us about its case progression strategy which was approved by its Council in September 2018 and set out its working assumptions about the types of cases that should be progressed. The case progression strategy also allowed the HCPC to pilot and introduce the new technical and specialist roles it designed to address the concerns we identified about its inconsistent application of the SOA.
- 6.55 We understand that the case progression strategy for 2018/19 was based on tackling the oldest cases. However, the HCPC told us that the statutory timescales for the various stages in the fitness to practise process limit its

ability to conclude the oldest cases within one performance review cycle. We recognise that this is likely to be the case and may be demonstrated by an increase in some of the median timeframes reported to us, as cases progress through the various stages of the fitness to practise process.

- 6.56 Although the HCPC's overall performance has deteriorated in the categories we report on this year, we understand from the additional information provided to us that the case progression strategy has been effective in moving cases through the stages of its fitness to practise process. The HCPC told us that since July 2018:
- 74 per cent of the open caseload has moved at least one stage through the fitness to practise process
 - 62 per cent of cases have moved two or more stages through the fitness to practise process.

Conclusion against this Standard

- 6.57 The HCPC's performance in the areas we report on has deteriorated from that reported in 2017/18 when this Standard was not met. As we have not seen an improvement in the time taken to progress cases during the performance review period and there has also been a significant increase in the number of cases aged between 52-155 weeks old, this Standard is not met this year.

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

- 6.58 This Standard was met last year when we noted that the HCPC had not made changes to how it keeps people updated about fitness to practise proceedings. We said that the improvement work and changes it expected to make to improve its handling of fitness to practise cases might impact how people involved in these proceedings are kept updated.
- 6.59 The fitness to practise improvement plan included a series of measures designed to improve the quality of the HCPC's interaction with complainants and those involved in fitness to practise proceedings. This included:
- introducing new template forms and letters for communicating with parties
 - a new notification letter for registrants in health cases that is tailored to provide relevant information about fitness to practise in a sensitive way.
- 6.60 Additionally, in the light of the recommendations arising from our Lessons Learnt Review into the NMC's handling of concerns about midwives' fitness to practise at the Furness General Hospital, the HCPC reviewed the support it provides to witnesses and others involved in fitness to practise proceedings. As a result of this review, it updated the virtual tour of its dedicated hearings facilities. It also reviewed its internal procedures to ensure that witnesses are contacted after proceedings have concluded to discuss their experiences and check whether they require any further support.

- 6.61 Following our consideration of the information we have received about the work the HCPC has carried out it the fitness to practise directorate this year, we are satisfied that this Standard is met.

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

- 6.62 This Standard is not met this year. This Standard was not met last year because the HCPC was not able to demonstrate how it had improved the quality and consistency of its decision-making at the initial and final stages of its fitness to practise process. This year we conducted a targeted review of its performance against this Standard because we wanted to understand and quantify the impact of the changes made to policies and procedures that feed into decision-making in fitness to practise cases.

Decision-making at the initial stages of the process

- 6.63 As explained elsewhere in this report, this year the HCPC has delivered the fitness to practise improvement plan which, as well as developing a new threshold policy to replace the SOA, included actions designed to improve the quality and consistency of decisions made by its staff and panels.

Threshold criteria policy

- 6.64 As we have described elsewhere in this report, this year the HCPC developed a new threshold criteria policy for fitness to practise to replace the SOA. The new threshold criteria policy is designed to address the concerns we identified about the SOA and its application, and to ensure the HCPC takes a proportionate, risk-based approach to carrying out investigations, and consistently makes the correct decisions. We note that the threshold criteria policy was not operational in the period under review.

Operational enhancements to assist decision-making

- 6.65 In order to improve the quality of decision-making at the initial stages of the process, the HCPC delivered a comprehensive induction and refresher training to all panellists who serve on its ICP. The purpose of this training was to provide more information about the ICP's role and responsibilities, the Standards of Good Regulation and oversight role exercised by the Authority through our Section 29 powers. This training, which was delivered throughout 2018, emphasised the ICP's responsibilities to ensure the allegations advanced by the HCPC accurately reflect the case and that its decisions are well-reasoned and focused on public protection.
- 6.66 Aligned to this enhanced training, the HCPC made structural changes to assist the ICP in improving the quality of its decision-making. It created more time for the ICP to consider and make decisions in cases by reducing the number of cases considered at each meeting of the ICP. The HCPC also increased the frequency of ICP meetings and in January 2019 introduced a pilot of using specific individuals who have received additional training to chair meetings of these panels.

- 6.67 As outlined in Standard 3 for Fitness to Practise, the HCPC conducted a targeted audit of ICP decisions in July 2018. This audit, amongst other things, assessed the quality of decisions made by the ICP from January to June 2018. The HCPC told us that the audit established that:
- 55 per cent of the decisions met or exceeded the quality threshold
 - 76 per cent of the written decisions allowed the reader to understand the allegation, the evidence the ICP considered, the decision they reached and the reasons why they came to that decision
 - the ICP should have sought further information in 18 per cent of the cases audited
 - in 11 per cent of the cases audited the ICP should have amended the allegation but did not do so.

6.68 We understand this audit made four recommendations which the HCPC agreed to implement during January to March 2019. We carefully considered the findings of this audit and noted that the information available to us did not include an assessment of the quality of decisions made from July to December 2018. This meant that we could not assess the extent to which the quality of decision-making at the initial stages of the fitness to practise process has improved throughout 2018. We were concerned that, according to the audit, approximately 45 per cent of the cases reviewed did not meet the quality standards which the HCPC set for itself. We observed that the additional information provided to us did not identify this as an area of concern or specify how these findings were addressed in the period under review. As a result, we cannot be assured that the changes made to address the concerns we identified about decision-making at the initial stages of the fitness to practise process have been fully embedded within the review period and are resulting in decisions which are consistently well reasoned, protect the public and maintain confidence in the profession.

Decision-making at the final stages of the process

6.69 Under our section 29 powers, we review all final fitness to practise decisions made by the HCPC Tribunal Service. We provide learning points to the HCPC about individual decisions which raised concerns about the approach adopted to decision-making. We have held case meetings to consider decisions which gave rise to more serious concerns. We did not refer any decisions to the High Court in the period under review.

Indicative Sanctions Policy

6.70 The Indicative Sanctions Policy (ISP) sets out the principles the HCPC's committees are required to consider when deciding what, if any sanction should be applied in fitness to practise cases. The purpose of the ISP is to ensure that decisions are fair, consistent and transparent.

6.71 Last year the HCPC conducted a comprehensive review of its ISP and sought views on draft revised ISP which included proposals to provide clarity about various factors panels must consider in assessing an appropriate sanction.

- 6.72 The HCPC considered the responses to its consultation on the draft ISP in December 2018 and agreed substantial changes which included:
- changing the name of the policy by removing 'indicative' to make it clear that panels are responsible for decisions relating to sanctions
 - introducing a more detailed approach to considering proportionality and including information on how panels should address previous interim orders when making decisions about sanction
 - highlighting the need for panels to consider the wider context of a case when considering any mitigating or aggravating factors
 - providing more information on mediation, suspension order and review hearings.
- 6.73 The new Sanctions Policy was introduced in July 2019 and we will consider the impact of these changes in the 2019/20 performance review.

Conclusion against this Standard

- 6.74 The HCPC has worked hard to address the systemic failings we identified about its performance in fitness to practise when we completed our audit of the initial stages of its processes in January 2017. It has completed its fitness to practise improvement plan and is now turning its attention to assessing and quantifying the impact of the changes introduced.
- 6.75 We note that the key changes directed at addressing the concerns we identified were introduced outside the period under review, so we could not review the impact of the changes made. We anticipate that these changes will start to be reflected in final decisions reviewed under our Section 29 powers throughout the 2019/20 review period. The HCPC has already started to assess the impact of the changes made at the initial stages of the fitness to practise process. However, this was not available to us in the period under review.
- 6.76 Following our assessment of the information we received, we carefully considered whether an audit was an appropriate and proportionate tool to fully assess the impact of the changes made in the period under view. We determined that an audit was not proportionate or appropriate at this time as some of the changes were only recently introduced and would require more time to take full effect.
- 6.77 As we have not been able to fully assess the impact of the HCPC's improvement work against this Standard, we cannot be satisfied that this Standard is met.

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

- 6.78 This Standard was met last year with no concerns. In last year's report we noted that, much like in previous years, we experienced some delays in receiving complete and accurate information from the HCPC about final decisions made by the HCPCTS. This year there was no such occurrence.

- 6.79 The HCPC did not make any changes to how it publishes and shares information about fitness to practise decisions with its relevant stakeholders and our check of its register did not identify any errors in the information provided. We are satisfied that this Standard is met.

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

- 6.80 This Standard was met last year when we noted that the HCPC achieved recertification for ISO 27001, the international standard for information security management which provides assurance that its processes for keeping information are secure.
- 6.81 We have seen that the HCPC has reviewed its policies, processes and procedures to assess its effectiveness to withstand a cyber-attack. The review did not identify any concerns about inappropriate access to information about fitness to practise cases.
- 6.82 This year the HCPC did not report a data breach through our statistical dataset because the breaches that occurred were not deemed to be sufficiently serious to warrant a referral to the Information Commissioner's Office (ICO). However, we are aware of at least two instances where the HCPC sent personal information incorrectly. Although regrettable, we did not consider that these errors were sufficient to impact our assessment of its performance against this Standard. Accordingly, we are satisfied that this Standard is met.

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