Guidance for regulators: assessing performance against Standard 3 (Updated March 2025)

Introduction

The aim of this guidance is to set out our approach to assessing the performance of regulators against Standard 3 of our Standards of Good Regulation, which took effect from the 2023/24 performance review year. It accompanies an evidence matrix which breaks down the Standard into four outcome areas, under which sit more detailed indicators of performance. The wording of Standard 3 remains unchanged, and is:

> The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics.

Background

In the PSA's EDI Action Plan, published in April 2022, we committed to reviewing the way we assessed the performance of regulators against Standard 3.[1] We examined whether we needed to raise our expectations for meeting this Standard, which had been set at a relatively low bar when it was introduced in 2019. We also considered how we could make our assessments more transparent and consistent, building on the improvements we made to our processes when we introduced our new approach to performance reviews from 2021/22.[2]

We welcome the progress made by regulators on these issues over recent years and recognise the hard work and commitment that lies behind that improvement. But we also know that there is much more to be done to address unfairness and promote equity. Our intention is to support regulators to make further improvements, and we have set out in more detail the outcomes we expect regulators to achieve.

The evidence matrix

When we conducted our last major review of the Standards of Good Regulation, we published an evidence framework covering all the Standards.[3] This provides examples of evidence we might consider as part of our assessments, and notes that the relevance of different evidence would vary between regulators because they operate in different contexts.

Regulators told us, however, that they found it hard to understand what we expected against Standard 3, and that they would welcome more guidance about the threshold for meeting it. The Standard 3 evidence matrix is a more comprehensive view of what would indicate good performance against the Standard, grouped under four outcome statements. Because we have provided more detail about the evidence we would want to see, and because we have raised our expectations of what regulators should

[1] PSA EDI Action Plan

[2] The performance review process

[3] Evidence framework

achieve, the evidence matrix looks very different to the previous framework. In practice, there is little in the matrix that most regulators are not already doing (or planning to do), or that we are not already considering in our assessments.

We have broken down the Standard into four separate elements, each of which has its own outcome statement. In order for us to conclude that a regulator has met the Standard, we would need to be assured that the regulator has met all four of the outcomes. In order to make that assessment, we would look at the regulator's performance against each indicator underneath each outcome; limited evidence of progress against a single indicator is generally unlikely to result in a regulator not meeting the Standard. Likewise, regulators may be able to provide other relevant evidence which we have not listed in the matrix, but which helps demonstrate that they are achieving the outcomes.

Indicator ratings

To help the consistency and transparency of our assessments against individual indicators, we use a Red-Amber-Green rating system:

Green: Reasonable evidence to support indicator.

Amber: Some evidence to support indicator but with one or more significant gaps.

Red: Evidence of concerns, or little evidence to support indicator.

Given the wide variety of indicators, regulators and operating contexts, it is not possible to prescribe the factors that will result in each rating. This will necessarily depend on the specific circumstances in each case. But where we have rated an indicator as either red or amber, we note in the evidence matrix where we believe there to be significant gaps in our evidence base. We share the matrix with the regulator for comment in advance of our provisional decision-making panel meeting. Regulators may find the RAG ratings helpful in identifying where further evidence might be most useful.

We have drafted the outcomes and indicators in a way that gives regulators flexibility in how to meet them. We know that the circumstances of regulators vary, and that regulators are best placed to prioritise their work and make operational decisions.

Outcome 1: The regulator has appropriate governance, structures and processes in place to embed EDI across its regulatory activities.

As our report, *Safer care for all*, noted, 'We think that regulators and registers should work collaboratively to improve the diversity of fitness to practise panels, other decision-makers and senior leadership to ensure they more closely reflect the diversity of the community.' In order to do this, regulators must collect data that allows them to assess the diversity of these groups and use that to take targeted action as necessary. We have seen a significant improvement in the quality of EDI data collected by regulators in recent years, which should provide regulators with enough information to decide for themselves what action, if any, is needed. We recognise that individuals are not obliged to supply regulators with information about their protected characteristics. We also recognise that change can take time, particularly at more senior levels where turnover might be lower, or where minimum terms of office are in place on Councils/Boards.

It is also important that regulators take a structured approach to embedding EDI across their regulatory functions. Having a clear plan, and regularly reporting on progress against that plan, is an important tool not only in terms of ensuring activities are delivered, but providing stakeholders with assurance that regulators are committed and prepared to take effective action in this area. It is for individual regulators to decide how to do this, but we know that most already publish multi-year EDI action plans or strategies (in various formats) and report progress at least annually in some way. Similarly, while we would generally expect regulators to use Equality Impact Assessments (EIAs) to ensure their regulatory policies and processes do not disadvantage particular groups, regulators may decide to use other methods or tools to achieve the same objective. We have considered the use of EIAs in our previous assessments under this Standard, and we would want to understand how regulators ensured their regulatory policies and processes do not disadvantage particular groups if they did not use EIAs.

Outcome 2: In terms of EDI, the regulator ensures that students and registrants are equipped to provide appropriate care to all patients and service users, and have appropriate EDI knowledge and skills.

There is plentiful evidence of persistent inequalities in health and care outcomes and experiences, some of which is associated with protected characteristics. Registrants (and students where relevant) must be equipped to provide care that is appropriate to the needs of individual patients and service users. To do this they must have an awareness of the diversity of those patients and service users, and be able to adapt their approach accordingly. Regulators also need to assure themselves that education and training providers are equipping students and registrants with that knowledge and skills – and that they are able to provide education and training to students and registrants from all backgrounds. In terms of continuing fitness to practise, regulators should provide ongoing guidance and support to registrants around EDI issues. This could take a wide range of forms, and could include formats such as newsletters, case studies, blogs and webinars. Regulators may wish to incorporate this into their CPD or revalidation requirements, subject to relevant legislation. By 2025/26, we would expect regulators to be able to demonstrate that students/registrants are better equipped to provide care to all patients and service users – it will be for regulators to determine how to prioritise their work, depending on their current position and the issues they identify for action.

Outcome 3: In terms of EDI, the regulator makes fair decisions across all regulatory functions.

Inequalities also persist within healthcare regulation. For example, as noted in *Safer care for all*, there is evidence to suggest that registrants from ethnic minority backgrounds are overrepresented in fitness to practise systems. In order to reduce the potential for unfairness in decision making, regulators must have enough data for robust analysis at the population level for each stage of their process. Regulators have made good progress in terms of this data in recent years, allowing them to establish baselines from which they can identify and prioritise issues for action, and monitor progress. Regulators should collect EDI data with appropriate frequency to enable them to monitor and report on the impact of their activities. Regulators need to provide appropriate training on EDI issues to help staff, panellists and others to make fair and unbiased decisions – the content and

format of such training is for regulators to determine, and will depend on the specific issues they each identify as most relevant to them. It is also important that regulators try to improve the EDI data they collect from those raising fitness to practise concerns – not an easy task, and an issue noted in *Safer care for all* as one that affects all parts of the health and social care sector. We recognise that some of this work will take time to show results, but it is vital for public confidence that regulators are able to demonstrate fairness in decision making.

Outcome 4: The regulator engages with and influences others to advance EDI issues and reduce unfair differential outcomes.

This outcome relates to how regulators work with others – both in terms of seeking out and acting on feedback, research and other sources of evidence, and in terms of using their position and powers of influence to drive change. We recognise that many of the EDI issues facing regulators are complex and regulators cannot resolve them by themselves. It is important that regulators work constructively with a diverse range of stakeholders to understand the problems and identify workable plans to tackle them. Some issues, such as unfair disproportionality across fitness to practise referrals or unfair differential attainment in training, are outside the direct control of regulators; however, regulators should use the influence they have in the sector and work with other organisations to drive change.

The timelines for implementation and evaluation

Unlike our approach to assessing performance against the other Standards, in the Standard 3 evidence matrix we have set indicators for specific years: this is because we are consciously trying to drive improvements that we recognise may take several years to achieve. In the 2023/24 review period, we set out the core activities we expected regulators to be carrying out which will enable them to go on and meet the 2025/26 indicators. We have not set indicators for 2024/25 but we would expect to see progress towards the 2025/26 indicators, based on what regulators have achieved in 2023/24. In our 2024/25 round of reviews, we will be happy to hear from regulators about work they are doing towards the 2025/26 indicators, but we will not be RAG-rating those indicators.

Our assessment against Standard 3 is different in another way: rather than assess performance over the year as a whole (as we do with other Standards) we assess performance against Standard 3 in terms of a regulator's position at the end of each review period. We also recognise that, because the timing of the performance review year varies between regulators, some regulators will have more time than others before we assess their performance. We will take this into account when we assess performance against this Standard so that regulators are not disadvantaged purely because of their position in our cycle of reviews.

By the end of the 2025/26 review period we will expect regulators to be able to demonstrate tangible impacts in relation to a number of specific indicators. In broad terms, by then we would expect to see more progress on indicators that regulators are more able to influence, than against those that are more affected by external factors.

We understand that regulators do not operate within a vacuum, and their ability to bring about change may be limited by social and other external factors; we do not

expect them to be able to eliminate all bias and unfairness in their processes and decisions by that point. We recognise that some of this work is complex and challenging, and regulators will need to take action well beyond 2025/26. However, we do not think it is unreasonable to expect regulators to show progress by the end of 2025/26, and we would expect Councils/Boards to also want to see results from all the activity we know regulators are carrying out in this area. External stakeholders have also made it clear to us that they expect to start seeing the impact of this work in the next few years.

Our general approach to assessment

In other respects, our approach to assessing Standard 3 is consistent with the approach we already apply across all our Standards:

- We consider the evidence across the Standard as a whole, and limited evidence of progress against a single indicator is generally unlikely to result in a regulator not meeting the Standard. Where regulators are unable to meet an indicator by the end of a review period, we will also take into account whether they have plans in place to meet them during the next review period. We discuss progress and plans with regulators as part of our ongoing engagement and welcome regulators proactively raising issues with us for discussion.
- We take into account specific circumstances facing individual regulators, for example those caused by differences in legislation, size or source of referrals. We encourage individual regulators to discuss these challenges with us so that we maintain a comprehensive view of the circumstances in which they operate.

We also know that many regulators have work planned or in progress that goes beyond the indicators we have set out in the matrix. We welcome this and encourage regulators to share what they learn so that others may benefit. On our part, we will look to identify and share good practice as we support regulators to make further improvements in this area.

We will keep this document under review, and we would welcome further discussion with individual regulators around specific issues.

Terminology appendix

Term / Indicator	Outcomes	Meaning
Appropriate care	2	Care that is tailored to the individual and does not disadvantage them based on their protected characteristics. Patients and service users should not face barriers in accessing care that meets their needs.
Community	1	Each regulator is best placed to define the community they should aim to be more representative of. A regulator may find it appropriate to compare against the registrant community, the patient / service user community, or something else depending on the situation and what the regulator is trying to achieve. We would expect regulators to have a clear rationale for their choices.
Complaints	3 & 4	The indicator in Outcome 3 addresses complainants raising FtP concerns. Organisational/corporate complaints should be captured under the indicator in Outcome 4.
Decision makers	1, 3	Our focus is on those making decisions relating to regulatory functions – in particular those making decisions in fitness to practise systems.
Differential attainment	4	Reducing attainment gaps between students who share different protected characteristics will take time, and we recognise regulators have less direct control to drive change. By 2025/26 we expect regulators to have made progress in developing and implementing their plans to tackle any identified unfair differential attainment in training.
EDI data	1, 3, 4	As is currently the case, we recognise that individuals who are asked to provide EDI data are able to select 'prefer not to say' and that regulators should include this in their analysis. However, if the proportion of 'prefer not to say' responses is so high that the substantive responses becomes difficult to interpret, we would encourage regulators to look for ways to address it. Regulators are best placed to determine when they have enough evidence (including data) to identify issues and make informed decisions on how to tackle them.

Term / Indicator	Outcomes	Meaning
Education providers and training providers	2, 4	The matrix now uses the term ‘education and training providers’ for consistency.
Governance structure	1	It is for regulators to determine the best way to embed EDI across their organisations. We will be looking for regulators to have some kind of structure in place to carry this work forward, which would normally be linked to their EDI Plan/Strategy and involve regular monitoring and reporting.
Particular groups	1	Our focus here is on groups of people who share relevant characteristics. This primarily refers to characteristics as set out in legislation relevant to the regulator. Regulators may decide, however, that other characteristics may also be a priority, such as nationality or socio-economic status.
Processes and decisions	3	Our focus here is likely to be the regulators’ fitness to practise and registration functions. Regulators may however have identified other areas that they have undertaken work in that can demonstrate compliance with this indicator.
Provides and promotes routes to allow registrants, patients, service users and others to speak out against bias and discrimination	4	This is about how regulators improve their own processes to allow people to speak out against bias and discrimination, whether on their own behalf, or on behalf of other people.
Relevant characteristics	1	This primarily refers to characteristics as set out in legislation relevant to the regulator. Regulators are best placed to decide, however, whether other characteristics may also be a priority, such as nationality or socio-economic status.

Version control

Version	Description of Version	Date Completed
1.0	Newly created	May 2023
1.1	Updated for 2024/25 including new section on the use of RAG ratings	March 2025