

Annual review of performance 2018/19

# General Dental 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 10 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.<sup>1</sup> 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](http://www.professionalstandards.org.uk).

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<sup>1</sup> *Right-touch regulation revised (October 2015)*. Available at [www.professionalstandards.org.uk/policy-and-research/right-touch-regulation](http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation).

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## About the General Dental Council

The General Dental Council (the GDC) regulates the dental professions (dentists, dental nurses, dental hygienists, dental technicians, dental therapists, orthodontic therapists and clinical dental technicians) in the United Kingdom. Its work includes:

- Setting and maintaining standards of practice and conduct
- Maintaining a register of qualified professionals. Only those appropriately registered with the GDC may practise dentistry in the UK
- Assuring the quality of dental pre-registration education and training
- Requiring dental professionals to keep up their skills up to date through continuing professional development
- Taking action to restrict or remove from practice registrants who are not considered to be fit to practise.

As at 30 June 2019, the GDC was responsible for a register of 113, 931 dental professionals. Its Annual Retention Fee for registrants is £890 for dentists and £116 for dental care professionals.<sup>2</sup>

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<sup>2</sup> On 3 October 2019, the GDC announced a reduction of its Annual Retention Fee (ARF). The new levels have been set at £680 for dentists and £114 for dental care professionals. The new levels apply to the next rounds of ARF collection, which for dentists is by 31 December 2019, and for dental care professionals is by 31 July 2020.



# At a glance

Annual review of performance

Regulator reviewed: **General Dental Council**

## Standards of good regulation

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### Core functions

**Met**

Guidance and Standards

**4/4**

Education and Training

**4/4**

Registration

**6/6**

Fitness to Practise

**8/10**

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# 1. The annual performance review

- 1.1 We oversee the 10 health and care professional regulatory organisations in the UK, including the GDC.<sup>3</sup> 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

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<sup>3</sup> 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, the Pharmaceutical Society of Northern Ireland and Social Work England.

- months. We use this to decide the type of performance review we should carry out.
- 1.7 When considering information relating to a 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](http://www.professionalstandards.org.uk)

## 2. What we found – our judgement

2.1 During July 2019, we carried out an initial review of the GDC’s performance from 1 July 2018 to 30 June 2019. Our review included an analysis of the following:

- council papers, including performance reports and updates, committee reports and meeting minutes
- policy, guidance and consultation documents
- statistical performance dataset
- third party feedback
- a check of the GDC register
- information available to us through our review of final fitness to practise decisions under the Section 29 process.<sup>4</sup>

2.2 As a result of this assessment, we decided to carry out a targeted review of Standards 1, 2 and 3 of the *Standards of Good Regulation* for Guidance and Standards, Standard 2 of the *Standards of Good Regulation* for Registration and Standards 1, 3, 4, 6 and 10 of the *Standards of Good Regulation* for Fitness to Practise.

2.3 We obtained further information from the GDC relating to these Standards. As a result of a detailed consideration of this further information, we decided that the GDC had met all the Standards except for Standards 6 and 10 for Fitness to Practise. The reasons for this are set out in the following sections of the report.

### Summary of the GDC’s performance

2.4 For 2018/19 we have concluded that the GDC:

- 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 eight of the 10 *Standards of Good Regulation* for Fitness to Practise. The GDC did not meet Standards 6 and 10.

## 3. Guidance and Standards

3.1 We carried out a targeted review of the GDC’s performance against Standards 1, 2 and 3 of the *Standards of Good Regulation* for Guidance and

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<sup>4</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 \(as amended\)](#).



Standards. As part of this process, we sought further information from a small number of GDC stakeholders.

- 3.2 The reasons for the targeted review, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that these Standards were met and therefore the GDC has met all of the *Standards of Good Regulation* for Guidance and Standards in 2018/19.

**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**

- 3.3 We carried out a targeted review of this Standard because the information available to us suggested that the GDC had not reviewed the *Standards for the Dental Team*<sup>5</sup> (the standards) since 2013 and there was limited information on how the GDC had assured itself that the standards continued to reflect up-to-date practice and legislation.
- 3.4 In addition to this, we noticed that the GDC's 2020-2022 Corporate Strategy consultation document<sup>6</sup> said that it had 'not succeeded in ensuring that the standards we set for professionals are sufficiently understood either by the public, or professionals themselves'. We wanted to understand how the GDC had reached this conclusion, the action it was taking to increase understanding of the standards, and the processes it had in place to review the standards.
- 3.5 We sought further information from the GDC. In its response the GDC outlined the research it had conducted into registrants' and patients' understanding of its standards. It told us that the research, which was completed on a representative sample of dental professionals and members of the public had concluded that:
- a high proportion of registrants agreed that the standards helped them to understand what is expected of them as a GDC registrant
  - the detail or content of the standards was not important to patients; instead they wanted to know they existed
  - use of the standards document amongst registrants is low
  - registrants view the standards document as long and prescriptive.
- 3.6 The GDC told us that the research it has conducted indicated that while there is support for the concept of the standards, there is less clarity on the content of these and how they apply in practice. The GDC explained to us that it considers there are better ways of ensuring that the understanding of its standards is firmly embedded through education, training and development

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<sup>5</sup> The Standards for the Dental team set out the standards of conduct, performance and ethics that govern dental professionals. It outlines the core ethical principles of practice; what patients can expect from the dental team; what registrants must do to ensure patient expectations are met and provides guidance on how registrants meet the standards.

<sup>6</sup> The Consultation paper is available on the GDC website: [www.gdc-uk.org/about-us/what-we-do/consultations-and-responses](http://www.gdc-uk.org/about-us/what-we-do/consultations-and-responses)



and that there are more effective ways of communicating the standards than publishing them and issuing a document. We note that the additional information provided by the GDC is distinct from its comments made in its 2020-2022 Corporate Strategy consultation document as highlighted in paragraph 3.4. We accept that the research completed by the GDC supports its view that the evidence available does not mean that registrants do not understand what is required of them.

- 3.7 The GDC informed us of the action it had taken in response to its assessment that the standards were not sufficiently understood by registrants, including:
- face-to-face engagement with registrants and students
  - mass communication through its website and monthly newsletter
  - meeting professional associations
  - participation in the Leadership Network<sup>7</sup>
  - regular engagement with other regulators and systems regulators.
- 3.8 The GDC considers that the development and application of standards is linked with the issue of professionalism and is currently completing a project on 'Promoting Professionalism' to better understand what defines professionalism. This work will be used to inform the development of a set of principles which will form the basis for a new set of standards. The GDC told us that it expects to have a decision on how the standards are to be developed in early 2020.
- 3.9 In response to our targeted questions, the stakeholders we approached told us that the GDC's current standards are general enough to not be in direct contradiction to current legislation or practice. This provides us with some assurance that the standards remain fit for purpose despite the length of time that has passed since they were last formally reviewed by the GDC. One organisation expressed the view that the GDC should consider producing a separate version of the standards document which sets out how the standards can be applied in everyday practice for dental professionals who do not provide direct care to patients. It was also expressed that there were three areas that could benefit from being updated within the standards in order to reflect legislation and practice. The suggestions we received and which we shared with the GDC were for the GDC to consider:
- including an explicit reference to the duty of candour in any updated standards. The GDC published guidance on the duty of candour in 2016
  - referencing the significant developments in practice when seeking informed consent from patients following the ruling in *Montgomery v Lanarkshire Health Board* 2015<sup>8</sup> (Montgomery ruling)

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<sup>7</sup> The Leadership Network is a group that was formed by the GDC after the publication of *Shifting the balance* in 2017. Its membership comprises leaders across the sector who are able to use their position to support the GDC's aims articulated in *Shifting the balance*.

<sup>8</sup> [www.supremecourt.uk/cases/docs/uksc-2013-0136-judgment.pdf](http://www.supremecourt.uk/cases/docs/uksc-2013-0136-judgment.pdf)

- outlining the increased expectations which flow from the introduction of the General Data Protection Regulation (GDPR).

### Conclusion

- 3.10 Although the GDC has not conducted a systematic review of the standards for the dental team since they were introduced in 2013, our targeted review did not identify any concerns about the prioritisation of patient and service user safety and patient and service user centred care within the standards. Based on the information we have reviewed, we do not consider that the standards conflict current legislation. We note that GDC has committed to reviewing the *Standards for the Dental Team* following its research into 'Promoting Professionalism' which it is currently conducting. We will closely monitor the development of the standards through our next performance review. Based on the information we reviewed, 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

- 3.11 We conducted a targeted review of this Standard due to the concerns we identified about the absence of a public review of the *Standards for the Dental Team*. The evidence available to us indicated that the GDC did not appear to have systematically reviewed and updated its additional guidance materials since 2016, and some guidance materials had not been updated since 2013. We considered that there may have been a possibility that the existing guidance does not assist registrants in applying the GDC's standards to specialist or specific issues.
- 3.12 We understood that in 2015/16, the GDC had planned to review its Scope of Practice documentation which was published in 2013. We saw no evidence that the review had occurred and noted that the 2020-2022 Corporate Strategy includes a commitment to reviewing this guidance by 2022. We asked the GDC why there had been a delay in the review of the document, and the extent to which it had assessed and managed the risk arising from the apparent delay in reviewing the Scope of Practice.
- 3.13 The GDC confirmed that the Scope of Practice has not been updated since 2013. The GDC does not consider there has been a risk to patient safety from the document remaining in its current format as the GDC is clear that the Scope of Practice is not an exhaustive list of tasks and that registrants must ensure that they are suitably trained, competent and indemnified before any duties are carried out to ensure that they do not create a risk of harm to patients.
- 3.14 We understand from the GDC that it has experienced an increase in the number of enquiries about the Scope of Practice in recent months. We note that an increase in enquiries could point to a gap between the guidance and current practice. In its response, the GDC told us that these queries primarily related to the evolving relationships in the wider dental team. We note that

this is could potentially indicate a gap in the GDC's Scope of Practice document.

- 3.15 The GDC is committed to reviewing the Scope of Practice and is conducting research to better understand the context in which the Scope of Practice document operates in practice before deciding on how to update it.
- 3.16 On the issue of additional guidance to assist registrants in understanding the *Standards for the Dental Team*, the GDC told us that it has produced a considerable amount of guidance and that these documents are available on its website. We do not disagree with this; however, we note that these have not been systematically reviewed since 2013. The GDC told us that it will be reviewing its additional guidance once a decision has been made on the future structure of its standards. This decision will be made in 2020.
- 3.17 As reported in paragraph 3.1, we asked GDC stakeholders targeted questions about the GDC's standards and guidance. One stakeholder identified a potential gap in that the GDC has not developed guidance on informed consent following the Montgomery Ruling in 2015 or guidance to assist registrants in applying the requirements of GDPR. We note that other regulators overseen by the Authority have published such guidance.

### Conclusion

- 3.18 Although the Scope of Practice document and additional guidance do not appear to have been systematically reviewed since 2013 or 2016, the GDC has told us that it regularly communicates the view that the Scope of Practice is not an exhaustive list. This is also clearly stated on the GDC's [website](#) and within the document itself. We note, however, that one stakeholder has identified some areas where the guidance is not up to date. On the basis that the GDC will be reviewing this area in 2020 and that there is considerable guidance available to registrants, we are satisfied that this Standard is met this year. We will closely monitor the development of the GDC's Scope of Practice and guidance documents through our next performance review.

### Standard 3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulator's work

- 3.19 We conducted a targeted review of this Standard as we noted that the *Standards for the Dental Team* and much of the GDC's guidance had not been updated for a number of years, and as such the GDC had limited opportunities to demonstrate how it takes stakeholders' views and experiences into account when developing standards and guidance. We asked the GDC to tell us about the mechanisms in place to obtain stakeholder feedback on its standards and guidance. We also asked the GDC's stakeholders about their experiences of working with the GDC in the development of guidance and standards.
- 3.20 The GDC told us the approach it is adopting to review its Scope of Practice document. This includes engaging with patients, registrants and professional

associations. The GDC is aware that its work to review the document must reflect the rapidly evolving dental market for both private and public health sectors and informed us that it had or intended to use the following approaches to inform its work in this area:

- stakeholder research, including registrants, students and other stakeholders, which is designed to seek views on engagement, communication channels and topics
- an independent review of the Scope of Practice
- annual dental professionals' surveys
- annual public and patient surveys
- the GDC's independently facilitated and managed public and patient panel
- an analysis of the GDC's website and online feedback forms.

3.21 In response to our targeted questions, the GDC's stakeholders told us that the GDC engaged with them through consultations and workshops.

### Conclusion

3.22 We have considered the GDC's mechanisms for engagement and the feedback received from its stakeholders. The GDC's activities appear reasonable and proportionate and we have not identified any obvious gaps and omissions in its planned stakeholder activities. 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**

3.23 The standards and guidance documents are available on the GDC's website which continues to be clear, concise and easily accessible. The guidance documents on the website can be downloaded in the Welsh language.

3.24 The GDC has produced a poster which sets out the standards of conduct, performance and ethics which registrants are required to adhere to. The poster, which is available in English and Welsh, was designed to be used by those who manage a dental team and who are required to display (where it can easily be seen by patients) the fact that they are regulated by the GDC. The poster outlines the nine principles contained within the *Standards for the Dental Team*.

3.25 Information about action that can be taken if the GDC's standards and guidance are not followed is available on the website and is easily accessible. As a result, we are satisfied that this Standard is met.

## 4. Education and Training

- 4.1 The GDC 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**

### Standards for education

- 4.2 The GDC continues to have in place and publish its *Standards for Education*. The *Standards for Education* apply to all UK programmes leading to registration with the GDC, and cover programmes in dentistry, dental hygiene, dental nursing, dental technology, dental therapy, clinical dental technology and orthodontic therapy. The *Standards for Education* cover three areas the GDC expects providers to meet in order for training programmes to be accepted for registration:
- patient protection
  - quality evaluation and review
  - student assessment.
- 4.3 There is nothing to suggest that these standards have become outdated in the last year.

### Standards for Speciality Education

- 4.4 In January 2019, the GDC published updated *Standards for Speciality Education* for use in quality assuring speciality education in the UK. The standards outline what is expected of programme and examination providers who deliver courses and examinations which lead to awarding a certificate of completion of specialist training (CCST). The CCST allows individuals to be included on one of the GDC's specialist lists.<sup>9</sup> The updated standards were informed by the results of a pilot quality assurance process and a public consultation. The updated standards are linked to the standards for registrants and prioritise patient safety and centred care.

### Consultation of specialist listing

- 4.5 The GDC holds a list of specialist dentists in 13 distinct areas of dentistry. The list comprises dentists who meet certain conditions and are entitled to use a specialist title. Dentists do not have to join a specialist list to practise any particular speciality, but they can only use the specialist title if they

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<sup>9</sup> More information about the GDC's specialist lists and *Standards for Speciality Education* is available on its website: [www.gdc-uk.org/professionals/specialist-lists](http://www.gdc-uk.org/professionals/specialist-lists)

appear on the list. There are approximately 4,335 registrants listed as specialists. The purposes of the list are to:

- ensure high standards of training and assessment qualifying dentist to use a specialist title
- indicate those dentists who possess recognised specialist knowledge and skills
- protect patients against unwarranted claims to be a specialist
- facilitate appropriate referrals of patients
- promote high standards of care by dentists qualified to use a specialist title
- encourage postgraduate education.

4.6 During this performance review period, the GDC consulted on the principles of specialist listing.<sup>10</sup> As part of the consultation, the GDC proposed a framework of criteria to help decide whether a branch of dentistry should be listed as a specialty. To be listed as a specialty by the GDC, a branch of dentistry must:

- fulfil the purposes of the specialist listing
- be recognised by the profession and/or public as a distinct branch of dentistry requiring a level of skill, knowledge and expertise beyond that expected from the general practice of dentistry
- respond to a clear dental public health need that is not solely or primarily the commercial benefit of those practising the speciality.

4.7 At the time of writing, the GDC had not published the outcome of the consultation. We will continue to monitor this work in our next performance review. Based on 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**

### **Risk based quality assurance of education programmes**

4.8 Last year, we reported that the GDC intended to carry out a pilot programme of inspections of Bachelor of Dental Surgery (BDS) programmes in the 2018/19 academic year using an assessment of risk to determine the focus, scope, type and frequency of the quality assurance process.

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<sup>10</sup> The Consultation paper is available on the GDC website: [www.gdc-uk.org/about/what-we-do/consultations](http://www.gdc-uk.org/about/what-we-do/consultations).



- 4.9 To support its pilot programme, the GDC developed guidance setting out the updated inspection process for BDS programme providers.<sup>11</sup>
- 4.10 We are encouraged by the GDC's attempt to lay out proposals for a more risk-based approach to regulation of dental education. At the time of writing, the inspection process had not concluded. We will continue to monitor the work the GDC is conducting in this area and the outcome of the BDS inspection programme.

### **Thematic reviews**

- 4.11 The GDC proposed to undertake thematic reviews of issues running across more than one programme or more than one profession, and which relate to the GDC's statutory duty 'to promote high standards of education at all its stages in all aspects of dentistry'. The GDC conducted its first thematic review of education during the 2018/19 academic year, which looked at the preparedness for practice of UK dental graduates. At the time of assessment, the GDC had plans to propose a strategic programme of thematic reviews over a two to three-year period for approval by its Council. The GDC stated that it will gather evidence to provide an accurate picture of issues and identify areas where it can work with others to take forward findings or recommendations.
- 4.12 We understand that the report on the thematic review into preparedness for practice will be published in early 2020. We will continue to monitor the GDC's work in this area.

### **Quality assurance of speciality education**

- 4.13 As noted in paragraph 4.4, in January 2019 the GDC published its updated *Standards for Speciality Education*. The updated standards were informed by the results of a pilot quality assurance process and a public consultation.
- 4.14 In our response to the consultation, we noted that it was not clear from the consultation documents how an assessment of risk was used to inform the decision to limit the quality assurance process to a paper-based exercise. We also raised the issue that our understanding from the consultation documents was that institutions where speciality trainees provide care may have difficulties in producing and using dedicated consent forms which specifically request that patients confirm they understand they are being treated by a dentist training in a speciality.
- 4.15 The updated standards for speciality education explicitly state that in order to meet the requirement of standard P1 (protecting the public), the institutions must evidence their policies on communicating treatment by speciality trainees to patients and have evidence of patient feedback systems. This may ensure that the institutions are effectively communicating with patients the fact that they are being treated by a trainee and should help to mitigate the concern raised in our response to the GDC's consultation.

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<sup>11</sup> Further information on the GDC inspection process for BDS providers is available on its website: [www.gdc-uk.org/professionals/education](http://www.gdc-uk.org/professionals/education).



### Engaging with students

- 4.16 In the period under review, the GDC met with education providers and groups of students to explain what it does regarding education, quality assurance, lifelong learning, the register and the standards for registrants. The GDC confirmed that it plans to continue to meet with dental care professional students and educational providers during the 2020/21 academic year.
- 4.17 Based upon the above information, 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

- 4.18 As set out in Standard 2 above, the GDC has amended its quality assurance process and moved towards a more risk-based approach for both foundation and speciality education.<sup>12</sup>
- 4.19 We saw an example of the GDC inspecting a higher education institution which awards the BDS programme where the inspectors were satisfied that the GDC's *Standards of Education* were met. We also reviewed an inspection report on an institution which awards a Licence in Dental Surgery (LDS) which determined that the LDS qualification was compromised due to a lack of formal operational quality assurance framework as required in the GDC standards for education. Following the inspection, the education provider was required to complete a number of actions which will be reviewed during the GDC's 2020 annual monitoring. The inspection panel recommended that the LDS awarded by the institution remained sufficient for registration with the GDC, pending an update on the outstanding action on the grounds that there was no evidence that students were being awarded the qualification when it was not safe to do so.
- 4.20 We consider that the information we have reviewed provides assurance that effective action is being taken when the GDC's quality assurance activity identifies concerns with the approved education and training establishments. As a result, we are satisfied that this Standard is met.

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

- 4.21 The GDC continues to publish information about its approval process for dentist and dental care professionals training programmes. The GDC website includes details of institutions offering approved training programmes, with links to the institutions' websites and the option to download inspection reports. We are therefore satisfied that this Standard is met.

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<sup>12</sup> Further information on the GDC's dental education quality assurance process is available on its website: [www.gdc-uk.org/education-cpd/quality-assurance](http://www.gdc-uk.org/education-cpd/quality-assurance).

## 5. Registration

5.1 We carried out a targeted review of the GDC's performance against Standard 2 of the *Standards of Good Regulation* for Registration. The reasons for this, and what we found as a result, are set out under the relevant Standard below. Following the review, we concluded that Standard 2 was met and therefore the GDC has met all of the *Standards of Good Regulation* for Registration in 2018/19.

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

5.2 We have not seen any evidence to suggest that the GDC has added to its register anyone who has not met the registration requirements.

5.3 During the period under review it was identified that an overseas registrant had fraudulently gained registration to the General Medical Council register. In response to this, we made enquiries with the GDC and the other regulators we oversee, about whether they had conducted a review of their registration processes and materials supplied by overseas registrants who had applied for registration through historic routes.

5.4 The GDC confirmed to us that it had registered dentists with reciprocally recognised qualifications without any further tests of knowledge and skills until 1 January 2001. The GDC told us that until January 2001, overseas applicants with recognised qualifications could apply directly for registration rather than being required to sit and pass the Overseas Registration Examination (ORE).

5.5 The GDC confirmed that the information outlined in the Authority's International registrations rapid review 2013,<sup>13</sup> regarding assurance of dentists and dental care professionals (DCPs) reflects its current registration processes, with two enhancements:

- In 2015, the GDC introduced 'Authentiscan' as an additional step to confirm the identity of an applicant. The system performs automated ID checks which determine if an identity document is genuine or counterfeit.
- In 2016, the GDC entered into a contract with DataFlow. Prior to being considered eligible for registration, an overseas qualified applicant's name is verified through the DataFlow system which carries out primary source verification and due diligence checks on potential registrants.

5.6 The GDC stated that based on its existing processes and the enhancements it made in 2015 and 2016, it is confident that it has appropriate measures in place to confirm the authenticity of documents provided by applicants.

5.7 The GDC appears to have a robust system in place for identity and qualification checking. This provides assurance that only those who meet its

<sup>13</sup> [www.professionalstandards.org.uk/docs/default-source/publications/advice-to-ministers/international-registrations-rapid-review-2013.pdf?sfvrsn=8dc77f20\\_6](http://www.professionalstandards.org.uk/docs/default-source/publications/advice-to-ministers/international-registrations-rapid-review-2013.pdf?sfvrsn=8dc77f20_6).

requirements are registered. We are therefore 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**

- 5.8 We conducted a targeted review of this Standard as from the information available to us we identified that following potential concerns:
- the statistical data showed that there had been an increase in the median processing time for EU/EAA and non-EU/EAA applications
  - the statistical data indicated there may have been a backlog of registration appeals developing
  - there had been an increase in the number of registration appeals which had been withdrawn.
- 5.9 We also received three concerns from applicants who reported having to wait for what seemed to be a considerable amount of time to sit the Overseas Registration Examination.

**Registration processing times**

<b>Number of new registration application received from:</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>Q1 19/20</b>
UK graduate	6,784	6,748	6,831	2,039
EEA graduate	1,249	686	1,220	257
Non-EEA graduate	327	295	487	154
<b>Median time from receipt of completed application to approval decision (days)</b>				
UK graduate	11	10	8	11
EEA graduate	18	14	38	15
Non-EEA graduate	55	55	62	65

- 5.10 The table above shows that the processing time for UK applications improved in 2018/19, despite an increase in the number of applications received in the review period.
- 5.11 In respect of applications from the EU/EAA and non-EU/EAA applicants, there was an increase in the number of applications received in 2018/19 compared with 2017/18, and the time taken to approve these group of applications increased significantly.
- 5.12 The GDC told us that it attributed the increase in the processing times to the growth in the number of applications received, and the relocation of its registration department to its new headquarters in Birmingham. We asked

the GDC what action, if any, it had taken to minimise the impact of its move on its performance in processing applications to join the register.

- 5.13 The GDC provided further information about how it managed the relocation of its registration function from London to Birmingham, which occurred towards the end of 2018, which we note, is when we started to see the variation in its performance in this area.
- 5.14 The GDC told us about the processes it had in place to quality assure its registration work during the handover and transition of the function. The GDC operated dual running with its London based staff quality assuring 100 percent of the work completed by the new teams based in Birmingham and its subject matter experts were retained until the end of 2018 to provide additional support and assurance. We understand that all registration decisions were reviewed by an existing decision-maker and recognise that dual running and second checking of all applications is likely to have impacted on the processing times in this area.
- 5.15 The GDC holds monthly meetings which review the performance of the registration function and managers are required to explain the reasons for the variations in performance. The GDC informed us that these meetings provide an opportunity to review processes and discuss potential initiatives to address any emerging issues. Through this process, the GDC decided to increase the number of assessment panels to manage the increasing number of applications received. We note that the statistical dataset for quarter one of 2019/20 showed a marked reduction in the time taken to process registration applications for EEA graduates.

### Registration appeals

- 5.16 From the original statistical dataset supplied by the GDC it appeared that there may have been a backlog developing in the number of cases awaiting an appeal. However, in response to these concerns, the GDC told us that there had been an error in the data it previously reported to us and corrected the information it had previously submitted. The correct data is below.

Number of registration appeals	2016/17	2017/18	2018/19
Received	49	28	23
Concluded	42	29	29
<b>Of those concluded, the number of registration appeals</b>			
Upheld	13	7	3
Rejected	8	9	4
Withdrawn	21	11	22

- 5.17 We also identified an increase in the number of registration appeals that were withdrawn. The GDC provided data which showed that out of the 22 appeals

withdrawn in 2018/19, 16 were withdrawn in circumstances where the applicant decided to resubmit a new application to the GDC. The GDC did not know the reasons why the remaining six applications were withdrawn. We also received a copy of the information which the GDC provides when an application for registration is rejected. We reviewed this material and did not identify any significant gaps or omissions in the information provided to applicants.

### Overseas Registration Examination

- 5.18 During the review period, correspondence we received indicated that some candidates were experiencing significant delays when attempting to sit the ORE. We asked the GDC to tell us what it was doing to address these apparent delays. The GDC told us that it was constrained by the limitations of its legislation, so we asked what action it is taking to address the limitations of its legislation in respect of the ORE.
- 5.19 The GDC provided some contextual information on the ORE:
- legislation requires the GDC to appoint a 'competent dental authority' to run the ORE, and that it is to be cost neutral to the GDC
  - secondary legislation sets the fee for the ORE
  - the ORE has a five-year cycle where once a candidate has passed part 1 of the examination, they have five years in which to pass part 2.
- 5.20 The GDC provided data for the 2016 ORE when it delivered six part 2 examinations which provided 600 spaces. Only one exam was filled to capacity and out of the 600 seats available, 546 were booked. The GDC told us that this meant that the cost of the unfilled places was subsidised by its registrants. In 2017, the GDC reduced the number of seats to 432.
- 5.21 The GDC told us that candidates are signposted to the examination provided by the Royal College of Surgeons of England Licence in Dental Surgery which has a part 2 examination that candidates are eligible to sit. This provided 120 seats in 2017. The GDC told us that taken together, the total number of seats available for candidates in 2017 would provide capacity for the current waiting list.
- 5.22 We note that the GDC recognises that there is currently high demand for the ORE and that all places are filled within a very short period of time. In its response to our targeted review, the GDC maintained that only a minority of candidates on the waiting list are actively seeking a place at any given sitting.
- 5.23 The GDC has asked the Department of Health and Social Care (the Department) to remove the constraints in its legislation. We note that the Department has recently announced plans to develop secondary legislation which would provide the GDC with more autonomy. However, there are no agreed timeframes for this.
- 5.24 We note that the cost of running the ORE is not insignificant. We are acutely aware that the GDC has a duty to ensure that registrants are not subsidising this activity and that the confines of its legislation mean that the only option available to the GDC is to minimise this subsidy by ensuring that all places

on the ORE are filled, thereby reducing the net operating loss. We consider that it is important that the Department should act as swiftly as possible to address the position.

### Conclusion

- 5.25 The initial concerns we identified about the time taken to process initial applications to join the register have been alleviated by the GDC's explanation of the reasons behind the increasing time and its quality assurance process. Moreover, the GDC is doing all that can be reasonably expected to provide an appropriate number of places available on the ORE, whilst at the same time minimising the extent to which the ORE is subsidised by registrants. We are of the view that there is a need for legislative change in respect of the ORE.
- 5.26 Based upon the information we have assessed, 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

- 5.27 We carried out a check of the GDC's register, to see whether it correctly displayed restrictions on registrants' practice where appropriate. We did not identify any concerns about the information available on the GDC's register.
- 5.28 In the sample of register entries we checked, there were no instances where sanctions were erroneously omitted, nor have we been made aware of any other issues during the review period where information about sanctions has not been appropriately displayed on the register. 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

- 5.29 The register search function is prominently displayed on the GDC's website and enables users to search using the registrant's name, registration number, town, postcode or profession. There is also an option to include erased registrants in the search function.
- 5.30 The GDC continues to promote to employers the importance of checking that the dental professionals they employ directly or through NHS contracts appear on its register before they start working in the UK. We note that the GDC is not able to process bulk requests for verification of registration like some of the other regulators overseen by the Authority. However, it does provide a facility for employers to obtain verification of declarations made by dentists or dental care professionals. The GDC website includes guidance for employers on the consent information needed to disclose personal or private data about individuals on the register.
- 5.31 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**

- 5.32 The GDC continues to prosecute individuals who illegally practise dentistry. We note that a large proportion of its prosecutions are in relation to illegal tooth-whitening. It also continues to publish its prosecution activity through online and print media.
- 5.33 Its policy statement on the enforcements of Dentists Act offences is published on its website along with information on illegal practice and advice on how to report concerns in this area to the GDC.
- 5.34 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**

- 5.35 Last year, we reported on the GDC's work on the implementation of the Enhanced Continuing Professional Development Scheme (ECPD) which came into effect on 1 January 2018 for dentists and on the 1 August 2018 for DCPs.
- 5.36 The GDC informed its registrants that when the ECPD scheme commences, all registrants move onto the new scheme and depending on where they are in their Continuing Professional Development (CPD) cycle, they may have to complete CPD based on the 2008 rules as well as the ECPD rules to be compliant at the end of their cycle. The transitional arrangements for those completing CPD based on both the 2008 and 2018 scheme is included within the ECPD guidance, published in May 2018. Within the guidance, the GDC confirmed that it had conducted individual calculations for each dental professional to show what is required of them over the transition period and the calculation can be accessed through the individual's eGDC webpage. The guidance provides examples of what may be required during the transition between the two schemes.
- 5.37 To support its new ECPD scheme, the GDC commissioned a literature review<sup>14</sup> on CPD, published on 10 January 2019. The aim of this review was to inform and strengthen GDC policy development for dental CPD.
- 5.38 In the Executive Summary published on its website, the GDC stated that it will use the findings of the review to drive the future development of CPD for dental professionals, as set out in its *Shifting the balance* reform programme and will use the findings to inform its move towards a more qualitative-based model of CPD for dental professionals. The GDC opened a consultation on the future development of CPD in Summer 2019, outside of this review period. We will continue to monitor the development of this scheme.

<sup>14</sup> Further information on the literature review can be found on the GDC's website: [www.gdc-uk.org/about-us/what-we-do/research/detail/fitness-to-practise/review-of-the-literature-on-cpd---2019](http://www.gdc-uk.org/about-us/what-we-do/research/detail/fitness-to-practise/review-of-the-literature-on-cpd---2019)



- 5.39 The GDC continues to promote and engage with registrants in relation to CPD. It is positive that the GDC has published a literature review on CPD and that it has committed to using the outcome of the review to inform discussions with its stakeholders regarding further proposals and developments of the scheme. We are satisfied that this Standard is met.

## 6. Fitness to Practise

- 6.1 We carried out a targeted review of the GDC's performance against Standards 1, 3, 4, 6 and 10 of the *Standards of Good Regulation* for Fitness to Practise. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that Standards 1, 3 and 4 were met, but Standards 6 and 10 were not met.

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

- 6.2 The GDC continues to open fitness to practise cases based on concerns received from a wide range of sources.
- 6.3 Last year, we reported that in September 2017 the GDC introduced an online triage tool which provides information for visitors to its 'Making a complaint about a dental professional' webpage on the types of concerns the GDC can investigate and the matters it cannot investigate. If the complainant decides to raise a concern with the GDC they are directed to the online complaint form. This year, we conducted a targeted review of this Standard because we wanted to obtain further information about the GDC's mechanisms for assuring itself that the online triage tool is not making it difficult for people to raise concerns about individuals on its register.

#### **Online triage tool**

- 6.4 In its report *Moving Upstream*,<sup>15</sup> published in January 2019, the GDC stated that since the introduction of the online triage tool in 2017, fewer than 20 per cent of people who use the tool progress their concerns. The remaining individuals are directed to other channels where their concerns can be dealt with more effectively. In light of this low number, we wanted to be assured that the online triage tool is not introducing a barrier to complainants raising concerns with the GDC and that it is in fact an effective mechanism for sifting out complaints that are not likely to give rise to concerns about a registrant's fitness to practise, as asserted by the GDC.
- 6.5 The GDC provided information on the different routes a complaint can be raised with it. These routes are by webform using the online triage tool, letter, email, and via telephone. The GDC provided us with data that shows that:
- in 2017, the majority of concerns were received by email

<sup>15</sup> Further information on *Moving Upstream* can be found on the GDC's website: [www.gdc-uk.org/about-us/what-we-do/shifting-the-balance/moving-upstream](http://www.gdc-uk.org/about-us/what-we-do/shifting-the-balance/moving-upstream)

- there has been a gradual increase in the number of complaints received via webform since the inception of the online triage tool
  - between March and December 2018, approximately 46 per cent of complaints were received via webform using the online triage tool.
- 6.6 The GDC shared with us the highlights of an analysis about the usage of the online triage tool. The analysis concluded that the tool assisted members of the public in deciding the best route to progress their concern.
- 6.7 The GDC provided information about the impact the online triage tool has had on the number of cases referred to its investigation stage and the number closed at the initial stages of its fitness to practise process. While the number of cases closed at triage has reduced, the GDC's analysis of the self-triage tool has shown no significant impact on triage referrals to assessment. We are mindful that the tool was introduced as part of a wider range of measures designed to reduce the number of complaints received which do not give rise to concerns about registrant's fitness to practise, and it is possible that the reduction in the number of cases closed at the triage stage is connected to the reduction in the number of complaints received by the GDC.
- 6.8 The information provided to us about the online triage tool provides limited information on the impact the tool has had during the period under review. We note however that the GDC told us that it is monitoring the usage of the tool and that it has plans to implement a survey to obtain feedback from users of the tool.

### **Dental Complaints Service**

- 6.9 The Dental Complaints Service (DCS) is a team of trained advisors who aim to help private dental patients and dental professionals settle complaints about private dental care. The service is funded by the GDC. Last year, we reported that the GDC had updated the referral criteria between the DCS and its fitness to practise department to ensure that only sufficiently serious cases were referred to the GDC.
- 6.10 This year, we obtained further information on the updated referral criteria as the GDC had published on its website that the changes made to the criteria had resulted in a reduction in the number of complaints referred by the DCS to its fitness to practise department, from 30 per cent in 2017 to 2.5 per cent in 2018. In light of the reduction of referrals from the DCS to the fitness to practise department, we wanted to review the updated referral criteria to ensure that the criteria were not a barrier to raising complaints about individuals on the GDC's register.
- 6.11 The GDC informed us that prior to the revision of the referral criteria, 86 per cent of referrals received from the DCS were closed at initial assessment and this informed its decision to revise the referral criteria.
- 6.12 The GDC provided us with copies of the previous and revised referral criteria. We reviewed both sets of criteria used by DCS staff and observed that the revised criteria provide examples of cases that should be referred to the GDC. However, we noted that all of the case examples provided were

relatively serious, resulting in a referral to Case Examiners. We might have expected the case studies to include examples where the decision to refer to the complaint to the GDC might have been more finely balanced or would include case study examples on the types of cases that should not be referred to the GDC.

- 6.13 Prior to the implementation of the revised criteria, the GDC piloted the amended criteria from March to August 2018. During the pilot, the GDC did not identify inappropriate referrals or instances where cases that should have been referred to its fitness to practise department were not. Twenty-six cases were referred by the DCS to fitness to practise after being assessed against the new referral criteria in the pilot. Out of the 26 cases, approximately 50 per cent were closed at the by the Initial Assessment Decision Group (IADG) at the initial assessment stage. The GDC expressed the view that this was an appropriate level as it ensured that no referrals were missed.

### Conclusion

- 6.14 The information we have assessed indicates that the measures introduced by the GDC to reduce the number of complaints it receives that do not give rise to concerns about a registrant's fitness to practise appear to be working.
- 6.15 While the figures show a significant reduction in the number of complaints coming to the GDC, the number of referrals to case examiners appears to be steady, which suggests that valid complaints are not being deterred. We note that the GDC continues to receive complaints through alternative routes. The GDC continues to analyse the impact of the online triage tool and it told us that it is changing the tool so that it is able to obtain feedback from users.
- 6.16 It is positive that the online triage tool provides signposting to other organisations who may be better suited to dealing with concerns that sit outside the GDC's remit and do not give rise to concerns about a registrant's fitness to practise. This provides assurance that the public is being provided with information to assist them if the GDC is not the appropriate body to investigate the issues raised.
- 6.17 Although the GDC has experienced a reduction in the number of complaints received since the inception of the online triage tool, there is no evidence that it is preventing legitimate concerns from being considered by the GDC.
- 6.18 In relation to the revised DCS to fitness to practise referral criteria, the information we have reviewed does not suggest that the changes have resulted in the DCS failing to refer relevant cases to the fitness to practise team. Whilst we have identified some minor shortcomings in the criteria provided to staff, these observations are not sufficiently serious to adversely impact our assessment of the GDC's performance in this area. We note that the referral criteria are clear and set out in detail the types of cases which are suitable for referral. The data and information provided by the GDC suggests that the revised criteria appear to be effective and have not resulted in serious cases being signposted elsewhere incorrectly. We will continue to monitor the GDC's work in this area.
- 6.19 We are 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**

- 6.20 The information we reviewed indicates that the GDC continues to share information about fitness to practise cases with other regulators where appropriate.
- 6.21 Since 2016, the GDC has had an agreement in place with NHS England to refer low-level concerns to the NHS for local resolution. Examples of low-level concerns include:
- single isolated incidents
  - evidence of poor communication between the dental professional and the patient
  - evidence of poor record-keeping
  - where the dental professional has not adequately explained dental charges to the patient.
- 6.22 In 2019, the scheme extended to NHS Wales and it is noted that during the performance review period, the GDC held meetings with the Scottish Government and Scottish NHS Board to extend the scheme to the NHS in Scotland. 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**

- 6.23 Last year, we reported that the GDC had provided us with a copy of a standard operating procedure (effective from 1 March 2018) to support the introduction of a new initial assessment process. This year we decided to conduct a targeted review of this Standard because the data we reviewed showed that there had been an increase in the number of cases with a no case to answer outcome at the Case Examiner stage and this increase appeared to coincide with the introduction of the initial assessment process from March 2018.
- 6.24 As part of the new process, the GDC introduced the IADG which comprises an initial assessment team manager, an assistant initial assessment team lawyer, two senior initial assessment officers, three initial assessment officers, a clinical dental advisor and a policy manager. The IADG meets daily to review cases received in a 24-hour period and to decide whether to:
- refer a case to the casework team for investigation and/or interim order
  - retain a case in the Initial Assessment Team (IAT) to make further enquiries
  - close a case with a referral to other organisations, or with no further action.

6.25 To determine whether there is enough information to refer the case for investigation, the IADG applies the initial assessment test (triage test) and considers whether the complaint gives rise to a concern that:

- a) harm has been caused/may be caused to a member of the public; or
- b) public confidence in the profession has been or may be undermined.

6.26 If the answer is ‘yes’ to a) or b) the case is assigned to investigation. If the answer to both is either ‘no’ or ‘don’t know’ the IADG considers whether further investigation is likely to bring about evidence that might result in a different answer and will refer the case for investigation or close with no further action.

6.27 When a case has been referred for investigation by the IADG, the information obtained at investigation is assessed under the assessment test. The test sets out that the decision maker should determine whether the circumstances are such that the allegation is serious enough that, if proved, raises the issue that the fitness to practise of the practitioner may be impaired. If the complaint meets the assessment test, then the case is referred to Case Examiners. If it does not meet the test, then the case may be closed or adjourned if it is determined that there is not enough evidence to make the assessment decision.

6.28 The data for the period under review shows that there has been an increase in the number of cases with a no case to answer outcome at the Case Examiner stage since the introduction of the IADG. The culminative effect of the online triage tool, revised DCS referral criteria and the streamlining of the GDC’s triage decision-making process through the IADG is designed to alter the profile of cases progressed to the Case Examiner stage in order that only those cases regarded as sufficiently serious with the potential to impact fitness to practise should progress to the investigation stage. As a result, we would expect to see fewer cases with a no case to answer outcome at the Case Examiner stage, which is not demonstrated in the statistical dataset. The table below records the data the GDC has submitted to us about its performance in this area in recent years:

	2015/16	2016/17	2017/18	2018/19
Number of referrals received and considered at triage	2,545	2,550	1,910	1,589
Number of cases referred to IC/CE	974	710	638	700
Total number of cases concluded <sup>16</sup>	866	689	612	796
NCTA - no further action	143	119	73	176
NCTA - advice	154	154	192	138
NCTA - warning	160	125	116	105
Referral to Practice Committee	413	291	231	287

<sup>16</sup> Only relevant categories are included in this table, and as such the total number of cases concluded is greater than the sum of the categories.

6.29 The GDC told us that although the percentage of cases closed by Case Examiners with no further action increased in the period under review, when taken together with the proportion of cases that were closed with advice, the number of cases closed with no case to answer remained stable. Whilst we accept this, the information we received from the GDC did not address our broader concern that the profile of the cases being considered by Case Examiners is more likely than under previous arrangements to raise issues which may impair fitness to practise. However, the table above shows that the proportion of total referrals considered at triage that are referred to the Practice Committee has increased, which may be as a result of the GDC's work in this area. We are mindful that the arrangements introduced by the GDC are relatively new and that more time might be required for them to become fully embedded.

6.30 In 2018, we reported on our audit of Case Examiner decision-making and we noted that only one case raised significant concerns about the quality of the Case Examiner decision. The concern was also identified by the GDC's own internal quality assurance process. Our audit findings in this area provide assurance that the correct decisions are being made by Case Examiners.

#### Quality assurance

6.31 We asked the GDC to provide further information on how it assured itself that the IADG is sufficiently focused on public protection and is making the correct decisions. We sought further information from the GDC in this area as incorrect or poor decision-making by the IADG could provide an explanation for the reasons why the proportion of cases closed with no further action at the Case Examiner stage had not altered in the way we might have expected this year. The GDC told us that it scrutinises its decision-making and the application of the triage test in the following ways:

- the Quality Assurance Group (QAG) reviews selected cases on a monthly basis
- the Decision Scrutiny Group (DSG) meets monthly to scrutinise 10 per cent of cases which are randomly selected
- the compliance team reviews all cases closed at each stage of the process
- the GDC collects customer service feedback at various stages of the fitness to practise process
- the GDC collects ad-hoc feedback from representative bodies through regular operational review meetings and stakeholder engagement events
- independent scrutiny conducted by a third-party organisation which reviewed 160 cases against GDC's policies and documentation.

6.32 The GDC provided feedback received from its third-party independent scrutiny process. The feedback suggested that improvements had been delivered through the introduction of the IADG and it found that the GDC adhered to its processes and procedures. The GDC told us that since the



inception of the IADG it has seen improvements in timeliness and consistently high-quality decision-making.

### Rule 9<sup>17</sup>

- 6.33 Last year, we conducted a targeted review of Rule 9 applications. Through our audit, we identified no concerns with the GDC's decisions to send the cases back to Case Examiners via Rule 9 and noted that it scrutinises the decision-making and makes relevant applications where there has been an error in the process. However, in our audit, we found that allegations were not always particularised and/or did not cover the breadth of the informants' concerns which, in some cases, led to a delay in the progression of a case and may have had an effect on the Case Examiner's ability to make an accurate determination. In response to our audit findings, the GDC told us that it would provide further training on allegation drafting to its fitness to practise staff.
- 6.34 In response to our concerns raised in last year's report, the GDC has delivered comprehensive training on drafting allegations to new staff as part of a training plan and has included a competency on the drafting of allegations as part of the caseworker probation process. The GDC confirmed that it continues to monitor the drafting of allegations and the quality of assessment reports and has included its In-House Legal Presentation Service (ILPS) team in the delivery of training. The GDC anticipates that this will ensure that allegations drafted at assessment stage will easily translate to allegations considered by the Professional Conduct Committee at final hearing, where appropriate.

### Conclusion

- 6.35 The GDC told us that the increase in the number of cases closed with no further action decision during this review period is due to the 'bedding down' of the Case Examiner function which was introduced in 2016 and to Case Examiners improving their decision-making. The Authority has not received any concerns about cases that did not progress to Case Examiner stage and we are assured by the GDC's quality assurance mechanisms in this area. Furthermore, the findings from our most recent audit provide some independent assurance that the correct decisions are being made at the Case Examiner stage.
- 6.36 The GDC confirmed that it implemented allegation training as outlined in its response to our 2017/18 audit findings. The GDC provided assurances that it has training in place for all new starters and it is positive that allegation drafting has been included in the probationary competency criteria. In the absence of any concerns relating to the training provided by the GDC, we are reassured that our concerns about the GDC's work on allegation drafting

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<sup>17</sup> The Rule 9 review process allows the informant, registrant, Registrar or any other person who, in the opinion of the Registrar, has an interest in the decision to challenge the way a decision of the Case Examiners has been made and looks at whether the decision-maker followed the correct process. Rule 9 gives the Registrar the power to review a decision that a case should be closed at triage, assessment or should not be referred to a Practice Committee.



have been remedied. Based on the information we have assessed, we are satisfied that this Standard is 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**

6.37 Last year, we conducted an audit of closed fitness to practise cases. Our audit did not identify any cases where the GDC failed to apply for an interim order where it should have done. We were therefore assured that the GDC had a process in place which enabled it to identify and prioritise the highest risk cases. Although risk assessments in some of the cases we audited were limited in scope, we only identified one case where we considered that risks were not appropriately managed.

6.38 During our quarterly review of the statistical dataset in quarter four of 2018/19, we identified a sharp increase in the median time from receipt of referral to Interim Order Committee (IOC) decision. This had increased from 15 weeks in the first two quarters of the review period to 30 weeks in the fourth quarter, as illustrated in the table below. We made initial enquiries with the GDC about this increase as we were concerned that delays in this area could have implications for public protection. The GDC told us that the increase in the median timeframe was due to its Case Examiners identifying the need for an interim order referral in a large number of the cases they had considered during quarter four of 2018/19. We decided to make further enquires through a targeted review of this Standard because we were concerned that the GDC may not have been identifying risks appropriately at the initial stages of its fitness to practise process.

Median time to interim order committee decision (weeks)	2018/19 performance review period				
	Q1	Q2	Q3	Q4	Q1
From receipt of referral	20	15	15	30	17
From decision that there is information indicating the need for an interim order	3	3	3	3	3

6.39 In response to our targeted questions, the GDC told us that in quarter four of 2018/19, the Case Examiners referred seven cases for the IOC to consider an interim order. It also told us that, during the review period, the Case Examiners referred a total of 19 cases to the IOC and that 14 (74 percent) of these cases resulted in an interim order being applied. The data which the GDC provided to us recorded that its Case Examiners considered 740 new cases in the review period which indicates that the Case Examiners identified risks which they considered warranted consideration by the IOC in approximately 2.6 percent of the cases they considered during the review period. This relatively low percentage provided some assurance that the GDC is identifying risk appropriately at the initial stages of the fitness to practise process.

- 6.40 We understand from the GDC that ‘Case Examiners have more information before them than at the casework stage, because of the observations from the parties on the allegations. On occasion, they will come to a different decision about risk, to that of the caseworker, because of the new information available’.
- 6.41 In three of the seven cases referred by Case Examiners to the IOC in quarter four of 2018/19, the registrants did not provide observations in response to the allegations. The GDC stated that the absence of such observations can be interpreted by the Case Examiners as an increase in the risk posed by a registrant as it could suggest that they are not co-operating with the fitness to practise process. In the remaining four cases, the observations received were limited and nothing obvious stood-out to the GDC which would have changed the risk status. We note that this information provided by the GDC appears to contradict the GDC’s statement that Case Examiners may come to different conclusions on risk due to the availability of additional information. However, we acknowledge that these cases were initially assessed as medium or high-risk and the number of cases in his sample is small. We are of the view that this does not raise concerns as, due to the circumstances arising in cases, it is entirely legitimate for individuals to assess risks differently in a small proportion of cases.

**High Court extensions to interim orders**

- 6.42 In the 2016/17 performance review, the GDC told us that it continued to emphasise to its case presenters the importance of seeking interim orders for the 18-month maximum<sup>18</sup> and we noted that it would take some time before this change was reflected in the dataset. The GDC also told us that it had decided to prioritise interim order cases by allocating them to one small team and expected this to result in an improved performance in the number of interim order extension applications being made.
- 6.43 The table below suggests that the measures taken by the GDC have impacted upon the GDC’s performance in this area with a reduction in the number of High Court applications for extensions to interim orders in 2018/19. We will continue to monitor the impact of its work in this area.

<b>Number of High Court extensions to interim orders</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>Q1 2019/20</b>
Applied for	41	58	51	14
Granted	41	57	51	14
Rejected	0	1	0	0

**Conclusion**

- 6.44 The information the GDC has provided about the seven cases referred to the IOC by Case Examiners has not fully addressed our concern that the triage

<sup>18</sup> Section 32(4)(b) of the Dentists Act 1984 allows for an interim suspension or conditions of practice order to be imposed upon a registrant for a maximum 18-month period. Any further extension beyond 18 months must be sought via an application to the High Court.

and investigation stages of its fitness to practise process might not be identifying and/or assessing risks appropriately. However, we are mindful that seven cases equate to less than one percent of cases considered by Case Examiners during the review period and it is positive that Case Examiners are giving active consideration to risk and whether such referrals to the IOC are necessary. We also accept that on occasions individuals will make a different decision about risk.

- 6.45 The data for quarter one of 2019/20 records that the median time from receipt of referral to IOC has decreased to 17 weeks from the 30 weeks recorded in quarter four 2018/19, which is consistent with the other quarters considered in this performance review period. This provides some assurance that the GDC is continuing to identify risk appropriately and is referring cases to the IOC in a timely manner. Furthermore, the timeliness of the interim order decision-making remains stable at three weeks from the decision that there is information indicating the need to apply for an interim order. We are of the view that the small number of cases referred by the Case Examiners to the IOC, and the data for quarter one of 2019/20, mitigates the concerns we had initially identified about the potential failure to identify risk appropriately. Consequently, we are satisfied that this Standard is met.

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

- 6.46 Last year, the GDC informed us that it had restructured its Fitness to Practise department into team-based tasking streams. The GDC told us that the restructure would improve overall time taken to progress cases through its fitness to practise process as it would ensure that cases continued to be progressed in the event of staff absence and/or staff turnover.
- 6.47 The GDC also told us that case streams would improve its ability to answer complainants' communications in a timelier manner. We understand that there are 14 case streams<sup>19</sup> and that each team-based tasking stream has a manual which sets out the tasks that are completed in that stream. We recognise it will take some time for the changes to embed before we see evidence of the impact of this process on its timeliness data.
- 6.48 Case streaming was introduced at the end of last year's performance review and is in the process of being embedded into the GDC's processes. We have not identified any concerns from the publicly available information to suggest that the process being operated by the GDC is not transparent, fair, proportionate or focused on public protection. In the absence of any concerns relating to the process, it was disproportionate for the Authority to undertake a review of this process this year. We will continue to closely monitor the impact this restructure has on the GDC's statistical dataset and customer service.
- 6.49 We are satisfied that this Standard is met.

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<sup>19</sup> Examples of streams include out of scope working, conduct (non-clinical), criminal investigations, determinations by another regulator, Dental Care Professionals complaints.

**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**

- 6.50 The GDC did not meet this Standard last year because we assessed that its performance as set out in our statistical dataset had declined. The GDC explained to us that its performance in the areas we review for this Standard had deteriorated in part because it concluded a larger proportion of its oldest cases and this had resulted in the increases recorded in our statistical dataset. We noted the explanation provided by the GDC.

**Corrected statistical dataset**

- 6.51 During this performance review, the GDC amended the data we had taken account of when assessing its performance against this Standard in previous years. The GDC told us that when compiling the quarter four 2018/19 dataset, it found an inconsistency in the reported data for the number of open referrals and cases at the end of the quarter which are older than the metric identified. Most significantly, the calculation had excluded consideration of any case at the Case Examiner stage and this error in collating the data submitted to the Authority through the statistical dataset has existed since the Case Examiners were introduced in November 2016.
- 6.52 When we assessed the updated performance information, we noticed that it did not fully reflect the reasoning the GDC provided to us last year on why its timeframes had increased. The corrected data for the 2017/18 financial year showed that there was a deterioration in the GDC's performance and the number of older cases in its fitness to practise system had increased, not decreased as reported.
- 6.53 This year, we conducted a targeted review of this Standard because our statistical dataset showed that there had been an increase in the median time taken to progress cases at the initial stages of the GDC's fitness to practise process. We wanted to understand the reasons for this and ask the GDC what action it was taking to address the apparent decline in its performance.

**The statistical dataset**

- 6.54 The GDC's statistical dataset for the period under review showed a minor net reduction in the total number of aged cases in the categories<sup>20</sup> we report on, declining performance in the time from receipt of a referral to final Case Examiner decision, improved performance in the median time taken from final Case Examiner decision to final Practice Committee determination, and a reduction in the overall time taken to conclude cases from 99 weeks in 2017/18 to 94 weeks this year.

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<sup>20</sup> As part of the statistical dataset we ask the regulators to tell us the number of open cases in three categories; 1) cases aged between 53-104 weeks; 2) cases aged between 105-156 weeks; and 3) cases aged 156 weeks and above.

6.55 The following table compares the GDC’s performance against these key measures over the last four years.

Measure	2015/16	2016/17	2017/18	2018/19
Number of open cases:				
52-103 weeks old	288	316	328	289
104-155 weeks old	95	84	102	121
156 weeks and older	40	46	38	55
Total over 52 weeks old	423	446	468	465
Median time taken from receipt of an initial complaint to a final decision by the IC/CE (weeks)	40	41	45	48
Median time taken from final IC to the final PC determination/or other final disposal of the case (weeks)	41	42	44	38
Median time from receipt of initial complaint to the final PC determination or other disposal (weeks)	94	90	99	94

6.56 The GDC provided us with information showing that there had been an increase in the number of cases awaiting hearings, with approximately 200 cases awaiting an initial final hearing in the first quarter of 2019/20. In December 2018, the GDC reported to its Council that its performance in fitness to practise timeliness was below its target, specifically the time taken from receipt of a complaint to the final case disposal.<sup>21</sup> The GDC noted that in quarter three of 2018/19, only 14 percent of cases were being concluded within its 15-month target. It told Council that this was due to an improvement in the timeliness at the initial stages of the process and a steady incline of Case Examiner decisions moving through the system. The 200 cases awaiting a hearing is the highest figure in the information provided to us by the GDC (starting in quarter three of 2017/18) and an increase of approximately 50 cases since quarter one of 2018/19. We note that this may represent an improvement in the progression of cases, however we are aware that this may also indicate that a ‘bottleneck’ is developing in the latter stages of the fitness to practise process. The GDC reported this possibility to its Council in December 2018.

6.57 In terms of the management of cases at the early stages of the fitness to practise process, the GDC provided us with information showing a significant reduction in the number of cases awaiting initial assessment, casework assessment and Case Examiner assessment from quarter three of 2017/18 to quarter one of 2019/20. This shows a positive impact of its strategy to

<sup>21</sup> The GDC’s reports that its target in respect of overall case length is 75 per cent of cases to be completed within 15 months.

reduce the volume of cases that had accumulated at certain stages of the process.

- 6.58 The GDC told us that its timeliness performance in relation to the initial stages of the fitness to practise process declined as against its forecast and the decline was a consequence of its actions as it progressed a large number of older cases in the system. Our dataset captures the number of cases each regulator has open at the end of each quarter and the financial year. Last year, we reported that the GDC had made some progress in reducing the number of open cases aged over 52 weeks. However, the data submitted by the GDC was not accurate.
- 6.59 The corrected data shows that last year there was a net increase of 22 open cases older than 52 weeks in 2017/18, not a reduction of 46 which we reported. The corrected data is presented in the table above.
- 6.60 This year, there has been a net reduction of three cases compared with a net increase of 22 older cases in 2017/18. The number of cases older than 104 and 156 weeks has increased. We note that the GDC's explanation that it has been closing the number of older cases during the 2017/18 performance review is not reflected in our statistical dataset. In response to our targeted review, the GDC stated, 'In approaching the challenge, to systemically improve our performance, we did not focus on one particular end of the case-age spectrum. Older cases were not prioritised, and neither were newer cases overlooked. We undertook action that was contextual to the needs of a particular case type. For example, we reassigned our older and more complex cases (including 'on hold' cases, where we are typically awaiting the outcome of another body's investigative process) to a team of experienced caseworkers to ensure that they could apply their expertise to resolving any issues that were contributing to the delay. We adapted recruitment, training and support approaches to enable recently joined staff to contribute to the workload with a far shorter lead-time than previously and to assist them with this, we asked them to work primarily on our newer cases'.
- 6.61 The GDC provided data showing the number of cases closed by age for 2017/18 and 2018/19. In 2018/19, the GDC closed a total of 413 cases aged over 52 weeks, 66 more than in 2017/18. Whilst this data provides some useful contextual information on the composition of the GDC's caseload and an increase in the total number of cases closed, the statistical dataset which we use to assess performance against this Standard indicates that there has only been a net reduction of three cases which are open and older than 52 weeks.

### **Restructure and relocation**

- 6.62 Last year, we reported that the GDC had restructured its fitness to practise department in March 2018 to improve the timeliness and quality of case progression. The GDC revised its initial assessment process and introduced the IADG. In its response to our targeted review, the GDC told us that since the introduction of the new process and the IADG, it had seen an improvement in its timeliness at the initial triage stage of the process. This



had improved from an average of 17 working days for a decision to six working days.

- 6.63 The GDC also restructured its investigation department to introduce team-based tasking. On receipt of a complaint, cases are streamed into one of 14 case streams. For certain less complex investigations, cases are handled through this team approach; other cases are progressed through being allocated to an individual caseworker. It expected the implementation of the case streams to improve its timeliness by reducing the time it takes for a case to progress through the fitness to practise process.
- 6.64 These improvements are not yet reflected in the statistical dataset which shows that in the period under review, the median time from receipt of a complaint to the Case Examiner decision has increased from 45 weeks in 2017/18 to 48 weeks at the end of 2018/19. This has further increased to 55 weeks in the last quarter of the GDC's performance review period. We recognise however that whilst the 55 weeks reported in quarter one of 2019/20 is the longest timeframe reported by the GDC, quarterly fluctuations will not always result in an overall yearly increase.
- 6.65 We also recognise that the dataset records the timeframe from receipt of a complaint to Case Examiner decision and that this encompasses the investigation stage. It is taking longer for these cases to achieve a final Case Examiner decision. The GDC stated that the increase in the median timeframe was in part due to the closure of older cases in its system. However, our concerns regarding the GDC's timeliness in this area are significant as its performance has declined year on year since 2015/16, and we note that the GDC has previously advanced the argument that our statistical dataset was showing it was taking longer to progress cases to the Case Examiner decision stage as a consequence of it closing older cases and its restructure.
- 6.66 The GDC told us that its focus on improving its performance in the progression of fitness to practise cases has been affected by the transition of its fitness to practise department from London to Birmingham. The GDC anticipates that the operations will be fully embedded by the end of 2019 and that further improvements in performance will be delivered by then. We recognise that the GDC's performance is likely to have been affected by its move to Birmingham and the transitional arrangements in the lead up to the relocation of many teams in the fitness to practise department. We note that the team is now fully operational and we will monitor the impact of the relocation in our next performance review.

## Conclusion

- 6.67 In last year's review we noted that the GDC's performance had deteriorated significantly across most of our timeliness measures and that we identified avoidable delays in around a third of the cases we reviewed during our audit of the initial stages of its fitness to practise process. We noted the action taken by the GDC to address the issues in its performance and reported that we had seen some evidence which indicated that its actions were having a positive effect on the statistical dataset.

- 6.68 This year, we note that whilst the changes made by the GDC have impacted the profile of its caseload and appear to have resulted in the GDC improving its performance in some of the timeliness measures we report on; these changes are not yet fully reflected in all of the measures that we use to assess performance against this Standard. The GDC's performance in the median timeframe from receipt of an initial complaint to final CE decision has declined from 45 to 48 weeks in the period under review. There also appears to be an increasing backlog of cases that are awaiting a final hearing. We note that this has the potential to undermine the GDC's performance in the progression of cases through the latter stages of the fitness to practise process which, at 38 weeks in 2018/19, is closer to the higher range of timeframes reported by the regulators overseen by the Authority.
- 6.69 Whilst the GDC has improved its performance in some areas of the measures we report on and has closed more cases this year than it did in 2017/18, its performance against the measures we use to inform our assessment of performance against this Standard has been mixed during the period under review. We note that there has been an improvement in the GDC's median end-to-end timeliness measure, however the median time taken from receipt of a complaint to a Case Examiner decision has increased and, at 48 weeks, is its highest since 2015/16. Furthermore, despite closing more aged cases this year, there has only been a net reduction of three open cases older than 52 weeks, and there is a greater proportion of cases older than 104 and 156 weeks compared to 2017/18. We have therefore concluded that this Standard is not met.

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

- 6.70 During this review period, the GDC published *Moving Upstream*, where it reported that it had improved the way it signposts registrants to other organisations who may be able to support those subject to fitness to practise proceedings. In August 2018, it also developed and published an *Information Guide for Unrepresented Registrants* undergoing fitness to practise proceedings. The guide provides information about the fitness to practise process, possible case outcomes and details about organisations such as the Citizens Advice Bureau who may be able to provide support to registrants.
- 6.71 The GDC continues to publish its *Witness Information Guide* on its website which it introduced in February 2017. It also introduced a Witness Support Officer during this review period. The Officer is responsible for providing guidance to witnesses and registrants during the hearing, by explaining the procedures and showing them the hearings rooms. A factsheet about the Witness Support Officer has been published on the GDC website, which provides registrants and witnesses with contact details and information on the support offered by the Officer.
- 6.72 It is positive that the GDC has an appointed individual who can support both witnesses and registrants throughout the hearings process. We highlighted this as an important requirement in our *Lessons Learned Review* into the

NMC's handling of concerns about midwives' fitness to practise at Furness General Hospital. We are of the view that support is likely to allow individuals to participate effectively in the hearings process.

6.73 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**

6.74 This Standard was met last year after a targeted review which looked at the introduction of Case Examiners and the changes made to the arrangements for decision making at the initial stages of the fitness to practise process. The audit<sup>22</sup> which we completed last year did not identify any significant concerns with the quality of decision-making at the initial stages of the GDC's fitness to practise process. Last year, the GDC confirmed that it had fully established a decision scrutiny process. As noted within Standard 3 for Fitness to Practise, the GDC has two quality assurance groups, the DSG and QAG. The DSG scrutinises 10 per cent of randomly selected decisions across all decision-making points in fitness to practise cases for review to give a statistically reliable picture of decision-making standards. The QAG considers a sample of cases selected by the Head of Compliance where concerns have been raised by staff about the decision and identifies learning initiatives and/or remedial action. The GDC shared with us the results of an independent external audit which looked at its decision-making across the fitness to practise process. The report found that decisions were thorough and well drafted with consideration having been given to each separate factual allegation, and the correct test being applied.

6.75 This year, we have not received any concerns that cases are being closed inappropriately by the IADG or Case Examiners. The GDC's QAG and DSG continue to scrutinise samples of its Case Examiner and final hearing decisions. In response to our targeted questions on Standard 3, the GDC told us that it had instructed an independent third-party to conduct an external audit of 160 fitness to practise cases. The GDC told us that the third-party report showed an improvement on decision-making. The information we have received this year, and the findings from our most recent audit provide some independent assurance that the correct decisions are being made at the Case Examiner stage.

**Section 29 review of cases**

6.76 During the performance review period, 248 final decisions were provided to us by the GDC.

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<sup>22</sup> In November 2016, the GDC's process for deciding whether there is a case to answer in fitness to practise complaints changed. It introduced Case Examiners who work in pairs (one lay, one registrant) to consider cases and decide whether there is a case to answer. Previously, this decision was made by an Investigating Committee. In 2017/18, we conducted an audit of closed fitness to practise cases to assess the Case Examiner's decision-making and to examine a number of processes relevant to Case Examiners.

- 6.77 We referred one of these final decisions to the High Court for appeal on the basis of a serious procedural irregularity. The GDC did not oppose the appeal as it agreed with the Authority's grounds of appeal. The appeal was heard on the 8 May 2019. The Authority's appeal was upheld, and the decision of the GDC's Professional Conduct Committee was quashed, and it was ordered that the case be heard again before a new committee.
- 6.78 During this performance review period, our Section 29 reviews identified concerns about the adequacy of the reasoning for panels' decisions and the information provided to panels in a small number of cases. We sent learning points to the GDC in relation to individual cases and the GDC engaged with these and informed us of the action it had taken in response.
- 6.79 The information we have obtained from our Section 29 reviews does not raise overall concerns about the GDC's ability to produce decisions that are well-reasoned. There is also no evidence that the decisions made are failing to protect the public or maintain the public's confidence in the dentistry profession. We are 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**

- 6.80 The GDC continues to publish the outcomes of fitness to practise cases on its website. The GDC notified us of all relevant fitness to practise decisions in the period under review and we have seen no evidence to suggest it failed to publish or communicate any fitness to practise decisions to other relevant stakeholders. Additionally, our check of the register did not identify any errors or omissions relating to fitness to practise decisions. Accordingly, we are satisfied that this Standard is met.

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

- 6.81 The GDC has not met this Standard for the past five performance reviews as it has not yet fully implemented the information security standard it identified was required to provide assurance that information is securely retained.
- 6.82 In our 2016/17 and 2017/18 reports, we reported that the GDC had said that it intended to work towards compliance with the NHS Information Governance Toolkit.<sup>23</sup> The GDC told us that it would start measuring compliance with the NHS Toolkit in late 2017, and then use that as a basis to

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<sup>23</sup> The NHS Information Governance Toolkit was an online system which allows organisations to assess themselves or to be assessed against information governance policies and standards. Its purpose was to enable organisations to measure their compliance against the law and central guidance and to see whether information was handled correctly and protected from unauthorised access, loss, damage and destruction. Where partial or non-compliance was revealed, organisations were required to take appropriate measures, with the aim of making cultural changes and raising information governance standards through year on year improvements. The Toolkit was decommissioned at the end of October 2019 due to the successful implementation of the Data Security Protection Toolkit

work towards complying with the principles of ISO 27001.<sup>24</sup> Last year, the GDC did not meet this Standard because it reported five data breaches to the Information Commissioner's Office (ICO) and in our audit, we identified potential security breaches in a number of the cases we audited. We also reported that the GDC had made limited progress in its work towards achieving compliance with the NHS Toolkit.

- 6.83 This year, we conducted a targeted review of this Standard as we wanted to understand the progress the GDC had made to improve the way it manages and protects its fitness to practise data. We asked the GDC to provide us with an update on its work on the NHS Toolkit and we reviewed the information provided to us through our statistical dataset.
- 6.84 The GDC told us that it was not able to complete its assessment against the NHS Toolkit in the period under review because of changes in its Internal Audit and Compliance Team. We understand that assessment against the NHS Toolkit was completed in August 2019, which is outside of this review period.
- 6.85 The GDC explained to us that during the review period, it had employed a third party to conduct an audit of its compliance with GDPR. The GDC told us that this audit did not identify any significant weaknesses, returned a rating of 'substantial assurance' and concluded that overall 'risks are being effectively managed', that the GDC has 'addressed GDPR to a greater level of compliance than organisations in the same sector', and 'there is an adequately designed control framework'.
- 6.86 The GDC also told us that it made several changes to its Case Record Management system which sought to improve the categorisation of documents and their linkages to the document retention schedule and it had completed a document scanning project on incoming post to minimise paper records. These projects were aimed at reducing data risk and data security incidents and were implemented within the fitness to practise directorate during the review period.
- 6.87 Our statistical dataset recorded that this year, the GDC reported three data breaches to the ICO. We note that this is a decrease on the five breaches reported to the ICO last year, and that the ICO decided that no further action was required in respect of the three breaches because it was satisfied that the GDC had appropriate policies and procedures in place and had made adequate improvements in response to reported breaches.

### Conclusion

- 6.88 We note the work that the GDC has conducted outside of this review period and the level of assurance it has taken from its assessment against the NHS Toolkit. Whilst the GDC's performance in respect of data breaches has improved this year, we remain concerned that the GDC has taken over three years to assess itself against the NHS Toolkit, which has now been

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<sup>24</sup> ISO 27001 is a specification for an information security management system. The system is a framework of policies and procedures which include all legal, physical and technical controls involved in organisation's information risk management process.

decommissioned. The GDC has not met this Standard since 2012/13, and it is not clear to us that this has been adequately prioritised during this review period.

- 6.89 There continue to be serious data breaches and it is of a particular concern that one breach involved the publication of sensitive mental health information which was included in a published fitness to practise determination, and which remained available online for a number of weeks. We note that the GDC has told us that the breach was a result of human error, not a systems error, and following this incident, additional checks were added to its process for finalising determinations for publication.
- 6.90 Although the ICO has not taken any action in respect of these breaches this year, the information we obtained in the targeted review does not provide sufficient assurance that the GDC prioritised its work in this area or took measures to ensure that it securely retained the fitness to practise data it holds and to prevent such breaches from occurring during the period under review. We have concluded that this Standard is not met.



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