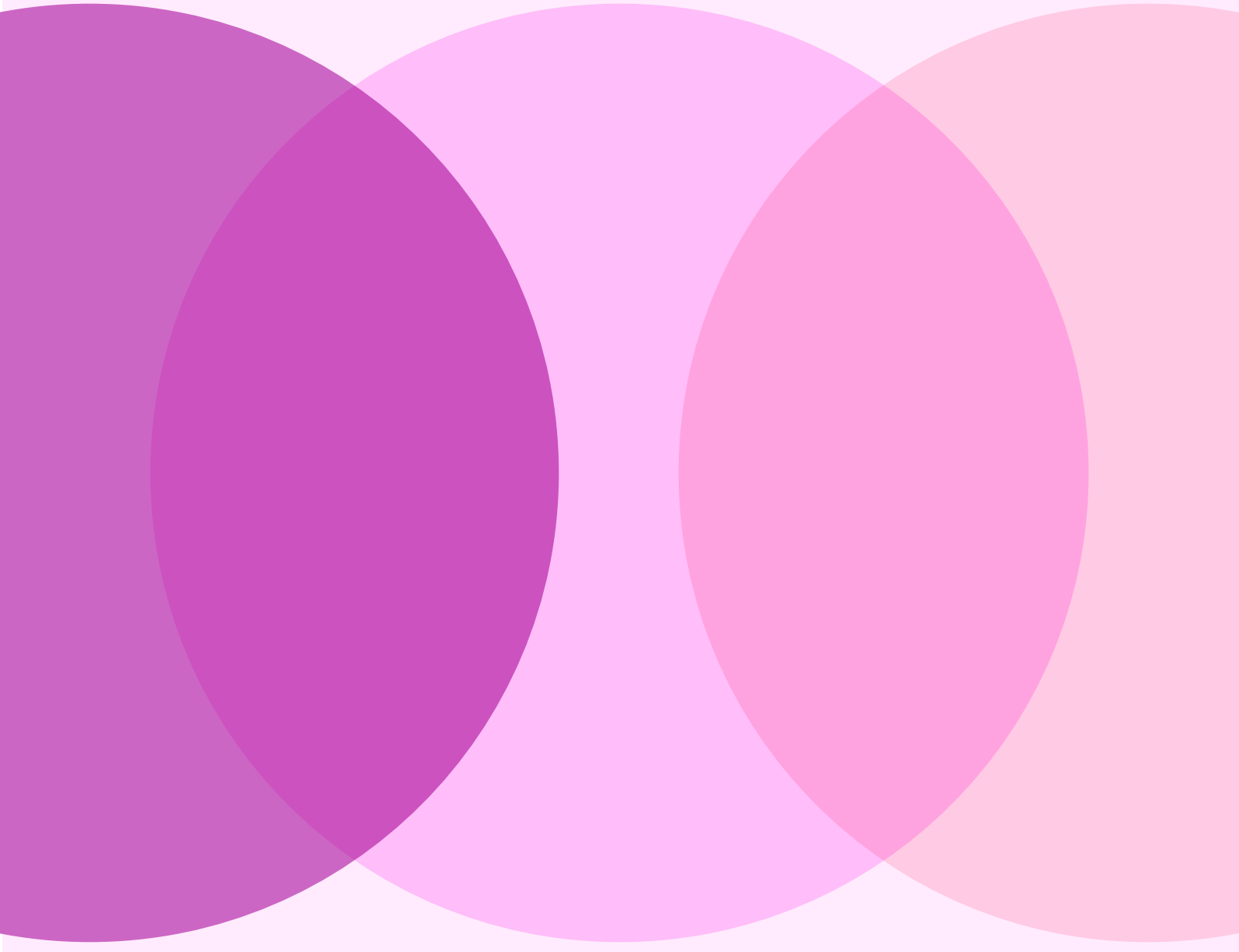
Guidance

professional standards authority
for Health and Social Care

Using accepted outcomes

in fitness to practise: guidance for regulators

2025



About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care (PSA) is the UK's oversight body for the regulation of people working in health and social care. Our statutory remit, independence and expertise underpin our commitment to the safety of patients and service-users, and to the protection of the public.

There are 10 organisations that regulate health professionals in the UK and social workers in England by law. We audit their performance and review their decisions on practitioners' fitness to practise. We also accredit and set standards for organisations holding registers of health and care practitioners not regulated by law.

We collaborate with all of these organisations to improve standards. We share good practice, knowledge and our right-touch regulation expertise. We also conduct and promote research on regulation. We monitor policy developments in the UK and internationally, providing guidance to governments and stakeholders. Through our UK and international consultancy, we share our expertise and broaden our regulatory insights.

Our core values of integrity, transparency, respect, fairness, and teamwork, guide our work. We are accountable to the UK Parliament. More information about our activities and approach is available at www.professionalstandards.org.uk.

Why we produced this guidance

The Government is currently in the process of reforming the legislation for nine out of the 10 healthcare professional regulators we oversee, giving them a range of new powers and allowing them to operate in a very different way.

The reforms will introduce fundamental changes to how regulators handle fitness to practise concerns (the process by which concerns about healthcare professionals are dealt with) as well as giving them more flexibility around rulemaking (how regulators develop their operational processes).

We support the reforms to healthcare professional regulation but have also identified certain risks that may arise from the new ways of working, particularly in relation to the introduction of accepted outcomes in fitness to practise, and to rulemaking. We have therefore developed guidance on these two areas to aid the regulators to implement their new powers in a way that prioritises public protection. This is in line with our core functions, which include promoting best practice and formulating principles relating to good professional regulation, and our overarching objective; the protection of the public. This guidance focuses on using accepted outcomes in fitness to practise.

About this guidance

This guidance identifies key factors for regulators to consider when using accepted outcomes as part of their fitness to practise process. An accepted outcome is a way of resolving a concern about a health or care professional with their agreement, and without the need for a panel hearing, sometimes referred to as a tribunal.

The guidance is drawn from expertise gained from years of scrutinising regulators' final fitness to practise panel decisions as well as an extensive review of the available evidence on fitness to practise and decision-making. We have produced this guidance to help regulators use accepted outcomes effectively, and in a way that best protects the public.

The purpose of the guidance is to help regulators develop their own guidance and processes for using accepted outcomes.

Fitness to practise can be defined as having the ability to practise safely and effectively. It encompasses having the appropriate skills, competencies, knowledge, character and health to perform the role. Ensuring that health and care professionals are 'fit to practise' is fundamental to regulators fulfilling their duty to protect the public.

Why and how we have produced this guidance can be found in a separate report. This includes details of the changes to fitness to practise resulting from the Government's reform programme to the healthcare professional regulators, and the evidence on which this guidance is based.

How regulators should use this guidance

This guidance is intended for healthcare professional regulators to use when developing their own accepted outcomes guidance and processes. For most regulators, this will only be applicable once their legislation has been updated in line with the government's programme of regulatory reform.

This guidance is intended to encourage best practice and consistency in regulators' approaches. It is not binding on regulators to whom it applies. We expect regulators to have their own policies and guidance in place for their staff. However, we believe that regulators' guidance will benefit from being informed by this guidance.

This guidance is intended to encourage best practice and consistency in regulators' approaches.

Regulators can take a different approach to drafting their guidance on accepted outcomes. However we will have regard to our guidance when we assess how regulators are using their new powers under our review of their performance.

Departing from this guidance would not automatically mean a regulator did not meet a Standard. Where they have taken a different approach, we may ask them to explain how they have assured themselves that it is compatible with the legislative framework and their overarching duty to protect the public.

This guidance applies to the accepted outcomes process set out in the Anaesthesia Associates and Physician Associates Order (AAPA Order).

This Order is expected to act as the template for reform across the healthcare professional regulators. It does not apply to any regulator until and unless their powers are reformed to bring them into line with those set out in the AAPA Order.

We will review and, if necessary, update the guidance as and when the new legislation is rolled out more widely. It does not directly apply to Social Work England, which already operates an accepted disposal process in line with its legislative powers, although many of the factors identified may be of relevance.

Where regulators are granted the powers to use accepted outcomes in fitness to practise, we expect them to develop clear and publicly available guidance for case examiners about their use. This document identifies key factors for regulators to take account of when developing their own guidance on the use of accepted outcomes. It includes factors case examiners may need to consider when deciding whether they should refer a case to a panel for a hearing. It also includes factors for regulators to consider to ensure the accepted outcomes process is fair and transparent, and promotes effective decision-making.

We want to support regulators to make the best use of reforms to fitness to practise introduced under the AAPA Order (and expected subsequent legislation), whilst continuing to effectively deliver the three limbs of public protection.

Principles for effecive use of accepted outcomes

When using accepted outcomes, we expect regulators to be guided by the following principles:

- **Decisions protect the public in accordance with the three limbs of public protection.**
- **Decisions are fair, consistent and transparent.**
- **The decision-making process supports equality, diversity, and inclusion for patients, service users and registrants.**

Accepted Outcomes - the legislative framework

The primary consideration for all regulators when determining how to resolve a fitness to practise concern is compliance with their legislative framework.

The core purpose of health and care professional regulation is 'the protection of the public', as set out in the Health and Social Care (Safety and Quality) Act 2015.[1] This overarching duty applies to the health and care regulators we oversee[2] as well as to the PSA.

Public protection is further defined by the Act as encompassing three tenets (often referred to as the 'three limbs of public protection'):

- to protect, promote and maintain the health, safety and wellbeing of the public
- to promote and maintain public confidence in the professions
- to promote and maintain proper professional standards and conduct.

Sitting alongside the overarching duty to protect the public, each health and care professional regulator has its own unique legislation setting out its regulatory functions. These pieces of legislation include provisions detailing how regulators must approach fitness to practise.

At the time of writing, the Government intends to reform the legislation of all healthcare professional regulators to bring their powers into line with those set out in the AAPA Order.[3] The factors to consider outlined in this guidance have therefore been developed in accordance with both the overarching duty to protect the public and the legislative framework set out in the AAPA Order.

There are no legislative restrictions on the types of cases that case examiners may resolve and they have the same range of sanctions available to them as fitness to practise panels. This enables regulators to use case examiners to resolve fitness to practise cases that would previously have been referred to a fitness to practise panel for a hearing.

Throughout this document we refer to 'registrants' to mean health or care professionals who are registered with the professional regulators we oversee.

Accepted Outcomes and what the new process involves

The reforms to fitness to practise contained in the AAPA Order introduce accepted outcomes as a way of resolving fitness to practise cases. The accepted outcomes process is a paper-based approach whereby one or more case examiners make an assessment of a case based on the written information and evidence provided to them. The case examiner(s) will write a report of their findings, including their determination about whether the registrant is 'impaired'[4] and what the appropriate sanction should be.the registrant has agreed to a final measure (sanction) should be.

A case examiner can conclude a case with the registrant's agreement (we refer to this as an 'accepted outcome'[5]) where:

- **the registrant has agreed to the final measure (sanction)**
- **the registrant has accepted that their fitness to practise is impaired, and**
- **the registrant has accepted the case examiner's findings.**

Where a registrant does not respond to a case examiner's offer of an accepted outcome within the prescribed period, a case examiner can impose a final measure without their agreement.[6]

Case examiners are required to decide in every case whether to make a determination on impairment, or whether to refer a case to a panel for a hearing. Case examiners may also refer a case to a panel after making a determination on impairment, without seeking to propose an outcome. Our guidance has not been drafted to cover this scenario, but we may review this once we have a better idea of how this power might be used. The registrant also has the right to request that their case be referred to a hearing.

The section of this guidance dealing with 'factors to consider when deciding whether to offer an accepted outcome' is intended to apply to the case examiner's decision about whether to offer an accepted outcome or refer a case to a panel for a hearing. It does not directly apply to the decision about whether to impose a final measure on a non-responding registrant.[7]

The factors we have outlined may be relevant to that decision, but there may also be other factors not considered here that case examiners should take into account.
The AAPA Order does not outline a process for determining which cases should be resolved by case examiners and which should be determined by a panel, nor does it express a preference for either route. Resolution through an accepted outcome is likely to be swifter, less adversarial and more cost efficient in most cases.

It is therefore likely to be beneficial to complainants, registrants and the public to resolve cases using accepted outcomes where appropriate.

However, in some cases, case examiners may be more confident that referral to a panel, rather than using an accepted outcome, would result in a final outcome that fulfils all three limbs of public protection. This may occur, for example, when the safest way to determine impairment is through testing the evidence at a hearing.

Find out more/further reading

- *Using accepted outcomes in fitness to practise: background, context and evidence in support of the PSA's guidance for regulators*
- *Good practice in rulemaking: Principles and guidance for regulators on developing, making and amending rules*
- Consultation outcome report
- *Right-touch regulation*
- Anaesthesia Associates and Physician Associates Order

This document contains

1. Factors to consider when deciding whether to offer an accepted outcome?

This section is intended to inform regulators' own guidance on how case examiners should exercise their discretion regarding whether to seek to resolve a case themselves or refer it to a panel for a hearing.

Regulators should consider including the following factors[8] in any such guidance:

- **Is there a dispute of fact/conflict of evidence that can only be fairly tested at a hearing?**
- **Is there complexity in the case or evidence suggesting that a hearing may be beneficial?**
- **Would it be beneficial and proportionate to test insight at a hearing?**

If the answer to all the above questions is no, this would suggest that a case can be fairly and safely resolved using an accepted outcome. If the answer to any of these questions is yes, case examiners may want to consider whether public protection would be best served by referring the case to a hearing.

As part of every case examiner decision about whether to refer a case to a hearing, we would expect them also to consider whether referral to a hearing would be proportionate given all the circumstances of the case.

These factors are considered in more detail below.

Is there a dispute of fact/ conflict of evidence that can only be fairly tested at a hearing?

Where a case involves a dispute of fact, an advantage of a panel over case examiners is that they can ask probing questions of registrants and witnesses and allow for thorough cross- examination. Panels are generally therefore able to assess information in a more dynamic way than can be achieved by reviewing written evidence only; while some disputes of fact can appropriately be settled with written evidence, others will need exploration at a hearing.

Cases that are less likely to be suitable for resolution by accepted outcome are those where there are material disputes about facts or uncertainty around the background to, and seriousness of, the conduct (for example if the registrant interprets the facts in a way which contradicts the interpretation of other witnesses). There may also be cases where the account given in writing by one or more parties appears lacking, or where case examiners otherwise consider that the evidence of the registrant or a witness would benefit from further exploration/examination at a hearing.

Case examiners may wish to consider whether further written evidence could be obtained which would enable them to reach a decision before they consider referral to a panel. We would not recommend that case examiners refer a case to a hearing solely because they had insufficient evidence, where further documentary evidence could effectively fill the gap. However, paper-based evidence is not a direct substitute for oral testimony and is not capable of being tested in the same way. There may still be instances where the case

examiner determines that, even with the benefit of the additional information, a hearing is needed to fairly test a dispute of fact or conflict of evidence.

Where there is competing evidence that is material to the case, and where two or more differing accounts are plausible and the dispute cannot be resolved with reference to the other evidence that is available or obtainable, a panel hearing is likely to be the best setting for testing the evidence of both the registrant and the witness. A hearing may be particularly beneficial in cases that lie on the borderline between sanctions, where testing the evidence would have the potential to assist with assessment of seriousness.

In their guidance supporting case examiners to reach decisions about whether a case should be referred to a hearing, regulators should consider including the following factors:

- **Are there material disputes about facts where two or more competing accounts are plausible and the dispute cannot be resolved with reference to the other evidence that is available?**
- **Is there uncertainty about the background to, or seriousness of, the conduct?**
- **Would the written accounts of the registrant or any of the witnesses benefit from further exploration/ examination at a hearing?**
- **Does the case lie on the borderline between sanctions and if so, would testing the evidence have the potential to assist with assessment of seriousness?**

Where some or all of the above factors are present, we would recommend that case examiners consider whether public protection would be best served by referring a case to a panel for a hearing.

Is there complexity in the case or evidence suggesting that a hearing may be beneficial?

Case examiners should be generally capable of dealing with complexity in cases without the need to refer to a panel. However, there may be cases with particular complexities where the evidence or issues under consideration may benefit from referral to a hearing. This would be to allow for:

- Hearing and interrogation of live evidence and/or
- Deliberation by panel members.

in order to aid understanding and decision-making.

It would be for case examiners to determine on a case-by-case basis whether the presence of any of these, or other dimensions of complexity, suggest that hearing and interrogation of live evidence, and/or deliberation by panel members would be beneficial. We will keep these factors under review and may update the guidance in future, based on what we learn about regulators' handling of complexity under the new fitness to practise arrangements.

Complexity may take a number of forms, including but not limited to:

- Evidential
- Factual
- Technical/clinical
- Moral/ethical
- Cultural.

In their guidance supporting case examiners to reach decisions about whether a case should be referred to a hearing, regulators should consider including the following factor:

- **Are there any complexities in the case such that exploring the evidence or issues under consideration would support understanding and decision-making?**

Where the above factor applies, we would recommend that case examiners consider whether public protection would be best served by referring a case to a panel for a hearing.

Would it be beneficial and proportionate to test insight at a hearing?

Insight is integral to fitness to practise as it is key to understanding whether the registrant continues to pose a risk and to the assessment of any attitudinal failings. A registrant who demonstrates genuine insight and attempts to remediate is more likely to comply with any conditions placed on them, and less likely to repeat the behaviour than one who does not. Failure to demonstrate insight is likely to lead to a more restrictive sanction.

Effective assessment of insight is crucial to both the impairment and sanction stages of fitness to practise. There remain doubts over the extent to which insight can be weighed or resolved on written evidence alone in more difficult and complex cases and those which may indicate serious/fundamental attitudinal issues. There are also concerns that it may be difficult to reliably assess the level of insight expressed in reflective statements where registrants may have received significant support producing them or used Artificial Intelligence (AI).

In general, panels are likely to be better placed to make a robust assessment of insight than case examiners as they can ask probing questions of the registrant. However, it would not be proportionate to refer all cases where there is a question about insight to a panel. We recommend referral to a panel where the doubts about a registrant's level of insight are significant and/or the evidence available is incomplete or lacking credibility. This may be particularly important in cases where there are deemed to be serious attitudinal issues.

It should be noted that a registrant's denial of the allegations at the investigation stage does not necessarily prohibit a finding that they have insight. Although case law sets out that a registrant's denial of the allegations is relevant to insight and risk of repetition, admissions are not necessary for a finding of insight to be made.[9] Insight may be demonstrated through, for example, a registrant proactively undertaking training in relation to the allegation at an early stage and reflecting on how their practice could be improved and what they would do differently. Further, even where insight has not been demonstrated, this should not automatically result in referral to hearing where it would not be beneficial for public protection to do so.

In their guidance supporting case examiners to reach decisions about whether a case should be referred to a hearing, regulators should consider including the following factors:

- **Are there significant doubts over the registrant's insight? (This may be due to the content of the registrant's reflective statement or the nature of the concern)**
- **Would it be both beneficial and proportionate to test insight at a hearing?**
- **Is this a case that involves serious attitudinal issues?**

Where any of these factors are present, we would recommend that case examiners consider whether public protection would be best served by referring a case to a panel for a hearing.

2. Factors to consider when determing the composition of decision-makers

This section is intended to inform regulators' approach to the discretion they are granted in the legislation about how many case examiners are required to make a decision, and whether lay people are involved in the decision.

This section contains consideration of:

- Lay representation in decision-making
- The use of single decision-makers

Lay representation in decision-making

Legislation determines that fitness to practise panels are comprised of at least one registrant and one lay person. However, there is no corresponding requirement in relation to the use of case examiners.

Evidence suggests that patients and the public are concerned about the risk of bias in the fitness to practise process.[10,11] We are of the view that lay representation in decision-making must remain a feature of the system in order to maintain and uphold public confidence. We do not seek to determine how or when lay decision-makers should be involved, but expect regulators to be mindful of the need to incorporate lay decision-makers at some point in the fitness to practise process.

The use of single decision-makers

The accepted outcomes process allows for decisions on impairment and sanction to be made by a single case examiner.[12] Research into decision-making has emphasised that all decision-making processes, including all individual decision-makers, are subject to bias.* Many different factors influence bias and decision-makers are likely to be affected differently by different biases. Having more than one decision-maker may help to counteract bias and lead to more balanced decisions. It may also help to counter perceptions of bias and unfairness.
Some cases may be safely and fairly resolved using a single decision-maker. These are likely

to be ones which involve little ambiguity about the facts and current impairment, for example cases involving a conviction.

Cases that may benefit from more than one decision-maker are likely to be those which are complex or 'paper heavy', involve significant ambiguity as to what has occurred and/or as to current impairment, or where there are particular cultural considerations.
In addition to the number of decision-makers assigned to a case, it is important that regulators have due regard to the training and expertise of those making decisions.
All regulators need to be mindful of their obligations to protect and promote equality, diversity and inclusion (EDI). Having decision makers with cultural competence is an important part of reducing bias and promoting fair decisions in fitness to practise – and this becomes all the more important if a regulator is using single decision-makers.

When determining the composition of decision-makers in the accepted outcomes process, regulators should have regard to the following factors:

- **Is at least one case examiner a lay person? If not, regulators should ensure lay involvement at some other stage in the fitness to practise decision- making process.**
- **Does the case involve complex issues, large amounts of evidence or significant ambiguity? If so, this may suggest that the case would benefit from having more than one decision-maker.**
- **Are cultural considerations a signifcant factor in the case? Where this applies, regulators should consider using more than one decision-maker.**

Find out more/further reading

- *Patient and public perspective on future fitness to practise processes,* Community Research for PSA (May 2020)
- *Public Response to Alternatives to Final Panel Hearings in Fitness to Practise Complaints*, PSA (May 2013)
- **Advice on biases in fitness to practise decision-making in accepted outcome versus panel models*, L Cuthbert for the PSA (2021)

3. Factors to consider when publishing case examiner decisions

This section is intended to inform regulators' approach to promoting transparency and public confidence through the publication of case examiner decisions.

Promoting transparency and public confidence

Ensuring that decisions are transparent and accessible is a key means by which confidence in regulators, and regulatory processes, is maintained. The shift away from a panel-based hearings model to the paper-based accepted outcomes model has the potential to reduce the transparency of the decision-making process, which may in turn have adverse consequences for public confidence,[13,14] and the maintenance of standards.

In order to ensure that the public interest in transparent decision-making is upheld, regulators must give clear reasons for regulatory decisions, including providing sufficient detail about cases and how they are resolved. Regulators should make decisions publicly available and include enough information so that a third party with no prior knowledge of the case would be able to fully understand both the basis of the concern and the rationale for the decision. To satisfy these requirements, it is likely to be necessary to include:

- sufficient details of the regulatory concern or allegations
- the relevant facts and background of the case
- details of the admissions and submissions made by the registrant
- the regulator's decision in respect of the statutory grounds
- the regulator's assessment of impairment
- the final outcome, including sanction.

The requirement to give clear reasons for regulatory decisions is underpinned by case law. For example, the judgment in the case of Professional Standards Authority for Health and Social Care v (1) The General Optical Council (2) Ms Honey Rose [2021] EWHC 2888 (Admin)[15] outlines a panel's obligation to uphold public confidence by giving proper reasons for its decision. In the case of Professional Standards Authority for Health and Social Care v General Medical Council [2023] EWHC 967 (Admin)[16] the Court quashed a finding of the Medical Practitioners Tribunal Service on the basis of 'serious procedural irregularity' due to a failure by the panel to give cogent reasons for its decision. The judgment noted that a panel must 'expose the relevant analysis so the reader understands what the principal issues were, and what the Panel made of them. This is part and parcel of their function in protecting the public interest.'

All relevant information should be published unless there is a legitimate reason for it to remain confidential, for example, because it relates to a registrant's health concern. There are also some limited and exceptional circumstances where it may be appropriate for the registrant to be granted anonymity, as set out in case law.[17]

When publishing case examiner decisions, regulators should have regard to the following factors:

- **Is the decision published in a place that is easy for the public to access?**
- **Is the decision sufficiently detailed that a third party with no prior knowledge of the case woudl be able to fully understand both the basis of the concern and the rationale for the decision?**

4. Promoting a fair and effective accepted outcomes process

This section sets out factors regulators should consider to ensure the fairness and effectiveness of investigation and decision-making procedures. It covers consideration of: Complainant voice in accepted outcomes; The role of case examiners in proposing fair and proportionate accepted outcomes; and Equality, diversity and inclusion.

Complainant voice in accepted outcomes

Regulators should ensure patients and service users who are witnesses in proceedings are treated with dignity and respect, feel heard, and are kept informed throughout each stage of the accepted outcomes process. This should include ensuring that complainants (particularly where the complainant is a patient or service user) are afforded the opportunity to provide further evidence where appropriate. This may involve providing the complainant with a copy of the registrant's response and seeking further submissions from them.

The role of case examiners in proposing fair and proportionate accepted outcomes

We would expect case examiners to be generally skilled and proficient at making good decisions and proposing accepted outcomes to registrants that are fair and proportionate. However, the fact that, compared to panel members, they are less independent of the regulator, could result in certain regulatory risks. In particular, the workloads of case examiners may be subject to targets which could affect the objectivity of their decisions.

We expect regulators to be alive to the risk of case examiners' judgement and objectivity being impacted by internal pressures or targets and ensure that quality assurance processes are in place to mitigate such risks.

Equality, diversity and inclusion considerations

The move to a paper-based approach in fitness to practise may have differential impacts, both positive and negative, on people with shared characteristics, such as those protected under the Equality Act 2010. This applies to complainants and other witnesses, as well as to registrants.

Some participants in the fitness to practise process may feel better able to express themselves verbally than in writing, or vice versa. This may apply particularly to people with certain disabilities, those who are neurodiverse, and those for whom English is not their first language.

There is also some evidence that different socio-economic groups may be impacted differently by the process. Registrants with access to legal advice (which may be more likely to include members of 'wealthier' professions as well as those who hold a UK qualification) may benefit from more lenient sanctions than those lacking representation.[18,19] It is likely that the two groups will vary in terms of their characteristics. We would expect regulators to be mindful of this risk and monitor outcomes for different groups.

We expect regulators to conduct an equality impact assessment as part of the development of their accepted outcomes process and to take steps to mitigate any negative impacts identified on people with shared characteristics or other needs and/or vulnerabilities. This should include making reasonable adjustments to normal processes to meet the needs of individuals.

We also recommend that regulators routinely seek feedback from people, including complainants, registrants and other witnesses, who have participated in a fitness to practise process to identify learning and/or areas for improvement. This feedback should also be used to enhance understanding of differential impacts on groups with shared characteristics.

When considering how best to ensure that the accepted outcomes process is fair and effective, regulators should have regard to the following factors:

- **Has due consideration been given to ensuring that complainants are treated with dignity and respect, feel heard, and are kept informed within the accepted outcomes process?**
- **Have steps been taken to protect the independence of decision-makers and ensure that they are able to make impartial and fair decisions, free from undue pressure to meet targets or save costs?**
- **Have steps been taken to identify any differential impacts of accepted outcomes on people who hold shared characteristics? Where the process may impact negatively on certain groups, have steps been taken to mitigate this?**
- **Are accepted outcomes monitored and recorded in such a way that it is possible to assess any differentials in sanction by shared characteristic?**
- **Is there a process in place for gathering feedback from people who have participated in an accepted outcomes process, in order to aid learning and improvement?**

Endnotes

1 The Health and Social Care (Safety and Quality) Act 2015: (legislation.gov.uk).

2 With the exception of the Pharmaceutical Society of Northern Ireland (PSNI).

3 *The Anaesthesia Associates and Physician Associates Order 2024* (legislation.gov.uk)

4 Under the AAPA Order a person's fitness to practise may be impaired by reason of (i) inability to provide care to a sufficient standard, or (ii) misconduct. See The Anaesthesia Associates and Physician Associates Order 2024: The Anaesthesia Associates and Physician Associates Order 2024 (legislation.gov.uk).

5 Whilst the policy intent as articulated by the Department of Health and Social Care is clear that where the registrant agrees to the measure this constitutes an 'accepted outcome', it should be noted that the AAPA Order does not use this term. The Order refers only to 'Final Measures' which are 'imposed' (rather than agreed).

6 *The Anaesthesia Associates and Physician Associates Order 2024* (legislation.gov.uk).

7 The process leading up to this decision is the same whether or not the registrant ultimately accepts or rejects the offer, or does not respond. In cases where a registrant does not respond, the case examiner will face a further decision point; they will need to determine whether to impose a final measure.

8 The regulator should first ensure that the case meets the minimum legislative requirement for an accepted outcome to be offered: the registrant has agreed to a final measure; the registrant has accepted that their fitness to practise is impaired; and the registrant has accepted the case examiner's findings.

9 Sayer v General Osteopathic Council [2021] EWHC 370 (Admin) upheld that that: 'It is wrong to equate maintenance of innocence with lack of insight. Denial of misconduct is not an absolute bar to a finding of insight. Admitting misconduct is not a condition precedent to establishing that the registrant understands the gravity of the offending and is unlikely to repeat it.' Available at: Sayer v General Osteopathic Council [2021] EWHC 370 (Admin) (24 February 2021) (bailii.org).

10 Community Research for the Professional Standards Authority, May 2020, *Patient and public perspective on future fitness to practise processes* (professionalstandards.org.uk).

11 Professional Standards Authority, May 2013, *Public Response to Alternatives to Final Panel Hearings in Fitness to Practise Complaints*.

12 The AAPA Order does not specify the number of case examiners that are required for decision- making. However, the Government has made clear that they intend regulators to be able to use more than one case examiner where appropriate. This position is set out in the December 2023 consultation response *Consultation response to regulating anaesthesia associates and physician associates* - GOV.UK (www.gov.uk).

13 Community Research for the Professional Standards Authority, May 2020 ***Patient and public perspective on future fitness to practise processes***.

14 Professional Standards Authority, May 2013, ***Public Response to Alternatives to Final Panel Hearings in Fitness to Practise Complaints***.

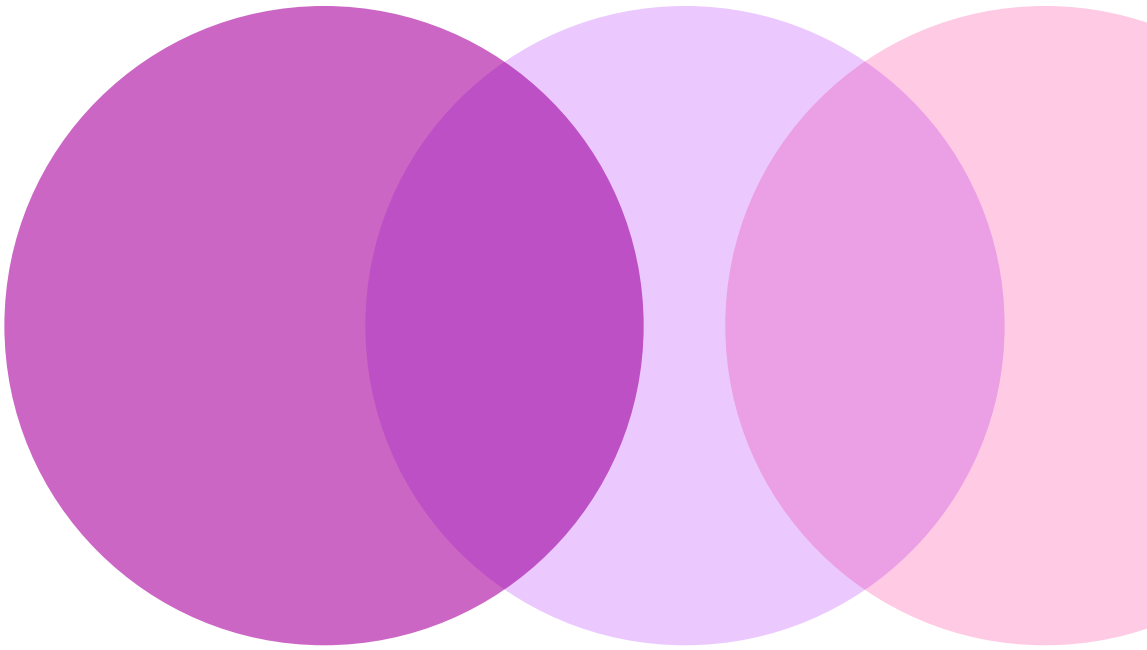
15 *Professional Standards Authority for Health and Social Care v (1) The General Optical Council (2) Ms Honey Rose [2021] EWHC 2888 (Admin)*, available at: **PSA – v – GMC and Honey Rose: Professional Standards Authority for Health And Social Care v General Optical Council & Anor [2021] EWHC 2888 (Admin) (01 November 2021)**.

16 *Professional Standards Authority for Health and Social Care v General Medical Council [2023] EWHC 967 (Admin)*, available at: **PSA -v- GMC judgment (judiciary.uk)**.

17 See for example *GMC v X [2019] EWHC 493 (Admin)*, available at: 2**019_ewhc_493_GMC_v_ Dr_X.pdf (oldsquare.co.uk)** and *MXM v GMC [2022] EWHC 817 (Admin)*, available at: **Dr MXM v General Medical Council [2022] EWHC 817 (Admin) (06 April 2022) (bailii.org)**.

18 Bryce, M et al, February 2022, *T**he concept of seriousness in fitness to practise cases*** (gdc-uk. org).

19 Pulse, 16 May 2022, ***Overseas GPs lack representation at fitness-to-practise hearings and face 'harsher sanctions'*** (Pulse Today).



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