

2. Executive summary

Introduction

2.1 The purpose of professional regulators is to protect patients, service users and the public, to uphold the standards of the profession and to ensure public confidence in regulation. The Professional Standards Authority (the Authority) oversees the professional regulators and reports annually on their performance. We share the regulators' commitment to the public interest and effective regulation.

2.2 This report contains both an overview of our general findings (Section 7) from our performance review of the regulators against the *Standards of Good Regulation* (Section 9). The performance review took place between September 2014 and May 2015 and draws on evidence of performance during the 2014/2015 financial year.

How are the regulators performing against the *Standards of Good Regulation*?

2.3 In this performance review, we conclude that all of the regulators are performing well or adequately against most of the 24 *Standards of Good Regulation*.

2.4 However, as we commented in our 2013/2014 Performance Review Report, we have greater concerns than noted in previous reviews about the performance of some of the health and care regulators in relation to some of the Standards for registration and fitness to practise. We consider that the level of confidence that the public can have in the regulators differs between regulators.

2.5 In each of the individual regulator's Performance Review Reports, we have identified where the regulators have or have not met the *Standards of Good Regulation*. There are 24 *Standards of Good Regulation*, which cover the regulators' four core functions, and more information can be found in Annex 2.

2.6 In summary, in 2014/2015, we concluded that:

- Three regulators met all 24 of the Standards: the HCPC, the GMC and the GOSc
- Two regulators met all but one of the Standards: the GPhC and the PSNI
- Four regulators did not meet three or more of the Standards of Good Regulation. The GOC did not meet three of the Standards, the GCC and the NMC did not meet five of the Standards and the GDC did not meet seven of the Standards.

2.7 We have noted in the individual reports where the regulator's performance has improved in response to concerns we identified in the 2013/2014 performance review. In particular, we are pleased to report that:

- The GDC has met the first Standard for registration (which requires that only those who meet the regulator's requirements are registered)
- The NMC has now met the second Standard for registration (requiring the registration process to be fair, based on the regulator's standards, efficient, transparent, secure and continuously improving). This is based on the progress and improvements it has made in several areas including customer service, the efficiency of the registration process, the management of registration appeals, and information security
- The NMC has now met the fourth Standard for fitness to practise (which relates to the timely review of complaints and the prioritisation of serious cases, including applying for an interim order)
- We have sufficient evidence to assess the GCC and the NMC as having met the sixth Standard for fitness to practise (which relates to the timely progression of cases through the fitness to practise process) this year
- The GCC has now met the ninth Standard for fitness to practise (which relates to all fitness to practise decisions being published and communicated to all relevant stakeholders)
- The PSNI has met the tenth Standard for fitness to practise (which relates to information about fitness to practise cases being securely retained) and the HCPC also improved its performance against this Standard in light of the work it has done to strengthen its information security procedures.

- 2.8 All of the regulators met all four Standards of Good Regulation for guidance and standards.
- 2.9 All of the regulators met all five *Standards of Good Regulation for education and training* except the NMC, who continued to not meet the second Standard for education and training (requiring regulators to have a system in place to assure themselves of the continuing fitness to practise of registrants), although it continued to make progress in developing a system of revalidation.
- 2.10 The regulators mostly met the *Standards of Good Regulation for registration*. This is with the exception of three of the regulators (the GDC, the GOC and the NMC) who failed to meet the third Standard for registration (which requires the regulators to maintain accurate registers).
- 2.11 In relation to those *Standards of Good Regulation for fitness to practise*, we identified the following:
- Two of the regulators (the GCC and the GDC) did not meet the Standard that requires them to have adequate processes in place for managing risk in fitness to practise cases. Three regulators (the HCPC, the GOsC and the GPhC) met this Standard, although we identified some concerns with their performance
 - Two of the regulators (the GCC and the PSNI) did not meet the Standard requiring them to ensure that their fitness to practise process is transparent, fair, proportionate and focused on public protection. One

regulator (the NMC) met this Standard, although we considered that their performance was inconsistent

- Three of the regulators (the GDC, the GOC and the GPhC) did not meet the Standard that requires them to ensure their fitness to practise cases are progressed without undue delay. We also expressed concerns about three regulators' performance (the HCPC, the GMC and the NMC) against the relevant standard and we considered that any ongoing decline in performance might mean that this Standard would not be met in the future
- Three of the regulators (the GCC, the GDC and the NMC) did not meet the Standard that requires them to ensure that they provide good customer care to all parties involved in their fitness to practise process, and we raised concerns that one of the regulators (the GOsC) might be at risk of not meeting this Standard in the future
- Three of the regulators (the GCC, the GDC and the NMC) did not meet the Standard that requires them to ensure that all fitness to practise decisions are well reasoned, protect the public and maintain confidence in regulated professions
- Four of the regulators (the GCC, the GDC, the GOC and the NMC) did not meet the Standard that requires them to ensure that fitness to practise information is securely retained. We also expressed concern about the performance of one regulator (the GOsC), where we considered that the Standard was met but that the regulator might be at risk of not meeting this Standard in the future.

Conclusions and recommendations

- 2.12 This year's performance review has shown that the regulators are generally fulfilling their statutory responsibilities and are focused on public protection.
- 2.13 As in previous years, we have identified continuing concerns about the performance of some regulators regarding the effectiveness and efficiency of the fitness to practise processes. Some regulators are working to achieve effective control of the core elements of an effective fitness to practise framework, including ensuring that cases are progressed as quickly as possible taking a risk-based approach, improving decision making and ensuring that information is securely retained.
- 2.14 There will be further changes in the sector, probably including legislative reform. There may also be further change in that we launched a public consultation on the revised performance review process on 7 May 2015. Subject to the outcome of the consultation, this will therefore be the last Performance Review Report in the current form.
- 2.15 We will continue to work with the regulators to ensure that amid these developments, the structures and processes of regulation of the regulators that we oversee continue to meet their statutory responsibilities and focus on public protection.

2.16 We recommend that the regulators should:

- Address the concerns highlighted in their individual reports
- Review this document as a whole, taking account of our views and consider whether they can learn and improve from the practices of the other regulators
- Ensure that their Councils review and discuss the Performance Review Report in a public Council meeting.

2.17 We will share this report with the Departments of Health in England and the devolved administrations and with the Health Committee in the UK Parliament and the devolved administrations.

8. The regulators in numbers

- 8.1 In this section, we provide some basic numerical data on the regulators' performance. The regulators themselves have provided this information and it has not been audited by us.
- 8.2 The data provides some context about the size of the regulators in terms of the number of professions and professionals that they regulate and the size of their workloads.
- 8.3 When reading this data for each of the regulators, care should be taken to ensure that misleading comparisons are not made. There are differences in the size of the regulators, both in terms of staff numbers and registrants: they all work to differing legislation, rules and processes, they have a varying caseload in terms of registration applications and fitness to practise referrals, and are dependent to a greater or lesser extent on information from third parties, which can impact the timeliness of their work.

REGISTRATION ACTIVITY									
Data relates to April 2014 to March 2015	GCC	GDC	GMC	GOC	GOSC	GPHC	HCPC	NMC	PSNI
Number of registrants	3,034	66,314 dental care professional (DCP) 39,385 dentists	2,66,959	20,762 (individuals) 2,475 (bodies corporate)	4,970	72,985 (50,292 pharmacists and 22,693 pharmacy technicians (PT)) 14,369 (premisses)	3,30,887	6,86,782	2,237 (individuals) 171 (bodies corporate) 551 (premisses)
Number of new initial registration applications received	198	12,381	14,481	1,079 (individuals) 173 (bodies corporate)	311	5,197 (3,650 pharmacists and 1,547 PT) 357 (premisses)	21,775	28,517	216 (individuals) 7 (bodies corporate) 2 (premisses)
Number of registration appeals received and concluded and the outcomes of the appeals	0	10 received and 9 concluded	39 received and 49 concluded 113 revalidation appeals received and 83 concluded 2 English language appeals received and 1 concluded	2 received and concluded	1 received and 2 concluded	1 received and 1 concluded	78 received and 52 concluded	64 received and 53 concluded	0
Outcomes of registration appeals concluded	N/A	1 upheld 2 rejected 6 withdrawn	Registration: 6 upheld, 25 rejected, 18 withdrawn Revalidation: 4 rejected, 79 withdrawn English language: 1 withdrawn	2 rejected	1 rejected 1 withdrawn	1 rejected	22 upheld 29 rejected 1 withdrawn	20 upheld 13 rejected 20 withdrawn	N/A
Median time taken to process initial registration applications for:									
• UK graduates	1 day	13 days	1 day	2 days	2 days	16 days (pharmacists) and 1 day (PT)	5 days	2 days ²⁴	1 day
• International non-EU graduates	1 day	71 days	21 days	2 days	0	0	24 days	1 day ²⁵	0
• EU graduates	1 day	13 days	33 days	2 days	41 days	0	26 days	9 days ²⁶	1 day
Annual retention fee	£800 practising and £100 non-practising	£890 dentist ²⁷ £116 DCP	£390 licensed, £140 unlicensed	£290 qualified registrant £25 student registrant ²⁸	£320 (1 st year) £430 (2 nd year) £570 (3 rd year onwards)	Pharmacists £240 PT £108 Premises £221	£80	£120 ²⁹	£372

²⁴ The NMC notes that this figure is calculated from completion of the application to entry on the register.

²⁵ The NMC notes that this figure is not directly comparable with the figure in the 2013/2014 report due to a difference in the way this figure has been calculated.

²⁶ The NMC notes that this figure is calculated from completion of the application to entry on the register. This figure relates to calendar days, not working days.

²⁷ The GDC's annual retention fee rose from £576 to £890 for dentists on 30 October 2014. At the same time, the annual retention fee for DCPs reduced from £120 to £116.

²⁸ The GDC's annual retention fee rose from £290 to £310 for registrants on 1 April 2015.

²⁹ The NMC's annual retention fee rose from £100 to £120 on 1 February 2015.

Number of data breaches reported internally and to the ICO	0	1 internally	15 internally	1 internally	1 internally	1 internally	1 internally	4 internally	1 internally	0
Data relates to April 2014 to March 2015	GCC	GDC	GMC	GOC	GoSC	GPhC	HCPC³⁰	NMC	PSNI	
EDUCATION ACTIVITY										
Number of educational institutions the regulator is responsible for quality assuring	3	49	52	16	11 ³¹	87	142	77	2	
FITNESS TO PRACTISE ACTIVITY										
Number of cases considered by an investigating committee	69	1,281	2,819	163 (including case examiners) ³²	50	207	849	2,260 (including case examiners) ³³	13	
Number of cases concluded by an investigating committee	67	1,229	2,528	176 (including case examiners)	49	131	810	2,208 (including case examiners)	12	
Number of cases considered by a final fitness to practise committee	31	201	232	28	24	89	420	1,711	4	
Number of cases concluded by a final fitness to practise committee	28	192	232	27	22	80	351	1,592	3	
The time taken from receipt of initial complaint to the final investigating committee decision:										
• Median time taken to conclude	18 weeks	48 weeks	35 weeks ³⁴	35.5 weeks ³⁵	11 weeks	63 weeks	33 weeks	45.5 weeks	26 weeks	
• Longest case to conclude	59 weeks	237.7 weeks	356.3 weeks	145 weeks	37 weeks	302 weeks	196 weeks	295.9 weeks ³⁶	89 weeks	
• Shortest case to conclude	4 weeks	2.1 weeks	2 weeks	9 weeks	6 weeks	11 weeks	8 weeks	8.8 weeks	13 weeks	
The time taken from receipt of initial complaint to final fitness to practise hearing determination:										
• Median time taken to conclude	72 weeks	93.3 weeks	92.6 weeks	104 weeks ³⁷	51 weeks	85 weeks	73 weeks ³⁸	81.2 weeks	91 weeks	
• Longest case to conclude	250 weeks	840.7 weeks	259.9 weeks	214 weeks	133 weeks	252 weeks	265 weeks	387 weeks ³⁹	192 weeks	

³⁰ These figures do not include data related to the cases that the HCPC inherited from the General Social Care Council (GSCC). See Paragraph 16.44.

³¹ The GoSC notes that its governing legislation requires it to quality assure qualifications rather than institutions. It quality assures 23 qualifications offered by 11 institutions.

³² The GoSC's case examiners began considering and concluding cases from 1 April 2014.

³³ The NMC's case examiners began considering and concluding cases from 7 March 2015.

³⁴ The GMC notes that this figure does not include cases that are closed without referral to the case examiner/investigating committee. See Paragraph 12.42, last bullet.

³⁵ The GMC notes that this figure is not directly comparable with the figure in the 2013/2014 report due to a difference in the way this figure has been calculated.

³⁶ The NMC notes that this case has been delayed by a third-party investigation.

³⁷ The GoC notes that this figure is not directly comparable with the figure in the 2013/2014 report due to a difference in the way this figure has been calculated.

³⁸ The HCPC notes that this figure does not include cases that did not meet its Standard of Acceptance and were closed by staff.

³⁹ The NMC notes that this case was received in 2007 and is a complex health case. The NMC advised us that this case was overlooked and was therefore not reported to us in 2013/2014.

	32 weeks	14.9 weeks	12.6 weeks	30 weeks	26 weeks	25 weeks	26 weeks	19.7 weeks	78 weeks
• Shortest case to conclude									
Data relates to April 2014 to March 2015	GCC	GDC	GMC	GOC	GOsC	GPhC	HPCP	NMC	PSNI
FITNESS TO PRACTISE (continued)									
The median time taken from the final investigating committee decision to the final fitness to practise hearing decision	43 weeks	39.1 weeks	30.3 weeks	51 weeks	35 weeks	47 weeks	39 weeks	34.5 weeks	N/A
The median time taken from initial receipt of complaint to interim order decision, and from receipt of information indicating the need for an interim order to an interim order decision:									
• Receipt of complaint	6 weeks	39.3 weeks	9.9 weeks	16 weeks ⁴⁰	3 weeks	18 weeks	20.4 weeks	3.9 weeks	4 weeks
• Receipt of information	6 weeks	3.4 weeks	2.7 weeks	3 weeks	4 weeks	3 weeks	2.4 weeks	N/A ⁴¹	3 weeks
Number of open cases that are older than:									
• 52 weeks	5	335	598	42	4	128	472	917 ⁴²	3
• 104 weeks	1	95	223	18	0	39	94	133	0
• 156 weeks	1	43	125	4	0	9	14	54	0
Number of registrant/Authority appeals against final fitness to practise decisions:									
• Registrant appeals	0	3	29	2	1	2	2	27	0
• Authority appeals	0	0	1	0	0	1	5	14	0
Number of IOs that have lapsed	0	0	5	0	0	0	0	1	0
Number of High Court extensions	0	10 – all granted	415 – 4 refused	5 – all granted	0	19 – all granted	15 – all granted	459 – 2 refused	2 – both granted
Number of data breaches reported internally and to the ICO	3 internally	24 internally 2 ICO (outcome unknown)	125 internally 1 ICO (no further action)	4 internally 2 ICO (no further action)	3 internally	3 internally 1 ICO (no further action)	31 internally 1 ICO (outcome unknown)	53 internally 3 ICO (2 no further action, 1 outcome unknown)	1 internally

⁴⁰ The GOC notes that this figure is not directly comparable with the figure in the 2013/2014 report due to a difference in the way this figure has been calculated.

⁴¹ The NMC notes that it does not collect this data; it measures from the receipt of complaint to interim order decision only.

⁴² The NMC notes that this figure is not directly comparable with the figure in the 2013/2014 report due to a difference in the way this figure has been calculated.

14. The General Osteopathic Council (GOsC)

Overall assessment

- 14.1 In this 2014/2015 Performance Review Report, we find that the GOsC has continued to perform well and has met all of the *Standards of Good Regulation*.
- 14.2 During 2014/2015, the GOsC has also continued to contribute to the shared agenda of developing the profession with other key stakeholders such as the Institute of Osteopathy and the National Council for Osteopathic Research. The GOsC has enabled the agenda to progress in a variety of ways, such as funding grants, co-ordinating work, and contributing to the drafting of non-GOsC-specific standards. The changes being made as a result of this agenda should be beneficial to the profession and to the public – for example, the development of voluntary service standards which osteopaths can choose to adopt and thereby demonstrate that they provide a high quality service to all patients. The standards would not be enforced by the GOsC and would be owned by the profession.
- 14.3 Overall, we consider that the GOsC has demonstrated, in particular, an impressive commitment to using the learning from its work to improve its performance across its regulatory functions. For example, the GOsC identified, through its fitness to practise process, that maintenance of sexual boundaries by some of its registrants was a concern and, using its guidance and standards and education and training work, it has promoted to both registrants and prospective registrants the importance of maintaining appropriate boundaries with patients. We have, however, noted some concerns about the GOsC's performance against three of the Standards for fitness to practise and our comments about this are set out below (see paragraphs 14.15–14.24).
- 14.4 Further information about the GOsC's performance against the *Standards of Good Regulation* in 2014/2015 can be found in the relevant sections of this report.

Guidance and standards

- 14.5 The GOsC has met all of the *Standards of Good Regulation for guidance and standards* during 2014/2015. Examples of how it has demonstrated this are:
- Its evaluation of the strategy it used to implement the revised *Osteopathic Practice Standards* (the Standards were implemented in September 2012). The evaluation indicated that the GOsC's stakeholders generally had a good understanding of the *Osteopathic Practice Standards* but that there was more that the GOsC could do to improve their understanding. For example, the evaluation indicated that while senior level staff at Osteopathic Education Institutions understand the *Osteopathic Practice Standards*, there is less certainty that the teaching staff have the same level of understanding. We are pleased that the GOsC has taken the time to carry out an evaluation of its strategy to implement its Standards and we shall be interested to know what measures it will take in response

- The completion of its research into the effectiveness of osteopathic regulation (which began in mid-2013). Before the research was completed, we note that the GOsC supported work to develop the evidence base around the risks and benefits of osteopathic practice (in order to provide a firmer basis for some of the *Osteopathic Practice Standards*); it has also published additional materials (as set out in paragraph 14.5, the third bullet below) to supplement its existing guidance about communications and consent – those additional materials may, in part, meet the recommendation arising from the research that the GOsC should provide further communication and training on the *Osteopathic Practice Standards* which are most frequently the subject of complaints: consent, record keeping, and patient dignity and modesty
- The development of additional materials to support its existing guidance. The GOsC has published three online learning modules which relate to ‘Exploring professional dilemmas in osteopathy’, including modules about communicating appropriately and obtaining informed consent. It has also published scenario-based examples to support the consent guidance (*Obtaining Consent*), which it published in 2013/2014. The scenarios make specific reference to the legislation and the *Osteopathic Practice Standards* and include practical suggestions to assist registrants in identifying and responding to particular issues
- The GOsC has signed up to a joint statement promoting the duty of candour alongside seven of the other health and care professional regulators¹¹¹ following the recommendations made in the Francis Report.¹¹² The statement highlights the importance of being open and honest with patients or service users when harm or distress has been caused (or when there has been the potential for such harm or distress) because something has gone wrong with their treatment or care. In addition to signing up to the joint statement, the GOsC has: publicised the joint statement in its magazine (*the osteopath*), discussed the duty of candour during focus groups involving patients, the public and registrants; and it confirmed with the providers of professional indemnity insurance to osteopaths that their policies and procedures are compatible with the duty of candour (i.e. indemnity cover will not be invalidated by complying with the duty of candour)
- The GOsC has continued to enhance its methods for engaging with patients and the public. For example, it has held joint meetings with organisations with similar aims (such as local Healthwatch) at which it has sought to understand patient and public perceptions of osteopathic care. By holding such joint meetings, the GOsC has increased its opportunities to seek and hear the views of patients and the public.

¹¹¹ Joint statement from the Chief Executives of statutory regulators of healthcare professionals: http://www.pharmacyregulation.org/sites/default/files/joint_statement_on_the_professional_duty_of_candour.pdf [Accessed 11 May 2015]

¹¹² Francis, R., 2013. *Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry*, chaired by Robert Francis QC, 2013. Available at <http://www.midstaffspublicinquiry.com/report> [Accessed 11 May 2015].

Education and training

14.6 The GOsC has met all of the *Standards of Good Regulation for education and training* during 2014/2015. Evidence of how it has demonstrated this are:

- The GOsC has developed *Guidance for Osteopathic Pre-Registration Education*. The intention behind this guidance is to connect the learning outcomes expected from osteopathic training specifically to the *Osteopathic Practice Standards*. This should help the Osteopathic Education Institutions to deliver appropriate education and training, which will enable students to meet the GOsC's standards when they apply for registration
- The GOsC continued with its quality assurance visits to Osteopathic Education Institutions – it conducted three quality assurance visits, in connection with four educational programmes. It has continued to publish information in relation to its quality assurance processes and the visit outcomes
- It has resolved a problem in relation to the sharing of student fitness to practise data by education providers. In our 2013/2014 Performance Review Report, we noted that the GOsC had received a report that one Osteopathic Education Institution (OEI) refused to provide student fitness to practise data related to the findings made and the sanction imposed when the GOsC requested it. The GOsC told us that it has (subsequent to the 2013/2014 performance review) been able to obtain the information required from the provider. The GOsC also wrote to other health and care professions regulators to warn them of the potential for conflict between university regulations and professional regulators' requirements for information about student fitness to practise history. The GOsC has confirmed that it now receives, in all cases, all the information it requires from that institution. We are satisfied with the actions taken by the GOsC
- It made progress on its review of the quality assurance process (this has been ongoing since 2011/2012 and has been an iterative process). While there has been a delay in the completion of this review, we accept that this is reasonable because there are no quality assurance visits due to take place before April 2016 and the *Subject Benchmark for Osteopathy*¹¹³ is under review. Further, the GOsC has made some changes to improve the efficiency of the quality assurance process in the interim, such as the introduction of a standardised form for Osteopathic Education Institutions to use when notifying the GOsC of changes to their programmes
- It continued with its audits of registrants' continuing professional development (CPD) record folders. It has shared learning arising from those audits with its registrants in a series of articles in *the osteopath*. For

¹¹³ This document is produced by the Quality Assurance Agency for Higher Education. The statement represents a consensus of the academic community about the academic content of an osteopathy degree and is relevant because it's another tool that affects the education and training provision of osteopathic students.

example, in June/July 2014, it focused on sharing information on what did and did not count as professional development

- The GOsC has continued to develop the scheme that it will use in the future (from 2016/2017) to assure the continuing fitness to practise of its registrants.¹¹⁴ In relation to this, it has worked with other stakeholders to develop relevant guidelines (including guidelines about a central aspect of the future scheme – peer discussion review) and it has developed resources and case studies to help illustrate to registrants and to others how the continuing fitness to practise process will work. (These have been subject to public consultation, as noted below.) We note that the GOsC took additional steps to encourage patient/service user responses to its public consultation on the proposed scheme by summarising its consultation document into three pages and three questions targeted at patients/service users, and we look forward to seeing any evaluation by the GOsC of the success of that approach. We note that the next stage in the development of the scheme is scheduled for the period of June to November 2015, when the GOsC will analyse the responses to the public consultation. Following that analysis (and any changes that the GOsC decides to make to its proposals as a result), the GOsC plans to run the scheme for the ‘early adopters’, while continuing to develop the infrastructure ready for universal introduction in 2016/2017

We are pleased to note that the GOsC believes that the work to develop the continuing fitness to practise scheme is already having one effect which may ultimately benefit public protection – the GOsC believes that its development work has led a number of CPD providers to start mapping their courses to the *Osteopathic Practice Standards*, particularly in core areas such as communication and consent.

Registration

14.7 The GOsC has met all of the *Standards of Good Regulation for registration* during 2014/2015. Examples of how it has demonstrated this are set out below:

- It maintained a registration process that is efficient, transparent, secure and based on its standards.¹¹⁵ It has also received positive feedback from those new registrants whom it surveyed about the experience of registering with the GOsC. The GOsC’s view is that the response rate to that survey was adequate¹¹⁶ and was a sound basis for drawing

¹¹⁴ The scheme requires osteopaths to undertake 30 hours of CPD per year, including 15 hours of learning with others. A complete scheme cycle will take three years, making a total of 90 hours of CPD, which must include a minimum of 45 hours learning with others. CPD will remain primarily self-directed, but must include the following: a. CPD in each of the themes of the *Osteopathic Practice Standards*; b. A CPD activity in communication and consent; c. An objective activity, for example case-based discussion, peer observation and feedback, patient feedback or clinical audit; and d. At the end of the three-year CPD cycle, a peer discussion review with a colleague to discuss CPD and practice, demonstrating engagement with the CPD scheme.

¹¹⁵ We note that there was one data breach in 2014/2015 which the GOsC classified as ‘minor’ because the breach did not involve the disclosure of sensitive data.

¹¹⁶ The response rate was 18.5 per cent (just under 50 responses).

conclusions about new registrants' experience; however, it accepts that it is not a sound basis for drawing conclusions about registrants' experience generally. We note that the GOsC is considering how it can improve engagement with its new registrants' survey

- It provided evidence that its registration process has improved by:
 - Revising its online renewal of the registration tool in order to make it more user-friendly
 - Introducing a form that requires those seeking to leave the register to provide their reasons. The GOsC has used this information to check that individuals are not practising illegally after they leave the register, and to monitor whether there are any underlying issues within the profession which are affecting individuals' willingness to practise as osteopaths
- It consulted on the proposed professional indemnity insurance rules that came into effect on 1 May 2015. The rules set out that the GOsC has a choice about the type of action it can take if it identifies that an osteopath is practising without indemnity insurance – it can remove them from the register administratively, or it can take fitness to practise action. In our response to the GOsC's public consultation, we suggested that public protection would be enhanced if the GOsC treated practising without indemnity insurance as a fitness to practise concern. We are pleased to note that the GOsC has indicated that any *wilful* failure by a registrant to comply with the professional indemnity insurance rules will be treated as a fitness to practise concern
- It took appropriate action to reduce the risk of harm to the public (and of potential damage to public confidence in the profession) by successfully prosecuting two individuals for illegal practice, as well as sending other individuals 'cease and desist' letters and monitoring the effectiveness of that action.

The third Standard of Good Regulation for registration: Through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice

- 14.8 During 2014/2015, two issues arose about the accuracy of the GOsC's online register. The first issue concerned the accuracy of the initial registration date for all registrants displayed on the online register. The GOsC told us that these inaccuracies were a result of a technical problem and that as soon as the GOsC became aware of it, text was added to its website to bring it to the attention of website users and also to inform them that there was a telephone number they could call if they required information about initial registration dates. The GOsC told us that it also checked that there were no other problems with the integrity of the data on the register. We consider that the GOsC took appropriate action and note that the issue has subsequently been resolved (on the re-launch of the GOsC's online register). The second issue concerned an inherent fault in the online tool for updating registration details, which came to the GOsC's attention as a result of corporate complaints

made by two registrants. The registrants' complaints identified that where two or more registrants shared a practice address, an individual could inadvertently change the practice address details of another registrant when updating their own details online. The GOsC told us that it is confident (having carried out checks) that this was not a widespread problem. In any event, we note that this fault has been remedied by the re-launch of the GOsC's online register and its revised online registration tool.

- 14.9 We note that our annual check of the accuracy of the GOsC's register did not identify any errors on it.¹¹⁷
- 14.10 In our 2013/2014 Performance Review Report, we inaccurately recorded that the GOsC publishes details of admonishments on its register. In fact, the GOsC publishes details on its website, not its register. During 2013/2014, the GOsC increased the amount of time admonishment data is available on its website – from 28 days to 6 months. We note that the GOsC's Council took account of our views that all fitness to practise sanctions should be shown on the health and care professional regulators' registers¹¹⁸ when deciding that the GOsC would not publish admonishments on its register. While we are disappointed with the GOsC's decision, we recognise that it followed an appropriate process and took relevant factors into account in reaching that decision. We also note that the impact of this decision not to include details of admonishments on the register is reduced by the publication of admonishments elsewhere on the GOsC's website. We encourage the GOsC to include an explanation within the register section of its website to the effect that admonishments are not shown on the register but can be accessed elsewhere.
- 14.11 Finally, we note that the GOsC does not publish on its register the names of any individuals who have been struck off. While we would prefer regulators to include such details on their registers, we accept that some regulators consider that it could be either inappropriate or potentially confusing to do so. In those circumstances, we have encouraged regulators to include a statement on their websites/online registers explaining that if a particular individual's name cannot be located by doing a register search, that may be because they have been struck off. We are disappointed to see that the launch of the GOsC's online register in 2014/2015 has resulted in a change to the statement on the GOsC's website – we consider the current statement to be inadequate. It simply reads, 'If the osteopath you are looking for is not listed here, this does not necessarily mean they are not registered with us' and makes no reference to the possibility that the individual being searched for may have been struck off the GOsC's register. We recommend that the GOsC considers whether or not this wording could be expanded in order to improve public protection, and specifically that it considers including wording

¹¹⁷ As part of our performance review of the regulators, we conduct an accuracy check of each regulator's register which helps us assess compliance with the third *Standard of Good Regulation for registration*.

¹¹⁸ CHRE, 2010. Health professional regulators' registers: maximising their contribution to public protection and patient safety: <http://www.professionalstandards.org.uk/docs/default-source/psa-library/registers---good-practice-report.pdf?sfvrsn=0> [Accessed 11 May 2015]

similar to that used by the HCPC: 'Registrants who have been struck off as a result of a fitness to practise hearing will not appear in the online register'.

- 14.12 Although the GOsC has had some difficulties with its online register, we still consider this Standard is met. However, we expect the GOsC to consider our comments in relation to the information it publishes about struck-off registrants and that it will make changes to its online register to avoid the risk of not meeting the Standard in future reviews.

Fitness to practise

- 14.13 During 2014/2015, the GOsC has demonstrated that it met all of the *Standards of Good Regulation* for fitness to practise. While we consider that the GOsC has met the fourth *Standard of Good Regulation for fitness to practise* (which relates to the timely review of complaints and the prioritisation of serious cases, including applying for an interim order), the seventh *Standard of Good Regulation for fitness to practise* (which requires that all parties are kept updated on the progress of their case and effectively supported to participate in the process) and the tenth *Standard of Good Regulation for fitness to practise* (which requires the regulator to ensure that it keeps all fitness to practise data securely), we set out some concerns about the GOsC's performance against these Standards in paragraphs 14.15–14.24.

- 14.14 Examples of how the GOsC demonstrated that it met the *Standards of Good Regulation for fitness to practise* are set out below:

- Following changes to the Public Interest Disclosure Act 1998 (the Act that protects whistle-blowers) the GOsC is now classed as a 'prescribed body' to which certain whistle-blowing disclosures can be made. The GOsC therefore developed a policy explaining how it will manage whistle-blowing disclosures and it set up a dedicated email address for people to use when making such disclosures
- It has continued to share information about fitness to practise concerns/outcomes with other appropriate bodies. Having identified that around two per cent of registrants on its register hold dual registration with another health and care professional regulator, the GOsC held discussions with the relevant regulators about when and how information about those dual registered registrants will be shared between them. It has also incorporated into its investigation process a process for checking whether an osteopath is dual registered and for seeking fitness to practise information from other regulators. We encourage the other regulators to introduce a similar process
- It has developed *Guidance on Threshold Criteria for Unacceptable Professional Conduct* to explain (to complainants and registrants as well as the GOsC's decision makers) the types of issues that will be investigated under the GOsC's fitness to practise process. We agree that the use of threshold criteria should help to achieve consistency in decision making about which matters are investigated as fitness to practise concerns, and therefore help the GOsC to ensure that its resources are appropriately targeted

- The GOsC is monitoring the number of fitness to practise complaints relating to breaches of sexual boundaries. We note that the GOsC has taken various steps to ensure that professional standards in this area are appropriately upheld. It has:
 - Shared the learning from these cases with the profession via e-bulletins (in March and December 2014) and in articles in *the osteopath* (in October 2014)
 - Ensured that this area featured prominently in the GOsC's presentations to students in 2014/2015
 - Covered this subject in training for its final fitness to practise panel (the Professional Conduct Committee) as well as sharing the learning points we have fed back from our reviews of cases involving allegations of sexual boundary breaches
 - Recruited legal assessors who have specialist training on handling vulnerable witnesses and defendants. Finally, we note that the GOsC provided direct feedback about one such case to one particular Osteopathic Education Institution.
- The GOsC has managed its fitness to practise cases (including referrals to the Interim Orders Committee) efficiently. It has also reduced its internal key performance indicator of achieving a median time for the completion of fitness to practise cases from 14 months to 12 months, and it is already achieving that target. While we welcome this evidence of improvement in the GOsC's time frames for completing fitness to practise cases, we note that the GOsC continues to categorise complaints as 'formal' only once a signed complaint form or witness statement is received, instead of when the initial communication from the complainant is made. The GOsC's approach makes it more difficult to draw meaningful comparisons between the performance of the GOsC and that of other regulators by looking at median time frames for the conclusion of fitness to practise cases. We asked the GOsC to reconsider its approach to this, following our 2014 audit of the initial stages of the GOsC's fitness to practise process¹¹⁹ and we are disappointed that the GOsC has not changed its approach subsequently
- We have not identified any serious concerns about the outcomes of cases considered by the GOsC's Investigating Committee or its final fitness to practise panel (the Professional Conduct Committee) during 2014/2015. Our 2014 audit did not identify any decisions to close cases that we considered posed a risk to patient safety or to the maintenance of public confidence in the profession or the regulatory process. Our audit findings were corroborated by the findings of a more extensive external audit

¹¹⁹ Professional Standards Authority, 2014. *Audit of the General Osteopathic Council's initial stages fitness to practise process*. Available at <http://www.professionalstandards.org.uk/docs/default-source/audit-reports/gosc-ftp-audit-report-2014.pdf?sfvrsn=0> [Accessed 12 May 2015]. This audit was carried out in May 2014 and we audited eight cases closed between 1 May 2013 and 30 April 2014.

(which the GOsC commissioned) in 2014/2015.¹²⁰ We have not appealed any of the GOsC's final fitness to practise panel's decisions during 2014/2015 (although we have highlighted learning points in a number of cases). The GOsC has responded positively to the learning points that we have fed back – for example, by incorporating them into training for fitness to practise decision makers and by taking them into account when preparing guidance for decision makers on drafting determinations

- The GOsC has continued to embed its Quality Assurance Framework in its fitness to practise function. It has continued to undertake peer reviews of cases that are carried out by staff from other regulators (the GOC and GPhC). It has also continued to undertake quarterly internal audit case reviews that focus, in particular, on customer service and compliance with key performance indicators. The outcomes of the peer reviews are reported to the Council and to staff internally. The GOsC has said that it considers that the framework has been effective at highlighting issues that the GOsC does well, as well as those where improvement is needed. We note that the reports of the peer review outcomes made to the GOsC's Council indicate that while there have been improvements in customer service and record keeping since our 2014 audit report was published, there remains room for improvement in relation to record keeping.

The fourth Standard of Good Regulation for fitness to practise: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and, where appropriate, referred to an interim orders panel

- 14.15 In our 2014 audit, we noted that risk assessments had been carried out upon both the receipt of the complaint and on receipt of new information in the three cases that had been received after the GOsC's new case management procedures were introduced in July 2013. However, the peer review exercises carried out and reported in July and October 2014 identified that there was some inconsistency about whether risk assessments were carried out throughout the life of each case. In January 2015, the GOsC implemented a new case review checklist that should act as a reminder to staff of the need to carry out risk assessments throughout the lifetime of a case, as well as the importance of recording reasons for their decisions. While we do not consider that this inconsistency is sufficient to render this Standard not met, we expect the GOsC to keep this area of practice under review to ensure that risk assessments are carried out consistently and continually throughout the lifetime of a fitness to practise complaint; otherwise, in future performance reviews, this Standard may not be met. We also encourage the GOsC to check that the new checklist is effective in practice given the findings of the peer review exercises.

¹²⁰ That audit reviewed a far greater number of decisions (43 Investigating Committee decisions and 13 Interim Order Committee decisions).

The seventh Standard of Good Regulation for fitness to practise: 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

- 14.16 In our 2014 audit, we identified one or two weaknesses in the customer service provided in seven of the eight cases that we audited. Those customer service weaknesses related to: delays in responding to correspondence; delays in sharing the decisions of the Investigating Committee with the registrant and the complainant; failing to respond appropriately to correspondence or to share information at the appropriate times; and failing to update complainants at agreed intervals.
- 14.17 The GOsC took action to improve its performance following our 2014 audit. It introduced internal key performance indicators for: acknowledging the registrant's response within two working days; sharing the Investigating Committee's decision with the complainant and the registrant within 10 working days and sharing the Professional Conduct Committee's decision with the complainant and registrant within two working days; and updating complainants and witnesses every month. The GOsC reported it has achieved 100 per cent compliance in relation to sharing the decisions of the Professional Conduct Committee and the Investigating Committee. However, the GOsC has only achieved 75 per cent compliance in relation to updating complainants and witnesses every month and 66 per cent compliance in acknowledging registrants' response within two working days. The GOsC said that it will keep its key performance indicators and its performance against them under review.
- 14.18 The findings from the peer reviews conducted by staff from other regulators (as reported to the GOsC's Council in July and November 2014) were that witnesses were well supported and that good support was also offered to complainants and registrants. This also indicates no ongoing concerns about the GOsC's customer service to complainants, witnesses or registrants involved in the fitness to practise process.
- 14.19 We identified weaknesses in seven out of the eight cases we audited. However, we recognise that the majority of the cases considered in the 2014 audit were closed during 2013/2014 rather than 2014/2015 and we are pleased that the GOsC has demonstrated that its performance against this Standard has improved during 2014/2015 following publication of our audit report. Given the evidence of improvement since our audit, we consider that this Standard is met in 2014/2015. We expect the GOsC to continue to improve its performance in this area so that it consistently provides a good service to those involved with fitness to practise cases; otherwise, in future performance reviews, the GOsC may be at risk of not meeting this Standard.

The tenth Standard of Good Regulation for fitness to practise: Information about fitness to practise cases is securely retained

- 14.20 In 2014/2015, the GOsC completed the introduction of its Information Governance Framework. The framework covers a number of areas, such as the provision of training to all staff on Data Protection and Freedom of Information Law and the provision of training to all fitness to practise panel members on information governance.

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- 14.21 As part of the framework, all data breaches are now formally recorded, regardless of severity. A log of the breaches is reviewed periodically by the Senior Management Team, which includes the Chief Executive. The GOsC told us that there were two minor breaches (which did not involve the disclosure of sensitive data) and one 'major' data breach during 2014/2015. The 'major' breach resulted in the disclosure of a complainant's address, email address and work and telephone number to the registrant they had complained about when a non-redacted copy of the complaint form was sent to the registrant by e-mail. We consider that the GOsC responded appropriately to this breach – it sent the complainant a written apology and obtained confirmation from the registrant that the information had been destroyed. We note that the GOsC did not consider that this breach was sufficiently serious to warrant a referral to the Information Commissioner's Office.
- 14.22 In our 2014 audit report, we noted best practice by the GOsC in the use of password-protected documents and the use of individual passwords for complainants and registrants.
- 14.23 We note that the GOsC has taken action in 2014/2015 to ensure that the staff of other regulators who are involved in peer reviews of GOsC cases have signed a deed of confidentiality to prevent them sharing any information inappropriately. We were concerned that the GOsC did not identify that such a step should be taken until we queried whether the data protection implications of the peer review exercise had been considered.
- 14.24 We recognise the GOsC's achievement in implementing a comprehensive information governance framework and we have concluded that the GOsC has met the tenth *Standard of Good Regulation for fitness to practise*; however, we are concerned by the nature of the major data breach during 2014/2015 and the inadequate controls it had in place with other regulators in relation to the peer review process.

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