professional standards authority
for Health and Social Care

performance review 2019/20

HEALTH AND CARE PROFESSIONS COUNCIL

ABOUT THE PERFORMANCE REVIEW PROCESS

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

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

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

Further information about our review process can be found in a short guide, available on our website.

The regulators we oversee are:

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

Find out more about our work

www.professionalstandards.org.uk

Health and Care Professions Council performance review report 2019/20

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The Health and Care Professions Council

key facts & stats

The Health and Care Professions Council (HCPC) regulates a number of allied health professions in the United Kingdom.

As at 31 March 2020, the HCPC was responsible for a register of:

281,467 allied health professionals

Annual registration fee is: £90, paid over a two-year cycle

The HCPC's work includes:

- Regulating the practice in the UK of arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists/orthotists, radiographers, speech and language therapists
- Setting standards for the education and training of practitioners and assuring the quality of education and training provided
- Setting and maintaining standards of conduct, performance, and ethics for practitioners and standards of proficiency for each of the professions it regulates
- Maintaining a register of practitioners ('registrants') who meet those standards
- Setting standards of continuing professional development to ensure registrants maintain their ability to practise safely and effectively
- Taking action to restrict or remove from practice individual registrants who are considered not fit to practise.

Standards of Good Regulation met for 2019/20 performance review

Standard	Met
General Standards	4/5
Guidance and Standards	2/2
Education and Training	2/2
Registration	4/4
Fitness to Practise	1/5

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

The Health and Care Professions Council

Executive summary

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

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

The HCPC's performance during 2019/20

We conducted a targeted review of the HCPC's performance against Standards 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18. We concluded that Standards 3, 15, 16, 17 and 18 are not met.

To carry out this review, we collated and analysed evidence from the HCPC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback. We utilised information available through our review of final fitness to practise decisions under the Section 29 process[1] and conducted a check of the accuracy of the HCPC's register. We also reviewed a sample of closed fitness to practise cases, and sought information from the HCPC where we considered this necessary.

Further information about our review process can be found in our Performance Review Process guide, which is available on our website.

General Standards

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

[1] 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 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).

We found that the HCPC publishes information about its purpose and that its website provides clear information on what the HCPC does, who it regulates and how it works.

The HCPC has made references to an aim to become the 'regulator of choice'. We were told that this describes the HCPC's aspiration to be the regulator the Government would choose should statutory regulation be extended and its desire to be the regulator that people want to work for and stay with. We were concerned that this ambition should not interfere with the HCPC's core duties to protect the public. This term will be subject to public consultation as part of the HCPC's new Corporate Strategy.

This year regulation of social workers transferred from the HCPC to Social Work England. The transfer was managed effectively without gaps in public protection.

The HCPC has an equality, diversity and inclusion (EDI) policy, published in 2018. This outlines its legal duties and its commitment to being a fair and inclusive regulator and ensuring that everybody should be equally able to access its services and be treated fairly and supported when doing so. EDI training is provided to all new employees and relevant staff are trained to provide support for those who may need additional assistance to interact with the HCPC.

There are gaps in the information about protected characteristics collected by the HCPC.[2] The HCPC is improving the EDI information it holds about registrants and is working with professional bodies to increase the amount of EDI data it holds about registrants. Changes will also be made to its IT systems so that this information is requested routinely. The HCPC has committed to undertaking some initial analysis of the EDI data it holds, before commissioning independent research based on the findings. However, no analysis was completed in the period under review. We concluded that the relevant standard, Standard 3, is not met.

The HCPC regularly reports on its performance and we have seen evidence of the Council discussing and scrutinising the data provided in the organisation performance report. The annual report and accounts are published on the HCPC's website and are accessible to the public. The annual report for Fitness to Practise is also published.

We have seen evidence of the HCPC regularly consulting and working with all of its relevant stakeholders across the four countries of the UK. The HCPC also used the Memoranda of Understanding established with various organisations to identify and manage the risks posed to the public by its registrants during this review period.

Other key developments

Standards of Proficiency for registrants

This year the HCPC started a public consultation on the review of its Standards of Proficiency (SOPs) which specify the threshold standards necessary to protect the public, its expectations of registrants' knowledge and abilities when they start practising as well as

[2] The Equality Act 2010 makes it illegal to discriminate against someone on the basis of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. These are known as protected characteristics.

what the public should expect from registrants in each of the 15 professions it regulates. The purpose of the review is to ensure that the SOPs remain fit for purpose and are well understood. The HCPC expects that this review will conclude later in 2020 and that any changes will be phased in gradually.

Guidance to help registrants apply the standards

The HCPC reviewed and updated its guidance on the use of social media after it became aware of issues related to live tweeting by registrants whilst delivering care to patients.

Quality assurance mechanisms for approved education and training programmes
Following on from the decision last year to increase the threshold level of qualification for entry to the register for paramedics, the HCPC published a policy statement in April 2019 which provides guidance on when it will consider amending the level of qualification required for entry to its register. Having reviewed the issue we were satisfied that all paramedic courses approved by the HCPC meet its threshold entry level and that the HCPC's existing quality assurance mechanisms are appropriate.

Performance in fitness to practise

We have had concerns about the HCPC's performance against the Standards of Good Regulation for fitness to practise for several years.[3] Concerns related to the HCPC's management of the initial triage and investigation of complaints as well as regarding a number of other areas of decision-making. The HCPC accepted our concerns and developed a fitness to practise improvement plan to address the issues we identified and introduced new processes. Action to complete the improvement plan was completed in March 2019, and so we reviewed a sample of fitness to practise cases closed by the HCPC in the period under review. The new processes applied to most of the cases we looked at.

We were satisfied that the initial, triage, stage of the HCPC's fitness to practise process is operating as intended in that the HCPC is only closing cases that are not within its remit to investigate or are not serious.

However, despite the significant changes the HCPC has introduced, only limited progress had been made in addressing our long-standing concerns about its investigation and management of fitness to practise cases. We identified concerns about record keeping, compliance with policies, the quality of investigations completed by the HCPC, decision-making, timeliness and customer service. We established that the HCPC's management of some cases had the potential to undermine public protection and public confidence in the HCPC as a regulator.

The evidence we reviewed in this performance review cycle suggests serious concerns about the HCPC's performance in its fitness to practise work and that improvements have not fully materialised in the HCPC's performance despite the three years that have passed since we first reported on the scale and seriousness of our concerns. We determined that Standards 15, 16, 17 and 18 were not met.

[3] The HCPC did not meet six of the ten former Standards of Good Regulation focused on the fitness to practise function in 2016/17, 2017/18 and 2018/19.

How the Health and Care Professions Council has performed against the Standards of Good Regulation

General Standards

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

1.1 The HCPC's website clearly states that its work is underpinned by the Health and Social Work Professions Order 2001 and that its core role is to protect the public by regulating health, psychological and social work[4] professionals. It also contains information on the HCPC's regulatory functions which are to:

- Set standards for professionals' education and training and practice
- Keep a register of professionals who meet its standards
- Take action if a professional on the register does not meet its standards.

1.2 Publications which provide detailed information on specific aspects of the HCPC's work are available to download from the website and can be provided in alternative formats (such as in Braille, larger text and audio) on request. There is a Welsh version of the website and the HCPC's Welsh language scheme explains that in the conduct of public business in Wales, the HCPC will treat the 'English and Welsh languages on a basis of equality'.

1.3 Each regulatory function also has a dedicated section on the website and this displays the key documents and guidance materials published by the HCPC about its work in that area.

1.4 The HCPC has also structured the website into hubs where the information outlined above is tailored to meet the needs of particular groups. There are hubs for members of the public, registrants, employers, education providers, journalists and the media and students and applicants. The HCPC has a YouTube Channel which includes a video animation outlining its role as a professional regulator and the importance of its standards. There are also videos about registration renewal, the role of an employer, CPD guidance, the fitness to practise process and fitness to practise hearings. The HCPC also uses its Twitter feed to promote its work. From the evidence we have seen, the HCPC provides accurate, accessible information regarding what it does, who it regulates and how it works. As a result, we are satisfied that this Standard is met.

[4] The HCPC was responsible for the regulation of social workers from 1 August 2012 until this was transferred to Social Work England on 2 December 2019.

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

2.1 The Health and Social Work Professions Order 2001 (the Order) sets out the HCPC's objectives and principal functions. Its over-arching objective in exercising its functions is the protection of the public, which involves the pursuit of promoting and maintaining:

- the health, safety and wellbeing of the public
- public confidence in the professions regulated under the Order
- proper professional standards and conduct for members of those professions.

2.2 The HCPC's principal functions are to establish standards of education and training, conduct and performance for members of the relevant professions and to ensure the maintenance of those standards. The HCPC undertakes activities in line with its statutory objectives including:

- assessing the suitability of applicants for registration
- setting standards for education and training
- assuring the quality of education and training
- investigating concerns about registrants' fitness to practise
- publishing a list of registered allied health professionals.

2.3 We carried out a targeted review of the HCPC's performance against this Standard for three reasons. Firstly, we noted a lack of clarity on the HCPC's strategic intent as the Corporate Strategy for 2019-24 was not published following its approval by the HCPC's Council. Secondly, we identified several references to the term '*regulator of choice*': we were unclear on its meaning and we wanted to understand the rationale behind the use of the term and how it aligned with the HCPC's purpose. Thirdly, there was limited information available to us on how the HCPC applied learning from one area of the organisation to another.

2.4 In the course of this year, Social Work England was established to take over the regulation of social workers from the HCPC. This required considerable one-off efforts by the HCPC to ensure that its registration information about social workers and the fitness to practise caseload involving social workers was transferred effectively to Social Work England. The Authority held frequent meetings with the HCPC and Social Work England to monitor the progress of the transfer and the establishment of Social Work England. We are pleased to say that the handover worked well and we are unaware of technical problems or other matters which resulted in any gap in public protection during the transfer. This reflects credit on both organisations.

Clarity of purpose

2.5 The HCPC told us that its current Strategic Intent and Corporate Plan will expire later in 2020 and that whilst the text of the draft Corporate Strategy for 2019-24 was agreed by the Council in December 2018, it was replaced with the Corporate Plan

for January-July 2020 which outlined change plans focused on achieving the Authority's Standards of Good Regulation as well as the themes of Innovation and Improvement, People, Efficiency and Value, and Income. This alleviated our concern that there was an absence of a Corporate Plan and a published strategic intent for some of the period under review. The HCPC also told us that the process to develop a new strategy started in March 2020.

2.6 The Corporate Plan for January-July 2020, states that the HCPC's vision for the future is to become '*the UK healthcare multi-profession regulator of choice, delivering lean and intelligent regulation'*. We were concerned that this vision was ambiguous and open to misinterpretation. Those on the HCPC register do not have a choice as to who their regulator is.

2.7 The HCPC told us that the term embodies both its aspiration to be the regulator the Government would choose should statutory regulation be extended to further professional groups and its desire to be the employer of choice and the regulator that people want to work for and stay with. These are two very different ambitions which the HCPC has told us will be further developed through engagement and consultation with stakeholders as it develops its new corporate strategy. We continue to have some reservations about the level of this ambition, given the concerns that we express later in this report about the challenges that the HCPC faces in respect of its fitness to practise. However, we will await the further information about the vision and its implementation promised by the HCPC.

2.8 The HCPC told us that its corporate plan and strategic priorities align with its statutory objectives and form the basis of its project planning and these are considered by its Boards and Council when they discuss and approve proposals from the Executive. During the review period, the HCPC publicly discussed the need to take forward its prevention work as part of its intention to move from the existing reactive model of regulation to one where it invests in activities aimed at preventing problems with registrants' professional practise arising.[5] The HCPC also revised the cover sheets for Committee and Council papers to specify the links to its strategic priorities.

2.9 In May 2019, the HCPC updated its conflicts of interest policy to reflect recent legal advice. The policy now states that fitness to practise panel members, chairs or legal assessors cannot appear as representatives for HCPC registrants during the period of their appointment by the HCPC. We noted that the declarations of interests for Council members were publicly available and that senior staff are invited to declare any relevant interests at Council and committee meetings.

Application of policies

2.10 We understand from the HCPC that it takes a number of steps to ensure new policies are successfully embedded. It seeks views from employees and from other heath and care regulators and key stakeholders, such as professional liaison groups, to seek their views and experiences. It undertakes either desk-based or externally commissioned research to inform its approach. When introducing a new

[5] This is consistent with the wider trend in regulation, e.g. the GDC's 'Shifting the balance' work, the NMC's new fitness to practise strategy favouring local resolution.

policy, the HCPC will produce a communications plan and deliver training to staff. The approach is regularly reviewed by its senior management team.

2.11 We sought further information from the HCPC because we wanted to understand how the approach outlined was used to ensure that learning was applied from one area of the organisation to another in the period under review. We were also interested in learning about the extent to which outcomes in fitness to practise proceedings are used to inform the HCPC's current approach to CPD.

2.12 The HCPC told us that a lessons learned assessment is completed for all major projects and, as an example, showed us the one completed for the CPD online portal project.[6] As a result of the lessons identified in that assessment, the HCPC recruited a dedicated IT infrastructure engineer to the Registration Transformation and Improvement Project which improved the delivery of the latter project.

2.13 The HCPC explained to us that the most recent research[7] it commissioned on CPD and fitness to practise was published in 2017, and having explored the differences between the CPD of those who had had fitness to practise concerns raised about them, compared with those who had not, uncovered 'virtually no quantitative difference'. Following the publication of this research the HCPC changed how allegations of impaired fitness to practise were classified and recorded. The HCPC told us it intends to use this data in 2020, to develop intelligence which will inform its improvement activities as well as its approach to CPD.

Performance in fitness to practise

2.14 We considered the extent to which our concerns about the HCPC's performance in fitness to practise affected our assessment of the HCPC's overall clarity about its purpose. The fact that the HCPC has not met most of the fitness to practise Standards three years after the original concerns had been identified, and after the improvement plan devised to address the issues was fully implemented, raised significant concerns for us about how clear the HCPC was about its purpose in relation to fitness to practise.

2.15 We acknowledged the effective work undertaken to secure the successful transfer of social workers to Social Work England and that, generally, the HCPC manages its other tasks in a way which meets our Standards. We further recognised that more work was begun on fitness to practise in the review period.

2.16 On balance, we are satisfied that this Standard is met for the period under review, but we remain concerned about the HCPC's performance in respect of fitness to practise and, if significant improvements are not made there shortly, it will be difficult to avoid raising questions about the HCPC's clarity about its role.

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[6] This project introduced a new electronic system to support the submission and management of CPD profiles submitted by registrants.

[7] https://www.hcpc-uk.org/resources/reports/2017/cpd-report-what-is-the-evidence-for-assuring-the-continuing-fitness-to-practise-of-hcpc-registrants-based-on-its-cpd-and-audit-system/

Standard 3: The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics.

3.1 The HCPC has an equality, diversity and inclusion policy, published in 2018. This sets out its legal duties around equality, diversity and inclusion (EDI) and its commitment to being a fair and inclusive regulator and ensuring that everybody should be equally able to access its services and be treated fairly and supported when doing so. The policy also contains the HCPC's objectives for developing its practice in this area and an explanation of how the HCPC intends to monitor its progress in meeting them. The EDI policy is supported by an EDI action plan which specifies the actions and measures that have met, or are to be implemented to meet, the core EDI objectives.

3.2 The HCPC collects some EDI data from its registrants through its registration and renewal forms which require registrants to declare their date of birth, nationality and gender. It does not require information on the other protected characteristics.[8] In addition to this information, the HCPC invites registrants to voluntarily complete an equality and diversity monitoring form. The HCPC told us that the response rate is approximately 1% of the register. It told us that it holds anonymous data on panel members and chairs, legal assessors, visitors, registration assessors, registration appeals panel members and CPD assessors. The EDI data of Council members is reported annually in the HCPC's annual report and accounts.

3.3 The HCPC's guidance for disabled applicants and education providers, *Health, disability and becoming a health and care professional*, sets out its belief that 'disabled people have an important contribution to make to the professions we regulate, and have unique experiences which would be of benefit to service users and carers'. It also explains the relevant disability law and process of becoming a health and care professional. The guidance includes a number of case studies which use real-life examples created through interviews with disabled students and staff involved in education and training.

3.4 The HCPC's website also includes information on how and when registrants should declare a change in their health and signposts to other organisations that can be contacted or further guidance, information and support.[9]

3.5 We carried out a targeted review against this Standard because there was limited information available about the EDI data which the HCPC currently holds about its registrants. We had limited information on the training provided to staff about EDI matters, and the support provided to those who interact with the HCPC and may require additional support was not clear. We also wanted to understand the extent to which the HCPC considered the EDI implications arising from its decision last

[8] The Equality Act 2010 makes it illegal to discriminate against someone on the basis of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. These are known as protected characteristics.
[9] Samaritans is a charity dedicated to reducing feelings of isolation and disconnection that can lead to suicide www.samatitans.org.uk

year to increase the threshold entry level for courses leading to registration as a paramedic.

Level of EDI data

3.6 In its response, the HCPC stated that it recognises it needs to improve the EDI data it holds, particularly for registrants, and that this information should be requested as soon as possible. In order to address the immediate gap, the HCPC explained that it developed an interim measure to collect EDI data through a secure survey across all its registrants in December 2019, and that it received 13,282 completed forms. This represents approximately 5% of the register, which whilst still a small proportion, is an improvement on the 1% of the register for which this information was previously held.

3.7 The HCPC also told us that it has asked professional bodies to support it in encouraging registrants to complete the survey requesting EDI information.

3.8 The HCPC has committed to undertaking some initial analysis of the data it obtained, before commissioning independent research based on the findings. The independent research, along with internal research, will inform the approach the HCPC takes in future. Further, the HCPC anticipates that forthcoming changes to its registration and fitness to practise systems will ensure that, in future, registrants will be able to declare their EDI data at the point of application, renewal, or as their circumstances change. The HCPC is expecting to provide the same option for complainants.

3.9 We welcome the intention to analyse the EDI data currently held but note that no analysis was completed in the period under review and the proportion of the register for which the HCPC holds data remains low.

EDI training for staff

3.10 We sought information about the EDI learning and development opportunities provided to HCPC staff. The HCPC told us that EDI training is provided to all new employees in the form of workshops, the aim of which are to:

- Increase the level of knowledge around EDI legislation, bias discrimination, harassment and bullying and disability awareness
- Improve behaviours around how to identify biases and inappropriate behaviours and challenge these
- Reflect on how individuals can promote dignity and inclusion within the workplace.

3.11 In 2018, cascade training was delivered on the HCPC's new Reasonable Adjustments Policy and local teams provide updates on a biennial basis. We understand that eLearning modules are available for staff to access and complete at any time. Further, 'live bias' training is provided to HR and business representatives frequently involved in recruitment and selection in order to eliminate unconscious bias.

Support for those who need assistance

3.12 The HCPC's publicly available information on how individuals can raise a concern has been approved by the Plain English Campaign. The HCPC told us that staff who deal with general enquiries are trained to support individuals who are unable to provide their concerns in writing and that concerns can be taken over the phone.

3.13 The HCPC is involved in a project which is seeking to establish a joint framework to provide advocacy for lay complainants involved in the fitness to practise process. The project aims to meet the needs of individuals who may require additional communication support as a reasonable adjustment in line with the Equality Act 2010. We are assured that those with no or limited access to the internet or those who are unable to provide information in the format stipulated by the HCPC are still able to access the services provided.

Increasing the threshold entry level of qualification for paramedics

3.14 Last year we reported that the HCPC increased the threshold entry level of qualification for paramedics from the equivalent of Certificate of Higher Education to degree level in March 2018. We were interested in establishing the details of any analysis undertaken by the HCPC regarding the EDI implications of this decision.

3.15 The HCPC told us that when it consulted on this matter, consultees were asked if there were any aspects of its proposals which could result in adverse impacts for groups or individuals with one or more of the protected characteristics. The HCPC directed us to the analysis it completed on the responses to this specific question, which was published as part of its consultation analysis. Although the HCPC did not undertake a separate EIA on the proposal, its analysis of the responses received to the consultation demonstrates that potential EDI implications were considered as part of its decision-making.

Conclusion against this Standard

3.16 The information we reviewed demonstrates that the HCPC is working to deliver its commitment that everybody has equal access to its services and that they are treated fairly when doing so. Staff receive training on EDI matters and those who require additional assistance to liaise with the HCPC are supported appropriately. The HCPC considered the EDI implications of increasing the threshold level of qualification for courses leading to registration as a paramedic.

3.17 Despite the volume of work completed on EDI matters in the period under review, the HCPC does not have an adequate source of information about its registrants in respect of their protected characteristics. It does not routinely seek to establish such information about patients, service users and others.

3.18 In our view, the small proportion of registrants for which EDI data was held is a barrier to the HCPC developing a full understanding of the diversity of its registrants. The HCPC decided it was necessary to try to increase the volume and quality of the EDI data it held before completing any analysis to inform its work in this area. This means that the HCPC did not and could not properly assess whether its processes imposed inappropriate barriers on individuals with protected characteristics in the period under review.

3.19 The HCPC recognises that systematically collecting, assessing and analysing EDI data is likely to improve its understanding of the diversity of its registrants, their patients, service users and others who might interact with it. We welcome the steps being taken to improve the level of EDI data collected as well as the intention to use the data. We note that in July 2020, the Council approved a new action plan for EDI and that the HCPC is developing its first five year strategy in this area. The HCPC has also increased its resources dedicated to EDI through the recruitment of an EDI Policy Manager, is reviewing its approach to data and intelligence, and commissioned Cardiff Metropolitan University to analyse its EDI data in April 2020. This is encouraging for the future.

3.20 We have concluded that the absence of data and analysis means that this Standard is not met for this year. We will monitor the HCPC's progress in increasing and analysing the EDI data it holds, and will scrutinise its progress in delivering the actions and measures outlined in the EDI action plan in next year's performance review.

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

4.1 The HCPC holds six Council meetings each year. At each meeting, the Council discusses and scrutinises the data provided in the organisational performance report, which records performance against its Key Performance Indicators (KPIs) in the three months preceding the meeting.

4.2 We noted from the HCPC's performance information that there had been an increase in the number of corporate complaints as well as an increase in the proportion of complaints not responded to within the 15 working days the HCPC aims for. We carried out a targeted review of this Standard to understand the reasons for this (further information at 4.5-4.10 below).

4.3 The Health and Social Work Professions Order 2001[10] mandates the HCPC to present its annual report and accounts to Parliament and the Scottish Parliament. The annual report and accounts are published on the HCPC's website and are accessible to the public.

4.4 In September 2019, the Council approved the Fitness to Practise annual report which contains statistical information and a factual summary of fitness to practise activity for the period 1 April 2018 to 31 March 2019. The public, the report discusses the Fitness to Practise improvement project and outlines some of its achievements. It also refers to the fact that the HCPC failed six of our Standards in this area.

[10] Articles 44(2) and 46(7) of the Health and Social Work Professions Order 2001

Corporate complaints

4.5 The HCPC encourages stakeholders to provide feedback and there is a facility to do this through the website. Its published customer service policy also includes a step by step guide on the complaints process.

4.6 As noted above, we identified what appeared to be a significant increase in both the number of corporate complaints received and the proportion of complaints not responded to within the customer service standard of 15 working days. We asked the HCPC to provide further information about its performance in this area and how lessons learnt from corporate complaints are disseminated.

4.7 The HCPC's data for corporate complaints showed an increase in the number of complaints received during the period and showed that 22% of these complaints were not completed within 15 working days. The HCPC explained to us that most of the complaints not completed within 15 working days were concluded with 20 working days and that the median timeframe for complaints not concluded within the customer service timeframe was 18 working days.

4.8 We also reviewed the information the HCPC provided to us about the internal processes in place to respond to complaints, and to identify and disseminate any relevant learning to staff.

4.9 The information arising from corporate complaints is scrutinised on a monthly basis at a senior level by a group comprising members from the main departments. We noted that the HCPC complies with ISO[11] 10002, the international standard for complaints and customer satisfaction as well as ISO 9001 for quality management systems.

4.10 The HCPC told us that its process for responding to complaints includes an escalation process where individual concerns are escalated through established reporting mechanisms within departments. These are fed up through the operational management team and the senior management team before being escalated to Council where appropriate. The HCPC also provided examples of how it responded to some of the feedback it received in the period under review. In response to the most recent registration survey, the HCPC:

- Developed more focused roles within the team, and reduced its email response standard from five days to 48 hours
- Developed automated responses to provide useful information about online renewals
- Improved the security verification processes for telephone callers.

Considering external reports and inquiries

4.11 Last year we reported that, following the publication of the Williams review,[12] the HCPC committed itself to considering whether it should produce specialist guidance

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[11] International Organisation for Standardisation (ISO) is an independent non-governmental international organisation which develops and publishes international standards which are international agreed by experts and describe the best way of doing something. https://www.iso.org/standards.html.

[12] Published in 2018, the Williams review was set up to look at the wider patient safety impact of concerns among healthcare professionals could result in prosecution for gross negligence manslaughter.

to registrants about being an expert witness. It said it would consider the need for guidance after the Academy of Medical Royal Colleges (AoMRC) had completed the work recommended by the review. In May 2019, the AoMRC published its guidance for healthcare professionals acting as professional or expert witnesses, and the HCPC confirmed that the advice set out in that guidance is consistent with its own standards and guidance.

4.12 In May 2019, the HCPC Council considered the Authority's report *Telling patients the truth when something goes wrong* and agreed that resources for registrants on candour should be developed and that case studies would be beneficial for registrants. Similarly, in September 2019, the Council considered and discussed a report outlining the outcome of the Authority's performance review 2018-19 and its conclusions.

4.13 The HCPC has also developed new Whistleblowing and Sanctions policies that incorporate the learning which the HCPC identified from the Gosport Independent Panel.[13]

4.14 The HCPC has created a tracker which records and monitors recommendations relevant to the HCPC or its professions and the commitments it has made. This is used periodically to update Council on progress.

4.15 We saw that the HCPC has a systematic process for responding to high-profile public enquiries, reports and other reports which make recommendations, conclusions or findings that at relevant to the health and social care sector.

Conclusion against this Standard

4.16 During this review period the HCPC has publicly reported on its performance. It has sought to address any shortcomings identified in its work through feedback received from stakeholders, and by responding to corporate complaints. It has reviewed the recommendations from public enquiries and other relevant reports about healthcare regulatory issues and considered their relevance to its work.

4.17 Although there has been an increase in the proportion of complaints not concluded within the timeframe of 15 working days set by the HCPC, we noted that most of those that did not meet this timeframe were concluded within 20 working days. We consider 20 working days to be a reasonable timeframe to respond to corporate complaints, and concluded that the HCPC's compliance with the international standard for complaints and customer satisfaction provided further assurance about its performance in this area. We are also content that the HCPC's processes for managing complaints and learning from complaints is appropriate.

4.18 We are satisfied that this Standard is met.

[13] The Gosport Independent Panel was set up to address concerns raised by families over a number of years about the initial care of their relatives in Gosport War Memorial Hospital and the subsequent investigations into their deaths. Further information can be found at https://www.gosportpanel.independent.gov.uk/

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

5.1 Throughout 2019, the HCPC held and participated in a number of activities and events across the four countries of the UK, including:

- *Meet the HCPC* in Swansea – held in February 2019, this event provided registrants with the opportunity to meet members of the Council and Executive, understand the HCPC's role as a regulator and ask questions
- Continuing professional development workshops in Edinburgh, Belfast and Nottingham – these workshops took place in March, July and October and explained the HCPC's standards for CPD, along with examples of activities and evidence
- *Primary Care and Public Health 2019* – held in May 2019, the HCPC exhibited at the event for GPs, Clinical Commissioning Groups, primary care and community pharmacists, midwives, Allied Health Practitioners and managers working in primary, community, public and prison health.

5.2 During 2019, the HCPC started reviewing the Standards of Proficiency (SOPs) for all the professions it regulates and sought feedback on the standards from stakeholders through a series of engagement exercises which included an online survey and workshops in Belfast, Cardiff, Edinburgh and London to discuss the findings of the surveys and feedback in more detail. The HCPC met professional bodies individually to discuss any recent developments within their profession which might be relevant to the standards of proficiency.

5.3 We carried out a targeted review of the HCPC's performance against this Standard as it was not immediately clear how the HCPC used the considerable consultation activities with its stakeholders to identify and manage risks to the public in respect of its registrants. We asked the HCPC to tell us how it worked with its stakeholders in this regard, in the period under review.

5.4 In its response to our targeted review questions, the HCPC told us that the Memoranda of Understanding (MoUs) in place with various organisations strengthened its ability to identify and manage risks posed to the public by its registrants. It also provided several examples of activities and action taken in the period under review which sought to address risks to the public. These included:

- Sharing information about restrictions on registration with the UK and European healthcare organisations through the Internal Marked Information (IMI) system, reviewing and taking action where appropriate on information that may indicate a risk to the public
- Contacting the owners of Whorlton Hall[14] to understand if any HCPC registrants had visited during the time period in question to provide service user care. These enquiries resulted in one fitness to practise investigation.

[14] Whorlton Hall is a hospital which provided treatment and care for persons over the age of 18 who have a learning disability and/or autism. A BBC Panorama's undercover filming appeared to show patients with leaning difficulties being mistreated.

5.5 The HCPC also told us about a joint event with the Scottish Government in October 2019, which discussed the findings of its returning to practice research[15] report as well as the risks posed by professionals returning to practice, and the support required to enable them to practise safely.

5.6 The information we reviewed against this Standard suggests that in the period under review, the HCPC communicated with a variety of stakeholders across the four countries of the UK in a number of ways and that it worked with its stakeholders to identify and act on risks arising to the public from its registrants.

5.7 We are satisfied that this Standard is met.

Guidance and Standards

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

6.1 In last year's report we noted that the Standards of Conduct, Performance and Ethics (SCPE) and the Standards of Proficiency (SOPs) reflected up to date practice and adequately prioritised patient and service user centred care and safety. The information we reviewed this year did not suggest that the SCPE has become outdated since it was published in 2016.

6.2 As noted under Standard 5, the HCPC started to review its SOPs. These specify the threshold standards necessary to protect the public, the expectations of registrants' knowledge and abilities when they start practising as well as what the public should expect from registrants in each of the 15 professions it regulates. The purpose of the review is to ensure that the SOPs remain fit for purpose and are well understood by registrants, service users and carers, education providers and the public. The HCPC anticipates that this review will conclude later in 2020 and that any changes will be implemented gradually.

6.3 We welcome the review. We have not seen any evidence that the existing SOPs do not prioritise patient safety or service use centred care and safety and so do not consider that more urgent action is required.

6.4 We are satisfied that this Standard is met.

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

7.1 The HCPC publishes a wide range of guidance materials to help registrants meet the SCPE. The HCPC reviewed and updated its guidance on the use of social

[15] https://www.hcpc-uk.org/resources/reports/2019/health-and-social-care-professionals-return-to-practice-a-systematic-review/

media after it became aware of issues related to live tweeting by registrants whilst delivering care to patients. The revisions made by the HCPC:

- clarified that registrants must follow the HCPC's guidance as well as any employer polices if employers' policies were less stringent
- highlighted that a service user receiving treatment may be unable to give informed consent to anything other than immediate care
- made it clear that registrants should not follow patients or accept invitations or friend requests from them on all forms of social media
- made it clear that the guidance covered both private and professional use of social media.

7.2 We considered that the HCPC's response to the live tweeting issue was proportionate, focused on addressing risk and prioritised patient and service user centred care.

7.3 Although the HCPC did not publish any supplementary guidance on new areas during this review period, it collaborated with some of the other health and care regulators, professional bodies and some education providers to create principles for registrants who are permitted to prescribe remotely. The ten principles, which are underpinned by existing standards and guidance, set out the principles of good practice expected of registrants when consulting and/or prescribing remotely from the patient.

7.4 The HCPC also published blogs on particular issues; the first dealt with whistleblowing and the process for raising concerns in relation to different groups. The second, published in June 2019, focused on the value of supervision and how it can assist registrants in fulfilling the HCPC's requirements for continuing professional development.

7.5 Outside of the period under review, the HCPC developed a set of resources for registrants to support their consideration of how to apply the SCPE during the Covid-19 pandemic. We will consider these as part of our next performance review.

7.6 We are satisfied that this Standard is met.

Education and Training

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

8.1 The HCPC's website includes information and guidance about its standards of education and training (SETs). The information is tailored for both education and training providers and students/trainees and covers topics such as searching for an approved education or training programme, the approval process, information for those considering a career in one of the HCPC's regulated professions and help in demonstrating that a programme meets the HCPC's standards.

8.2 The SETs specify what all programmes approved by the HCPC must do to prepare students for professional practice. The SETs, which were last revised in 2017, are supported by guidance that provides information about the standards and how the HCPC will assess and monitor programmes against them.

8.3 Following on from the decision last year to increase the threshold level of qualification for entry to the register for paramedics, the HCPC published a policy statement in April 2019 which provides guidance on when it will consider amending the level of qualification required for entry to its register. The policy notes that professions 'develop over time' and that 'changes to the scope of the profession's standards of proficiency or the depth and complexity of the education and training required to meet those standards need to be reflected in the threshold level set out in SET1'.

8.4 In March 2019, following a consultation, the Council decided that the Royal Pharmaceutical Society's competency framework would be adopted as its standards for all prescribers. The HCPC subsequently updated its prescribing standards for education providers. The standards took effect on 1 September 2019 and the HCPC will assess whether programmes meet them though its annual monitoring process from the 2019-20 academic year.

8.5 We have seen evidence of the HCPC maintaining up-to-date standards for education and training. There is also evidence that the HCPC kept its standards for education and training under review through its public consultation on the Standards for Prescribing.

8.6 We are satisfied that this Standard is met.

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

9.1 The HCPC's website contains detailed information about its approval process for training programmes. It also provides information on why visits are carried out, the timescales for completing the approval process and the documentary requirements for providers.

9.2 Last year we reported that the HCPC had been notified of a programme provider's intention to continue to deliver a programme below the new SETs level for paramedics and that it proposed to undertake a directed visit to this provider. In fact, the visit did not take place because the provider decided to close the programme.

9.3 We received information from a third party which raised concerns that the HCPC's quality assurance mechanism was not being applied consistently by reviewers and may be lacking in transparency. We asked the HCPC to provide details of the training provided to those involved in its approval process as well as information on the frequency of reviews.

9.4 The HCPC advised us that the feedback which expressed some concerns about its quality assurance mechanisms derived from the working group it convened to

examine its current approach in this area. The HCPC explained that the working group was formed to consider the current assurance approach and identify where the future development of it should focus.

9.5 As well as identifying gaps in how the existing arrangements are sometimes applied, the HCPC told us that the working group noted that its 'quality assurance principles are broadly sound and appropriate to underpin a multi-professional regulatory approach to programme approval'. The HCPC provided detailed information on how visitor consistency and transparency are managed through its quality assurance processes. This includes:

- ensuring that all visitor panels are accompanied by a member of the HCPC executive whose main role is to ensure panels are fair, follow the right processes, and are consistent in their findings
- providing visitor panels with outcomes from the last two years of quality assurance activities and outcomes related to the programmes being assessed
- encouraging education providers to report any concerns they have with the findings of visitors
- a facility for education providers to submit observations to the ETC for further consideration
- publicly recording all approvals and monitoring activity, with all visitor reports and any observations received shared with education providers.

9.6 These arrangements appear appropriate and we noted that, of the 107 programmes that reached the post-visit stage in the 2018-19 academic year, only four observations were made by education providers and these are formally recorded and published on the HCPC's website as part of the reports considered by the ETC.

9.7 In March 2019, the ETC agreed to update the approval process. The main changes were to introduce a pathway for programmes identified as requiring further support from the HCPC,[16] formalising 'touch points' with education providers and providing visitor feedback on the submissions received by education providers before the approval visit is conducted.

9.8 The HCPC also told us that it plans to review the impact of the changes recently made to its approval process through its biennial survey of all education providers as well as its review of the new profession/provider pathway in the approval process. We understand that the outcome of these reviews will inform any options developed for the approval process.

9.9 The HCPC told us that all newly appointed visitors are required to undertake mandatory training which must be completed before a visitor can undertake assessment work for the HCPC. Visitors are also required to complete refresher training on an annual basis, with topics based around trends seen within the sector,

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[16] The pathway will apply to programmes that are proposed by a provider new to the HCPC and/or programmes that are proposed from a profession/post registration area new to an existing provider. It will require education providers to provide detail on the proposal in several key areas when requesting an approval visit, the undertaking of an issues-based analysis of the proposal at an early stage and work with the HCPC to address any identified issues before the visit stage.

changes to the HCPC's standards and processes, and various aspects of the visitor role.

9.10 The additional information we reviewed during our targeted review clarified the status of the programme which the ETC directed should be subject to a visit and the HCPC outlined the broader context of the feedback which suggested that its quality assurance mechanism might not be working effectively. We noted that the HCPC has taken these concerns seriously and is committed to further developing its approach to quality assurance. Its processes in this area were recently reviewed and changes were introduced.

9.11 We are satisfied that this Standard is met.

Registration

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

10.1 There were no changes made to how the HCPC's register is published or how it can be accessed in this review period. The register remains clear and easily accessible, with an explanation provided on what the results and registration status of an individual mean, what additional entitlements are and when annotations will appear on the register, and the dates of the registration period.

10.2 We checked a random sample of register entries to see whether the entry on the register reflected the outcome of the fitness to practise hearing that concluded during the review period. We did not identify any errors or anomalies in the register entries we reviewed.

10.3 Last year we reported that in light of a GMC case concerning the fraudulent registration of a doctor, the ETC were due to consider a report on the registration validation checks completed by the HCPC and the risks of a similar occurrence. The HCPC told us that this report will consider the robustness of its current processes and the development work it is currently completing with third party suppliers to support its verification and authentication of identity and documents submitted by applicants. We said we would review this report as part of this year's performance review.

10.4 We carried out a targeted review of this Standard to obtain further information about the validation checks the HCPC completed on international applications received between 2003-2009. We wanted to know the likelihood of the register containing individuals who did not meet the requirements for registration when their application was received and assessed. The HCPC told us that it reviewed and carried out further checks on some of the information and documents submitted by applicants as part of their application to join the register. The response rate to the verification enquiries was relatively low due to factors beyond the HCPC's control. In response to this, the HCPC increased its sample size and was satisfied that the work it had

undertaken demonstrated that the risk of fraudulent applications was low. We understand that these additional checks were completed on approximately 3.7% of the applications received between January 2003-March 2009, and that the process identified only two cases which required further enquiries to be completed.

10.5 We have not seen any evidence to suggest that the HCPC added to its register anyone who failed to meet its requirements for registration this year, as the sample of entries we reviewed did not identify any anomalies. Likewise, following the additional checks completed on historical applications, the HCPC determined the risk of fraudulent applications to be low. Consequently, we are satisfied that this Standard is met.

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

11.1 Last year we reported that there were no concerns arising from the number of registration applications received and noted that the HCPC had prepared a forecast of the composition of its register in anticipation of the transfer of social workers to Social Work England. The registration area of its website describes the assessment process for applications for registration, and includes downloadable application forms for UK, EU/EEA and non-EU/EEA applicants.

11.2 The HCPC has not reported any changes to its registration process this year and although the median time taken to process initial registration applications from receipt of a completed application[17] has increased, we were not concerned about the timeframes recorded through the statistical dataset. Likewise, the number of registration applications received were largely comparable with the previous reporting period.

11.3 We noted an apparent increase in the number of registration appeals received and that the proportion of upheld appeals had remained at the same level as last year, which saw a significant increase. We were concerned that this increase could indicate problems with the initial registration decisions made by the HCPC. We asked the HCPC to outline the reasons for the number of registration appeals upheld.

11.4 The HCPC told us that the increase in the number of appeals upheld is a consequence of the consent process that was introduced to address the concerns we expressed about how the registration appeals process was functioning in our 2016/17 performance review. The HCPC told us that its registration appeals practice statement included the introduction of a consent process where the Appeal Panel is invited to allow the appeal with the consent of the appellant. The HCPC anticipated that this change would increase the number of registration appeals.

11.5 The table below records the HCPC's performance in this area in recent years:

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

	2016/17	2017/18	2018/19	2019/20
No. of appeals received	54	63	78	54
No. of appeals concluded	64	56	71	62
No. of appeals upheld	9	25	33	32
No. of appeals concluded with no additional information:				
Upheld	6	1	0	0
Rejected	13	3	0	0
Withdrawn	5	0	6	5

11.6 The number of registration appeals received throughout 2019/20 (some of which sits outside the period under review) has reduced from the level reported in 2018/19. The proportion of appeals upheld in 2019/20 has increased slightly from the levels reported in 2018/19, which was similar to 2017/18.

11.7 As the proportion of appeals upheld has remained largely consistent in recent years, and the number of appeals upheld where no additional information was provided remained at zero, the data does not suggest concerns about the initial decisions made by the HCPC.

11.8 We are satisfied that the HCPC's processes for registration, including appeals, is proportionate, fair and efficient. Whilst we have noted a sustained increase in the number of registration appeals received, the evidence we assessed did not suggest that the HCPC is making incorrect decisions.

11.9 We are satisfied that this Standard is met but will consider the need to audit a sample of appeals concluded in 2020.

Standard 12: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

12.1 The HCPC's prosecution policy sets out the three offences broadly related to the protection of title under Article 39 (1) of the Health and Social Work Professions Order 2001 and its approach to prosecution of offences under the Article. The policy states that the HCPC adopts a risk-based approach in deciding whether to prosecute, considering each case on the facts. The policy emphasises that the HCPC's role is to protect the public. The HCPC will usually only prosecute when alternatives to prosecution have failed to secure compliance or are inappropriate.

12.2 Whilst the prosecution policy does not differentiate between all the regulated professions, we noted a specific section about hearing aid dispensing offences, explaining that it is an offence for a person who is not a registered hearing aid dispenser to perform the functions of a dispenser of hearing aids. It clarifies that the offence only relates to dispensing activities which are connected with the retail sale or hire of hearing aids and does not affect hearing testing or dispensing performed, for example, by audiologists who work for the NHS.

12.3 The HCPC's performance reporting showed that there had been an increase in the number of misuse of title cases. We sought further information from the HCPC about the reasons for this increase and to establish what the HCPC is doing to manage what appeared to be an increasing backlog of cases which have the potential to impact on public protection. We also wanted to better understand the HCPC's work in protecting the hearing aid function as opposed to the title.

12.4 The HCPC told us that it has changed its processes so that all protection of title matters are now logged on receipt. Previously, potential protection of title matters that did not constitute a breach under the Order were dealt with as general enquiries and logged as miscellaneous cases. This meant that the performance data recorded in Council reports only captured the smaller number of cases that were identified as related to protection of title after the initial enquiries were conducted by staff. The new arrangements mean that all potential cases are logged as a protection of title matter so there is a formal record of the concern.

12.5 The HCPC suggested that the increase in the number of open misuse of title cases was therefore unsurprising. It had also sought to increase awareness of protection of title matters with its internal and external stakeholders. It also delivered training sessions with its registration department to support staff to confidently identify and act on any potential protection of title matters arising from applications to join or re-join the register.

12.6 We considered that the approach being taken by the HCPC did not raise concerns about public protection. The HCPC also told us that protection of title concerns are reviewed on a quarterly basis to identify any patterns or trends in the referrals received.

12.7 The HCPC confirmed that it takes the same approach to misuse of title cases and carrying out protected function cases. In all instances, concerns are investigated to establish whether there has been a breach of the Order and action is taken when it considers that an offence has been committed. The HCPC told us that it received one referral relating to the protection of function for hearing aid dispensers in the period under review, and that this case was closed with no further action as the evidence did not indicate that an offence had been committed.

12.8 The information and evidence we have reviewed against this Standard suggests that the HCPC appropriately manages the risk of harm and of damage to public confidence related to non-registrants using a protected title or undertaking a protected act. The increase in the number of open misuse of title cases is likely to more accurately reflect the number of cases considered and we understand that cases are regularly reviewed to establish and act on any trends identified. Consequently, we are satisfied that this Standard is met.

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

13.1 The HCPC's CPD framework does not distinguish between the different professions and requires all registrants to:

- maintain a continuous, up-to-date and accurate record of their CPD activities

- demonstrate that their CPD activities are a mixture of learning activities relevant to current or future practice
- seek to ensure that their CPD has contributed to the quality of their practice and service delivery
- seek to ensure that their CPD benefits the service user
- on request, present a written profile, with supporting evidence, explaining how they have met the standards for CPD.

13.2 We noted last year that the HCPC considered an internal audit which reported on the review of its continuing professional development processes. The review focused on whether the HCPC's CPD assessors are appropriately qualified, trained and understand their roles and responsibilities, and did not identify any significant concerns. We noted that when considering the audit report, the ETC said that the HCPC should remain open to reviewing its approach to CPD in the future.

13.3 In July 2019, the HCPC published its CPD audit report for 2015-17, which presented a review of the 16 professions audited between June 2015 and March 2017. The report concluded that the majority of registrants successfully completed their CPD audit, with most CPD profiles accepted after their first assessment.

13.4 We asked whether the HCPC has considered different approaches to CPD for the different professions it regulates, and whether the risk profile of the different professions was considered when developing and considering its approach to CPD.

13.5 The HCPC outlined the findings of the most recent CPD research report it commissioned which was published in 2017.[18] This research considered the impact of CPD on practice, the risks mitigated by undertaking CPD, and what improvements could be made to the HCPC's existing approach. The research also explored the differences in the CPD undertaken by those who had been subject to fitness to practise proceedings compared to those who had not, and found 'virtually no quantitative difference'. The HCPC explained that biennial audits of CPD processes also concluded that there were no significant differences in the outcomes between the different professions.

13.6 The HCPC has previously acknowledged that its CPD and audit system relies on self-assessment by registrants without external validation, and that the research report observed that 'The fact that the HCPC system does not check registrants against standards of conduct or competence, and is based on a self-assessment process reflects an awareness by the HCPC that their registrants represent a low risk. However, the HCPC does recognise their registrants have a low risk in relation to competence but have a high risk of unprofessional conduct'.

13.7 We considered the research report and reflected on the fact that it did not establish a quantitative difference between the CPD profiles of registrants with and without a fitness to practise history. The HCPC's response to our targeted review did not comment on the research or provide further information on how it had considered the risk profiles of the different professions. This also suggested that the HCPC had

[18] https://www.hcpc-uk.org/resources/reports/2017/cpd-report-what-is-the-evidence-for-assuring-the-continuing-fitness-to-practise-of-hcpc-registrants-based-on-its-cpd-and-audit-system/

not considered the extent to which its existing one size fits all approach to CPD remained appropriate for the 15 professions.

13.8 We noticed that the HCPC is undertaking further work in this area later in 2020, and that in the period under review, it reviewed the data it held about the outcomes of the CPD audits for the different professions. Although we remained concerned that the HCPC does not appear to have fully considered the extent to which its existing approach is appropriate for the different professions, we noted that profession specific sample CPD profiles are available on its website. We understand that these sample profiles provide examples of how the different professions can show they meet the standards for CPD in a variety of settings and activities. This provided some assurance that the current approach enables registrants to maintain competence, and we acknowledge there we have not seen evidence that the HCPC's existing approach is failing to address risk.

13.9 We are satisfied that this Standard is met.

Fitness to Practise

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

14.1 The HCPC has not met this Standard since 2015/16. In the 2016/17 performance review our audit of closed cases identified concerns about how the Standard of Acceptance (SOA) was being applied. Our audit found evidence of cases being closed inappropriately and high thresholds being imposed on complaints. Ultimately, we concluded that the HCPC's application of the SOA was acting as a barrier to complainants raising concerns about registrants.

14.2 The HCPC accepted our audit findings and developed the fitness to practise improvement plan to address our concerns. The fitness to practise improvement plan resulted in a decision to replace the SOA with a new *Threshold policy for fitness to practise investigations* (the Threshold policy) which was introduced in January 2019.

14.3 This Standard was not met last year because the HCPC had not fully implemented the fitness to practise improvement plan which it told us would address the shortcomings we identified with the SOA, and there was limited information available to us about the quality of decisions being made at the initial stages of the fitness to practise process.

14.4 This year we audited of 71 cases closed by the HCPC at various stages of the fitness to practise process in the period under review. This equates to approximately 4% of the cases closed by the HCPC in the period under review.[19] By auditing a sample of cases, we extrapolate our findings across the HCPC's caseload. As we consider that our audit sample is representative of the HCPC's

[19] Between 1 January and 31 December 2019, the HCPC closed 1,783 at all stages of the fitness to practise process. It is noted that the information provided to us did not include the social worker complaints received between 21 November and 2 December 2019.

wider caseload, our audit findings are expressed in percentages instead of numbers of cases and refer to the themes that arise from the cases we looked at.

14.5 Our observations in the cases that were closed at the triage stage of the process informed our assessment of the HCPC's performance against this Standard. The sample included cases involving social workers. Although the regulation of social workers has transferred to Social Work England, the HCPC's approach to complaints did not vary according to the profession and we could see no reason to exclude these cases. The HCPC was not able to respond to our concerns about these cases because, following the transfer of the cases to Social Work England, the HCPC considered that the requirements of the General Data Protection Regulation and the Data Protection Act meant it was legally required to delete all social worker data it held once the transfer to SWE had been completed.

14.6 The Threshold policy introduced a two-stage decision making process to ensure that the right decisions are made on cases following receipt (at 'triage' stage) and after any initial investigation ('threshold criteria' stage). It was intended that this would increase the focus on the investigation of cases that proceed beyond the initial stage. The triage decision is a simple assessment of whether a concern is within the HCPC's remit to deal with. It is intended to be a 'low bar' and only concerns that do not meet this test may be closed at this stage.

14.7 We reviewed 22 cases that were closed at the triage stage. The triage stage requires staff to:

- use three separate pieces of information to verify that the complaint relates to an individual on the HCPC register
- confirm that the matters raised are capable of falling within one of the five statutory grounds[20]
- complete a risk assessment.

14.8 Whilst reviewing these cases, we noticed that risk assessments were not completed and that the form directs staff to bypass the risk assessment section if the decision is that the case will not meet the triage test and is to be closed. We were concerned that this might indicate that the HCPC is not complying with its policy on risk assessments on receipt of a concern'.[21] The HCPC told us that risk assessments are not carried out on cases that are outside its remit as it has no jurisdiction to consider the case. Whist we do not disagree, we would suggest that the policy is reviewed, as it currently does not accurately reflect this approach.

Our audit findings

14.9 We did not identify any concerns in 45% of the cases we reviewed at this stage. The HCPC tells complainants which matters it is going to progress and invites their views on the accuracy of matters they have identified. This is good practice, as is

[20] The five statutory grounds available to the HCPC are: misconduct, lack of competence, conviction or caution for a criminal offence, physical or mental health and a determination by another health or social care regulatory or licensing body.
[21] Extract taken from the HCPC's Threshold policy https://www.hcpc-uk.org/globalassets/resources/policy/threshold-policy-for-fitness-to-practise-investigations.pdf

the fact that its case managers formally introduce themselves to interested parties and outline their role.

14.10 We identified concerns in the remaining 55% of the cases we reviewed at the triage stage. The most prevalent issues at this stage of the process are outlined in the table below:

Theme	Finding
Record-keeping	This theme was repeated at all of the decision-making points we reviewed. Examples included: failing to include details of the similar case the HCPC was said to have previously considered; references to telephone calls that were not separately documented; and failing to document an assessment of information obtained from an external website.
Customer service	Examples included: using unhelpful or potentially misleading language to explain the HCPC's decision; delays in acknowledging or responding to interested parties.
Decision-making	This theme was also replicated in other stages of the fitness to practise process. The issues we identified here were that the triage and threshold criteria tests were conflated so that the evidentiary requirements for assessment against the threshold criteria were brought forward to the triage stage, or that we disagreed with the decision to close the case at a particular stage of the fitness to practise process. The HCPC disagreed with our assessment of the decisions made in these cases. It was not able to review one case as it related to a social worker.

14.11 We considered whether the concerns we identified were likely to be replicated in the HCPC's caseload. We looked at our findings on decision-making in cases closed at other stages of the fitness to practise process. We noted that our concerns in those cases (which we report on later as they are not relevant to this Standard) identified different types of errors. This alleviated our concern that the issues we identified in the triage cases could point to serious systemic issues that decisions made by the HCPC could be preventing legitimate complaints from progressing to the appropriate stage of the fitness to practise process. There were also no cases closed at the triage stage where we considered that public protection might have been compromised.

14.12 We concluded that the triage stage of the fitness to practise process is operating as intended, and there do not appear to be undue barriers to raising complaints, as most complaints progress to the next stage of the process. This is also supported by our statistical dataset which shows that only a small proportion of cases received are closed by the HCPC at the triage stage.

Source of complaints

14.13 As well as our audit findings, we noted that the HCPC continues to receive complaints from a variety of different sources. The table below sets out data taken from the HCPC's annual reports on the source of complaints.

	2016/17	2017/18	2018/19
Total number of complaints received	2,259	2,302	2,424
Anonymous	2.5%	2.8%	3%

Member of the public	42.3%	42%	47%
Self-referral	20.4%	19.2%	18%
Employer	26%	26%	24%
Other registrant/professional	2.7%	3.3%	4%
Professional body	0.38%	0.7%	1%
Police	1.22%	1%	1%
Other	4.5%	5%	2%
Total	**100%**	**100%**	**100%**

14.14 The table shows that the proportion of complaints received from the different sources has remained broadly consistent despite increasing numbers of complaints and does not raise concerns about any particular group being prevented from raising a concern about the fitness to practise of a registrant. The other statistical information available to us shows that a greater proportion of complaints are proceeding through the HCPC's fitness to practise process. The table below shows the number of referrals received and the number of decisions made by the Investigating Committee Panel (ICP) in the period under review.

	2018/19 Annual	2019/20 Annual
Number of referrals received	2,424	2,284
Number of decisions made by the ICP	556	1,062
% of cases considered by the ICP	23%	46.5%

14.15 This appears to show that the Threshold policy is operating as intended as fewer cases are being closed by staff and more cases are being considered by the ICP which is independent of the HCPC.

14.16 We concluded that the systemic issues we identified in the application of the old SOA at the initial stage of the fitness to practise process appear to have been resolved and that complainants do not face undue barriers in raising concerns with the HCPC.

14.17 We are satisfied that this Standard is met.

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

15.1 We carried out a targeted review of this Standard as we have reported significant concerns about the HCPC's performance in the respect of our previous Standards for Fitness to Practise for several years now. These looked at:

- whether the fitness to practise process is transparent, fair, and proportionate and focused on public protection – not met since 2016/17

- whether 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 – not met since 2014/15
- the extent to which 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 – not met since 2016/17.

15.2 In addition, the statistical dataset suggested that the HCPC had made only limited progress in concluding its older cases. We had understood this to have been a focus of its case progression strategy last year. We asked the HCPC to outline the measures introduced to assist the progression of cases. We also sought information on their impact.

15.3 Our audit provided insights into the HCPC's processes for examining and investigating cases, and we had concerns about timeliness; compliance with policies; record-keeping; decision-making; quality of investigations; as well as the cumulative impact of these findings on public protection and public confidence in the HCPC as a regulator.

15.4 We have previously raised concerns about the HCPC's processes relating to the discontinuance of proceedings, disposal of cases by consent, proceeding in the absence of a registrant and considering health matters during fitness to practise proceedings.

15.5 The Health and Care Professions Tribunal Service (HCPTS)[22] publishes a series of Practice Notes (PNs) for the guidance of Panels and some of these were recently revised. However, we continue to identify concerns about the HCPC's application of the PNs in the cases reviewed through our section 29 process, and have issued learning points to this effect. The number of learning points issued to the HCPC increased this year despite a reduction in the number of appealable decisions being reported to the Authority.

15.6 During this review period the HCPC introduced a new heath policy which outlined how it would consider health matters. Our review of closed cases identified one case where we considered that the HCPC may have departed from its health policy. The HCPC did not agree with our assessment and that particular case did not heighten our concerns about the HCPC's approach to health matters.

15.7 We will continue to monitor how the HCPC is applying its PNs through our section 29 process.

Our audit findings

15.8 We made the following findings about the HCPC's handling of the cases we audited:

Theme	Findings
Record-keeping	We identified concerns with the quality of the records maintained by the HCPC in 37% of the cases we reviewed and at all stages of the process. The concerns included: (a) reasons for decisions not recorded; (b) actions not recorded or documents not located in the case file; (c)

[22] The HCPTS is the adjudication service of the HCPC and considers cases referred to it by the ICP, or previously considered by the Conduct and Competence Committee or the Health Committee.

	information recorded incorrectly; and (d) insufficient detail contained in file notes. We considered that the frequency of these omissions could indicate that the HCPC's processes for examining cases might not be operating as intended and might result in gaps in the evidence provided to decision-makers.
Quality of investigation	We identified concerns in 20% of the cases[23] where we considered that an investigation was required. These were: (a) limited or insufficient information obtained; (b) an over-reliance on investigations completed by other agencies; (c) failure to properly consider the evidence obtained; (d) the matters investigated by the HCPC did not capture the concerns reported; and (e) relevant factors were not considered, for example the impact of previous cases involving the registrant. In some cases, the quality of the investigation adversely affected the HCPC's ability to progress the case as quickly as possible and led to some cases being closed prematurely as the HCPC did not investigate all of the relevant matters, or reached conclusions which we considered inappropriate at the stage the decision was made.
Compliance with policies	We observed that the HCPC deviated from its policy or guidance issued to staff in 20% of the cases we audited. These were at all stages of the fitness to practise process and related to the incorrect application of the triage or threshold criteria tests. We also identified one case where the health policy was not, in our view, applied correctly. We did not consider our observations on the completion of risk assessments here.
Timeliness	We identified significant delays in approximately 39%[24] of the cases we reviewed and at all stages of the process. We identified: (a) significant and avoidable delays in requesting and chasing up information; (b) unexplained periods of inactivity on case files; (c) delays in informing parties of decisions; and (d) delays in reviewing information received from third parties.

15.9 We considered that the conduct of approximately 22.5% of cases could undermine public confidence in the HCPC as a regulator and that the outcome in 4% of cases was not likely to be sufficient to protect the public.

15.10 In its response, the HCPC noted that a sizeable proportion of the cases we reviewed were investigated under its old processes which ceased in January 2019. The HCPC told us that it did not consider it appropriate that our observations in the cases investigated under its old processes informed our audit findings and assessment of its performance. We disagree. The Authority has a duty to report on the HCPC's performance throughout the period under review. Disregarding the information from cases under the old process would mean that we ignored the HCPC's management of fitness to practise enquiries during almost one quarter of the period under review. Moreover, we did not see a significant difference in the HCPC's performance after the new processes were introduced.

[23] These are the cases which passed the triage test or were progressed under the SOA as well as those which we assessed were closed inappropriately or prematurely. We did not assess the initial enquires undertaken at triage as investigations into the issues raised.

[24] This total does not include the cases which were closed by the HCPC between 1-18 January 2019 as the Threshold policy came into effect on 14 January 2019.

15.11 When invited to do so, the HCPC commented on the factual accuracy of our case observations that it was able to review. On the whole, it did not dispute the accuracy of our findings in respect of record-keeping, the quality of investigations, timeliness and our assessment of the impact on public protection and public confidence in the HCPC. The fitness to practise improvement plan, which was published in July 2020 outlined some of the HCPC's proposals for improving its performance in this area. This included a commitment to implementing a new Case Management System which will minimise the use of manual processes and also allow for a more robust approach to completing investigations.

15.12 Before we disclosed our audit findings, the HCPC provided information on the changes it had introduced to improve the quality of the investigations completed and to aid the progression of cases. These included:

- a process to ensure difficulties with obtaining information from third parties are escalated to a senior manager within the HCPC as soon as possible
- realigning the investigation department into profession-specific teams
- renewing the focus on advancing the oldest cases to an ICP
- introducing fast track ICPs in cases that change significantly once a decision is made on the threshold criteria
- case review stages for cases identified as serious, with the aim of improving and monitoring the quality of the case work and to provide further mechanisms for case review.

15.13 We welcome the HCPC's renewed focus on progressing cases at the initial stages of the fitness to practise process. In principle, they should address our concerns. Many of the measures outlined were introduced in the period under review but they do not appear to have significantly improved the HCPC's performance as we saw it. This may be because some measures may require time to become embedded and to take full effect or because cases where they were relevant were not included in our sample. Moreover, some were not introduced until December 2019, near the end of this performance review period.

The statistical dataset

15.14 Our statistical dataset is a significant consideration in our assessment of the HCPC's performance against this Standard since it provides a consistent measure of performance across the regulators. The HCPC has not met our Standard[25] in respect of the timeliness of its fitness to practise process since 2014/15.

15.15 The table below records the HCPC's performance in the period under review as well as the annual data for the 2019/20 period.

[25] This is Standard 6 for Fitness to Practise of the previous Standards Good Regulation – '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'.

	16/17	17/18	18/19	19/20 Q1	19/20 Q2	19/20 Q3	19/20 Q4	19/20 Annual
Median from receipt to ICP	34	41.1	61	63	62	60	57	61.6
Median from ICP to FtPC	49	49.6	50	34	32.9	32	34	33.6
Median from receipt to FtPC	97	92	102	100.3	107	99	104	103.2
Open cases older than:								
52 weeks	334	444	596	638	641	338	344	344
104 weeks	91	105	172	185	215	128	134	134
156 weeks	58	38	42	49	54	29	40	40

15.16 The table shows:

- Performance in the median timeframe from receipt of a complaint to the final decision of the ICP has remained similar to last year

- Performance has markedly improved in the cases where the ICP determines that there is a case to answer. The annual median times steadily increased from 2014/15 (39 weeks) until 2018/19 (50 weeks). It is now has now decreased to 33.6 weeks

- The overall end to end timeframe from receipt to Fitness to Practise Committee (FtPC) has remained similar to last year

- The number of aged cases in two of the three categories that we report on has fluctuated in the period under review. Although Q4 of 2019/20 is outside this period, the data reported for that period provides useful context on the age profile of the HCPC's caseload. While the number of cases aged over 156 weeks reduced when social workers were removed in Q3 2019/20, the reduction was not maintained and that the number of cases in that category increased significantly in Q4 of 2019/20.

15.17 The HCPC has informed us that 13 of the 29 cases that were aged over 156 weeks in Q3 of 2019/20, were included in the same category in March 2019. The HCPC also provided information on the additional measures it introduced to improve how cases progress through its fitness to practise process. These are outlined in paragraph 15.12 above and we note that some were introduced towards the end of the current review period.

15.18 The HCPC has also changed its process for preparing cases for a final hearing: the HCPTS now takes an active role with the HCPC's Case Preparation and Conclusion team to ensure that cases are progressed and concluded as quickly as possible. These measures may have driven the improvements recorded for the time taken to present a case to a final hearing. However, we have also observed an increase in the proportion of HCPC cases considered at a case meeting and subsequently appealed by the Authority, from zero cases in 2018 to nine cases[26] in the period under review. Whilst we welcome improvements in timeliness, we would want to be

[26] Five cases concerned social workers: three were concluded by consent and two remain ongoing. Of the remaining four, one was dismissed on all grounds, two were concluded by way of consent and the final case has not yet concluded.

assured that the increase in the number of cases giving rise to concerns under our section 29 jurisdiction are not connected to these additional measures.

Conclusion against this Standard

15.19 We have recorded significant concerns about the HCPC's performance against the different aspects of this Standard for several years now, and the information we reviewed this year, including the issues raised in the learning points issued through the section 29 process have not alleviated our concerns. Our audit findings identified concerns which replicated those identified by our section 29 process and are consistent with our concerns in previous years.

15.20 We are extremely concerned that the evidence available to us suggests that the additional financial investment and changes to its processes has had only a limited effect in addressing our long-standing concerns. The shortcomings we identified in the cases we reviewed are serious and, in our view, are likely to have resulted in delays and poor quality evidence to support decision makers and, therefore, impact on their ability to reach a fair decision that protects the public.

15.21 The statistical information demonstrates that overall, the HCPC's performance has not improved significantly. While there has been a marked improvement in the median time from IC to FtPC, the other two measures that we consider have not improved. Last year the HCPC told us it was hopeful that the impact of the changes made in 2018/19 would be fully demonstrated in the statistical dataset for 2019/20. This has not happened. We do not consider that the increase in the number of new cases and that the team was focussing on disposing of social worker cases in advance of the transfer to Social Work England, mitigates our concern at this position.

15.22 This Standard is not met in the period under review.

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

16.1 The HCPC has not met this Standard[27] since 2016/17. In addition, we noticed an increase in the number of learning points issued to the HCPC through our section 29 process. We also wanted to assess the training and support provided to staff and panellists involved in final hearings as we were concerned about the quality of some of the decisions notified to us in the period under review.

16.2 As well as considering the HCPC's response to our targeted review questions we used our audit findings as well as information available to us through the section 29 process to assess the HCPC's performance against this Standard.

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[27] These are Standards 3 and 5 of our previous Standards of Good Regulation. 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'. Standard 5: 'The fitness to practise process is transparent, fair, and proportionate and focused on public protection'.

16.3 As this Standard is focused on the quality of all decisions made by the regulator, we took the view that all of our observations on the themes arising from our case reviews on the triage process, decision-making, and compliance with guidance and policies informed our findings on public protection and public confidence in the HCPC as a regulator.

Section 29 process

16.4 In the period under review, the Authority has referred nine HCPC decisions to the courts as we considered that the outcome was insufficient for public protection. A high number of these cases involved social workers. Our concerns, which also applied to those cases where we decided not to refer the cases to court included:

- poor or unclear reasoning as well as failing to adequately assess and act on the seriousness of the conduct
- poor assessment or consideration of misconduct and impairment
- incorrect application of the legal advice and case law and inadequate consideration of the public interest.

Third party feedback

16.5 We received feedback from two organisations about the quality of decisions made at the ICP stage as well as administrative errors and an over-reliance on investigations completed by others, such as employers. One of the third parties expressed the view that these issues were not being addressed by the HCPC. We shared this feedback with the HCPC.

16.6 We noted that the scale of the concerns identified about final hearing decisions suggested a systemic problem and raised concerns as to how successfully the new Sanctions Policy has been embedded and the extent to which it is being considered by the HCPC's panels.

Our audit findings

16.7 Our audit of the 71 fitness to practise cases closed by the HCPC in the period under review identified similar issues. Our audit found:

Theme	Finding
Triage	The triage stage is operating as intended, with most cases progressing to the next stage of the process.
Decision-making	In approximately one quarter of the cases audited, and at all decision-making stages, we found that: (a) decisions were made by staff which were reserved for the ICP; (b) the explanation of the decision included significant errors; (c) insufficient information was available to make a reasonable decision. In the cases that were closed by the ICP, we were concerned about failures to: consider all the factors set out in the ICP guidance; provide adequate reasoning; examine the evidence in sufficient detail and; address the public interest factors of declaring and upholding proper professional standards.

Compliance with policies	In 20% of cases we found that the HCPC deviated from its policy or guidance issued to staff, although not all these departures impacted on the decisions made.
Public confidence and public protection	In 22.5% of all cases reviewed, we identified that the HCPC's handling had the potential to undermine public confidence in the HCPC as a regulator. Half of these included concerns relating to decision-making. In 4% of cases we considered that the outcome might not be sufficient to protect the public as either the correct tests were not applied and so some cases were closed prematurely, or issues were left unresolved due to deficiencies in the HCPC's investigation.

16.8 As outlined in Standard 15, the HCPC did not dispute the accuracy of our findings relating to the themes which arose from our case observations in the cases it was able to review. We note that the Council recently approved an action plan spanning 18 months which outlines further improvement activity in the fitness to practise department. This includes proposals to improve the quality of decision-making.

16.9 We also sought information from the HCPC about the training provided to panellists and staff involved in ICP and final hearings. We wanted to know whether the training and support provided was contributing to some of the issues identified in the decisions notified to the Authority.

16.10 The HCPC told us that this training is delivered to the relevant staff and panellists on a two-yearly cycle and that the most recent cycle to September 2019, included training on: recognising factors to consider when applying the realistic prospect test at ICP; the role of the panel in amending allegations and the importance of taking ownership of cases, allegations and content of the decision; factors to consider when conducting registration panels; recognising key attributes of well written fitness to practise determinations as well as identifying factors to consider when deciding on the length of a sanction.

16.11 Given the nature and severity of the concerns identified in some of the HCPC decisions submitted to the Authority, we considered that training could be expanded to include the new Sanctions Policy and further work on ensuring that decisions are fair, consistent and transparent.

16.12 We note that the fitness to practise improvement plan was fully delivered in the period under review, leading to changes to the HCPC's processes and to a number of new roles to provide technical/specialist guidance or oversight of key decisions.

16.13 We are concerned that, with the exception of the triage stage of the process, there has not been any appreciable improvement in the quality of the HCPC's decision-making, despite the three years that have passed since we first reported on the scale and seriousness of the problems and their impact on the HCPC's ability to discharge its over-arching objective of protecting the public.

16.14 This Standard is not met in the period under review.

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

17.1 Last year we reported an increase in the number of applications made to the High Court seeking an extension to an Interim Order (IO). This is a measure we use to assess how serious cases are progressed. The HCPC's performance in this area raised a concern about its prioritisation of serious cases. We said that we would monitor the data regarding High Court applications for extensions to interim orders. The increase has continued in the period under review.

17.2 The HCPC has not met this Standard[28] since 2015/16.

17.3 Our dataset shows an increase in the median time taken to obtain an IO from receipt of an initial complaint. This is demonstrated in the table below:

Median weeks	2016/17	2017/18	2018/19	19/20 Q1	19/20 Q2	19/20 Q3	19/20 Q4	2019/20
From receipt to IO decision	18.9	14	15.5	13.6	19.1	21	19.6	19.1
From decision that information indicates possible need for IO	2.9	2.85	4	2.7	2	2	3.5	2.7

17.4 The increase in the overall time taken to obtain an IO is concerning given its direct impact on public protection. However, the HCPC acts swiftly once it identifies the need to obtain an IO: the median timeframe to obtain an IO following the decision that one needed to be obtained was 2.7 weeks, which is the shortest timeframe across all of the regulators this year. The dataset also shows a significant increase in the number of applications made to the High Court seeking an extension. The table below shows the HCPC's performance in this area in recent years:

	16/17 Annual	17/18 Annual	18/19 Annual	19/20 Q1	19/20 Q2	19/20 Q3	19/20 Q4	19/20 Annual
No. of High Court extensions to IO's applied for	12	38	54	16	18	15	15	64

17.5 The HCPC told us that regular reviews are completed on cases where the time taken to obtain an IO exceeds its own KPI and that the reasons for the increasing timeframes can vary and are often case specific. Where identified, learning points are fed back to the those involved. The HCPC also said that the reasons for the increasing timeframes were primarily due to external factors such as ongoing police investigations, the receipt of new health information which increases the risk, and receipt of information from another source which increases the risk.

17.6 We understand from the HCPC that there were some cases where the risk category changed following consideration of a profession specific matter by a registrant panel member at the ICP. We were concerned some risks were only identified by the ICP at what is a late stage in the investigation. While we were reassured that the ICP provides this additional safeguard for public protection, it raises a concern that the

[28] This was formerly Standard 4 for Fitness to Practise which assess whether 'fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel'.

HCPC's staff may not be appropriately trained or supported to identify concerns that may impact on public protection.

17.7 We are also concerned that the increasing number of cases requiring an extension of an IO which is due to expire suggests that serious cases are not being prioritised. However, none of these applications were rejected by the High Court, which provides some assurance that the HCPC's requests for additional time to conclude its investigations were not unreasonable.

17.8 Our audit findings are relevant to our assessment of the HCPC's performance in this area as we reviewed risk assessments and the practice we identified may be a contributing factor to the increasing timeframes reported here. We also identified concerns with the quality of the risk assessments we reviewed.

17.9 The HCPC requires staff to conduct a risk assessment in the following circumstances:

- on receipt of a concern
- on receipt of new and material information
- every eight weeks from receipt of the concern
- when an allegation is sent to the registrant
- on receipt of the registrant's observation on the matters alleged.

17.10 Although there were no instances where we identified a failure to consider the need to apply for an IO, we identified concerns about the quality and/or frequency in which risk assessments were completed in 59% of the cases which passed the triage stage.

17.11 Whilst some of the risk assessments we reviewed were completed outside the period under review, we considered it appropriate to take account of the concerns we identified about risk assessments in all these cases as they provided a full picture of the quality and consistency of risk assessments.

17.12 Our main concerns involved: (a) assessments were not carried out on receipt of new information or in compliance with the timeframes set out in the HCPC's guidance; (b) the risk factors were not appropriately identified and/or lacked enough detail; (c) the elevated risk rating was not used to prioritise the investigation; (d) assessments that were completed were inaccurate or incomplete; (e) a tendency to summarise the case without specifying the risk factors or setting out how these had been weighted and balanced to inform the risk rating awarded and the subsequent prioritisation of the case; (f) a failure to complete a proper assessment; (g) a lack of consistency in completing risk assessments at least every eight weeks in cases where there was a requirement to do so.

17.13 The HCPC did not dispute the accuracy of our findings in relation to the issues we raised about the quality and frequency of the risk assessments completed in the cases we reviewed. However, its response to the targeted review demonstrated an understanding of some of the factors that may be contributing to the increasing median timeframe for obtaining an IO from initial receipt of the complaint and we note that the HCPC acts quickly once it establishes than an IO might be required.

17.14 We concluded that, taken together, our concerns suggested that the HCPC's approach did not ensure that information is fully and properly assessed in order to prioritise serious cases and/or progress cases as quickly as possible. Therefore, we concluded that this Standard is not met.

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

18.1 This Standard[29] was met last year when we noted that the HCPC updated its virtual tour of its dedicated hearings facilities and also reviewed its internal procedures. We noted this year that the HCPC strengthened its approach to supporting witnesses and those involved in fitness to practise proceedings. The HCPTS website includes a participant information section which contains information for registrants, representatives and witnesses. Information is also provided on organisations that can provide support in fitness to practise proceedings for example The Bar Pro Bono Unit,[30] Scope,[31] Mind,[32] Samaritans and SANE.[33]

18.2 Our observations from the closed cases we reviewed informed our assessment of the HCPC's performance in this area during the review period.

Our audit findings

18.3 Our audit identified concerns about the quality of the customer service provided in 45% of the cases we audited. We looked at the cases where these concerns were identified and we did not identify a pattern or any trends that would suggest that the concerns are limited to a certain type of case or a certain stage of the fitness to practise process.

18.4 The most prevalent or concerning issues were:

- parties not being updated or supported to participate effectively in the process because the process was not explained at the initial investigation stage, short timeframes being provided for submitting information, or outcomes (such as closure letters containing decisions) which were not sent to the interested parties
- avoidable delays[34] in communicating with parties. This included instances where the HCPC did not respond to requests for an update on the status of its investigation

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[29] This was formerly Standard 7 for Fitness to Practise which looked at whether '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'.
[30] The Bar Pro Bono Unit is a charity which helps to find free legal assistance from volunteer barristers.
[31] Scope is the disability equality charity in England and Wales which provides practical and emotional support.
[32] Mind is a charity which provides advice and support to empower anyone experiencing a mental health problem. Its legal line provides information on mental health related law to the public, service users, family members/carers, mental health professionals and mental health advocates.
[33] SANE is a charity which works to improve the quality of life for people affected by mental illness.
[34] We only recorded multiple instances of more than two weeks and single instances of four weeks, in the feedback provided for each party.

- limitations in the quality of the correspondence issued by the HCPC. This included instances where the correspondence was either inaccurate, unclear, not adequately tailored to the interested parties, or contained no explanation of the process
- correspondence that was less than courteous or where the information provided was misleading.

18.5 We considered that some of the instances where the HCPC deviated from its own policies or guidance issued to staff impacted on the quality of service provided to interested parties. We also established that the significant delays we observed in some of the cases we reviewed impacted the service and support provided to those party to the proceedings.

18.6 As outlined previously, the HCPC did not dispute our findings which were informed by our observations in the cases we reviewed. As we are not aware of work planned by the HCPC to improve its performance in this area, we cannot be assured that the level of customer service and support provided to a large proportion of those party to fitness to practise enquiries undertaken by the HCPC will improve. We have determined that this Standard is not met.

Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled this glossary below, spelling out abbreviations, but also adding some explanations.

Below the glossary you will find some helpful links where you can find out more about our work with the 10 regulators.

Glossary

A

Accreditation	The HCPC accredits programmes which meet its standards for initial education and training. Programmes are approved on an open-ended basis, depending on satisfactory monitoring. This means that there is no cyclical or periodic schedule of approval visits. Approved programmes are subject to annual monitoring and/or a major change process.
Annual monitoring	A series of questions about the performance of approved programmes which education providers are required to respond to and submit to the HCPC each year. The HCPC reviews the completed document to assess the performance of the programme each year.
Assessment	In our **performance reviews**, the assessment is the first stage, where we decide the scope of our review. You can find more information about our performance review process on our website.
Audit (of FTP cases)	A review of a sample of fitness to practise cases closed by the regulator, to assess how its processes operate in practice and whether the decisions made protect the public and maintain public confidence in the regulator and profession. The audit involves us accessing the regulator's systems and looking at how cases have been managed. We may decide to carry out an audit as part of a targeted review. We can also audit other areas of the regulator's work, such as its registration function. You can find more information about our performance review process on our website.

C

Case to answer	A professional has a case to answer about their **fitness to practise** if the regulator decides that there is a reasonable chance that a serious concern about the professional might be found proved at a hearing.
Conduct and Competence Committee (CCC)	An independent committee of the HCPC which makes final decisions about whether a registrant's fitness to practise is impaired.
Consultation	A formal process by which an organisation invites comments on proposed changes to how it works.
Corporate complaint	A complaint to a regulator about something the regulator has done, for example a service it has provided.
Council	The HCPC's Council is responsible for ensuring that the HCPC fulfils its statutory objectives. It sets the strategic direction for the organisation and oversees the implementation of that strategy and the performance of the organisation.

E

Equality Act	The law that protects people from discrimination in the UK.
Equality Impact Assessment (EIA)	A process of considering the likely impact on different groups of people of a project or piece of work, intended to ensure that the work does not discriminate against anyone.

F

Fitness to Practise (FtP)	Regulators have a duty to consider information, such as complaints, which indicates that a **registrant** may not be fit to practise. If a regulator decides that a **registrant'**s fitness to practise is impaired, it may take action to protect the public, to maintain public trust in the profession and/or declare and uphold professional standards.

I

Interim Order (IO)	A decision by a regulator to restrict the practice of a professional while the regulator investigates a concern about their fitness to practise. Interim orders can only be imposed if they are necessary to address serious risks.
Investigating Committee Panel (ICP)	An independent committee of the HCPC which considers fitness to practise complaints to decide whether a professional has a case to answer.

K

Key Performance Indicator (KPI)	Regulators measure and report on their own performance, including to their Council. A regulator may set and report on performance targets in areas of its work it considers particularly important. These are known as KPIs.

M

Median	The middle number in a set of data: for example, the median time it takes a regulator to process registration applications means that half the applications were processed within that time.
Memorandum of Understanding (MoU)	An agreement between two or more organisations about how they will work together.

O

Over-arching objective	The Health and Social Care (Safety and Quality) Act 2015 introduced legislative amendments which set out that the over-arching objective of the regulators and the Authority in exercising their functions is the protection of the public.

P

Performance Review	Our annual review of how well a regulator is performing. You can find more information about our performance review process on our website.
Protected characteristic	The **Equality Act 2010** makes it illegal to discriminate against someone on the basis of any of the following: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. These are known as protected characteristics.
Protected function	A task, or series of tasks, which may only be carried out by an individual who is registered in the relevant profession by a statutory regulator.
Protected title	A title which only a registered professional is allowed by law to use. For example, only a registered osteopath can use the title osteopath in the UK.

R

Register	Each regulator maintains a register, that is, a list of the people it regulates and who have met its criteria for registration. The GPhC also maintains a register of pharmacy premises that have met its criteria for registration.
Registrant	A professional on a register is known as a **registrant**.

S

Scope of Practice	The areas in which a registrant has the knowledge, skills and experience necessary to practise safely and effectively.
Section 29	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).
Stakeholder	A person or organisation who has an interest in a regulator's activities, for example a group that represents patients or professionals.
Standard of acceptance (SOA)	The threshold the HCPC used to use to decide whether to investigate a case referred to it.
Standards of Conduct, Performance and Ethics (SCPE)	The ethical framework which registrants must work within. The Standards outline how registrants are expected to behave as well as what the public should expect from registrants.
Standards of Education and Training (SET) level	The minimum threshold entry level of qualification for entry on to the HCPC register.
Standards of Proficiency (SOP)	The professional standards that all registrants must meet in order to become registered, and remain on the register. Each of the 15 professions has its own standards.
Statutory functions	The activities a regulator must carry out by law. The regulators we oversee are required to set standards for the

	professions they regulate, hold a register of professionals who meet those standards, assure the quality of training for entry to the register, and take action if a registrant may not be fit to practise. Some regulators have other statutory functions as well.
Statutory regulators	The regulators we look at in our **performance reviews** are statutory regulators. This means that their powers and responsibilities are set out in law.

T

Targeted review	Part of our **performance review** where we seek more information about how a regulator is performing. You can find more information about our performance review process on our website.
The Shaw Trust	A charity which employs people with a wide range of disabilities and accessibility needs and supports organisations in checking the accessibility of their websites. You can find out more about their work at https://www.shaw-trust.org.uk/.
Threshold Criteria	The criteria used by the HCPC to decide whether a fitness to practise concern should be referred to its Investigating Committee Panel for consideration. These criteria are applied to cases that progress past triage to further investigation.
Triage	The initial assessment undertaken by the HCPC when it receives a fitness to practise concern.

W

Whistleblowing	Disclosing information about wrongdoing within an organisation.

Useful links

Find out more about:

- the 10 regulators we oversee
- the Health and Care Professions Council
- the evidence framework we use as part of our performance review process
- the most recent performance review reports published
- our scrutiny of the regulators' fitness to practise processes, including latest appeals

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