

The review of the performance of the health and care regulators

A revised process for the performance review

May 2015

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise. We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation². We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce. We are committed to being independent, impartial, fair, accessible and consistent.

More information about our work and the approach we take is available at www.professionalstandards.org.uk.

Our aims

The Authority aims to promote the health, safety and well-being of patients and other members of the public and to be a strong, independent voice for patients in the regulation of health professionals throughout the UK.

Our values

Our values act as a framework for our decision making. They are at the heart of who we are and how we would like to be seen by our partners. We are committed to being:

- Focussed on the public interest
- Independent
- Fair
- Transparent
- Proportionate.

¹ The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence.

² Professional Standards Authority. 2010. Right-touch regulation. Available at <http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation>

Right-touch regulation

Right-touch regulation means always asking what risk we are trying to regulate, being proportionate and targeted in regulating that risk or finding ways other than regulation to promote good practice and high-quality healthcare. Right-touch regulation means using the minimum regulatory force required to achieve the desired result.

The proposals contained within this consultation are based on the principles of right-touch regulation as set out below:

- Identify the problem before the solution
- Quantify the risks
- Get as close to the problem as possible
- Focus on the outcome
- Use regulation only when necessary
- Keep it simple
- Check for unintended consequences
- Review and respond to change.

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1. Introduction

- 1.1 The Professional Standards Authority (and formerly the CHRE) has a statutory duty to report annually on the performance of each of the health and care regulators for which it oversees.
- 1.2 This duty is set out in the Authority's legislative requirements at section 1(A) (b) of schedule 7 of the National Health Service Reform and Health Care Professions Act 2002 ('the Act'). This states that the Authority must report on the performance of the regulators and that "the report must state how far, in the opinion of the Authority, each regulatory body has complied with any duty imposed on it to promote the health, safety and well-being of such persons".
- 1.3 We have been undertaking the current performance review process on an annual basis since 2007. The Standards of Good Regulation (described in more detail in section five of this document) and the performance review process have been amended on a number of occasions since their inception, most recently in 2010. More information about the current process can be found on our website at the following location:
<http://www.professionalStandards.org.uk/regulators/overseeing-regulators/performance-reviews>.
- 1.4 We recognise that the regulators are committed to their role in ensuring the health and safety of patients and the public, and we have worked effectively with them to support their work over a number of years. As the nature of health and care practice evolves, and professional regulators meet new and increased challenges, it is vital that the performance review continues to provide a robust and consistent assessment of the work that the regulators undertake.
- 1.5 The purpose of the performance review, as set out in the legislation, is as follows:
- "16 (1) The Authority must prepare a report on the exercise of its functions during each financial year.
 - (1A) the report must state—
 - how the Authority, in exercising its functions, has promoted the health, safety and well-being of users of health care, users of social care in England, users of social work services in England and other members of the public, and
 - how far, in the opinion of the Authority, each regulatory body has complied with any duty imposed on it to promote the health, safety and well-being of such persons".
- 1.6 The objectives of the current performance review process are described by the Authority as follows³:

³ <http://www.professionalStandards.org.uk/regulators/overseeing-regulators/performance-reviews>

- [to enable] improvements in the work of the regulators, as we identify strengths and areas of concern in their performance and recommend changes
- [to inform] everyone about how well the regulators are protecting the public and promoting confidence in health and care professionals and the system of regulation in their work.

1.7 In consultation with the regulators, in 2007 we developed Standards of Good Regulation against which each regulator is assessed (these Standards of Good Regulation have since been substantially updated in 2010). The Standards cover each of the regulators' statutory functions, and describe the outcomes of good regulation for each of these functions. They also set out how good regulation promotes and protects the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession.

1.8 Each year we ask the regulators to provide evidence of how they have met each of the Standards across the various areas of their work, to provide us with a 'dataset' of comparative quantitative data, and to answer specific targeted questions based on what we know about the work they planned to achieve during that year. We assess that evidence alongside evidence we have from other sources (including our own work, as well as feedback from third parties), we ask additional questions of the regulators in writing and at face to face meetings, and we then publish a performance review report on each of the regulators and an overview of the work of all the regulators in June of each year as part of our annual report to the UK Parliaments.

2. Background to this consultation

- 2.1 We reported to our Board (in its public session) in July 2013 that our view was that the performance review process had come to feel somewhat repetitive and routine and that we planned to review it. We explained that:
- The current Standards of Good Regulation do not cover the resource and governance arrangements of the regulators - which means that it is only when resource or governance problems become so acute that they threaten statutory functions that we are in a position to report on or investigate them;
 - the regulators had informally shared their views about the performance review process with us, and they agreed that a future process should be more targeted and risk-based;
 - some of the regulators were willing to be more active in self-reporting operational risks.
- 2.2 We also reported to the Board at that time that the regulators had made various informal suggestions to us about potential changes to the process, including:
- using exception reporting as well as targeting of reviews to areas where Standards were previously not met;
 - gathering and analysing more comparative data about the regulators, and aligning the regulators' reporting of data to make direct comparisons more straightforward;
 - producing thematic reviews of some areas of the regulators' work on a periodic basis;
 - asking regulators to report on ongoing/predicted operational problems and risks;
 - reviewing the processes for obtaining third party feedback on the regulators' performance, and for identifying and encouraging the sharing of learning and good practice across the sector;
 - reviewing the timeframe for the performance review process – possibly synchronizing it with the regulators' annual reporting cycles;
 - focusing on continuing improvement in the implementation, monitoring and revision of the regulators' Standards and guidance, as opposed to the current Standards of Good Regulation in this area.
- 2.3 We explained the value of comparative data for evaluating the performance of the regulators and for helping them to benchmark their performance, and we noted the limitations of the current performance review process in enabling us to publish such data, because the regulators do not collect it consistently. We said that one desired outcome of any revised performance review process was to collect and report clearly comparable statistical data to enable us to make meaningful comparisons between regulators about their performance. Another objective should be to review (and to expand where appropriate) the statistical data to be collected, to ensure that, where possible, we can test the regulators' claims about their performance effectively and efficiently.
- 2.4 We proposed that, within the requirements of annual reporting, a new objective should be to look in greater detail and thoroughness at particular function areas in individual regulators or across all regulators, and to take a more proportionate approach to other areas. This would allow us to focus resources on areas of

particular concern to the public, areas of particular weakness in individual regulators' performance, or areas where comparison across regulators is likely to be particularly useful in terms of providing an evidence-based view about performance.

- 2.5 We introduced the idea of a new area to be covered by the performance review, relating to "regulatory risks". We also proposed moving to a system of "exception reporting" in relation to the guidance and standards and education and training functions, and focusing our resources instead on the registration and fitness to practise functions. We proposed to make our performance review of the registration and fitness to practise functions as robust as possible by:
- Reviewing and expanding the dataset that we ask the regulators to provide
 - Expanding our audit programme to include audits of aspects of the regulators' registration functions, as well as the current audits of the initial stages of their fitness to practise processes
 - Targeting our analysis of each regulator's performance at areas of weakness, and exception reporting in other areas
- 2.6 In September 2013, we provided our Board with further detail about our proposals for a revised performance review process. We proposed that the formal purpose of the performance review process should be *'to report to Parliament and the public on the performance of the health and care professional regulators in fulfilling their statutory duty to protect the public, uphold Standards and maintain confidence in regulation'*.
- 2.7 At that time we also suggested to our Board that we should explore plans to change the performance review significantly for the future, including:
- Introducing audits of regulators' registration processes
 - Changing how we gather third party feedback
 - Changing the dataset we gather
 - Changing the Standards of Good Regulation.
- 2.8 We stated that our objective was to publish a single report on each regulator periodically throughout the year - to include the new data set, performance against new Standards, risk management, audit outcomes, section29 cases (s29)⁴ and learning points and third party information. The Board decided in November 2013 that, due to the further work to be done in developing the proposals as well as anticipated future changes to the regulatory landscape, implementation of the new PR process would have to be postponed until 2015/16.

⁴ [Section 29 of the National Health Service Reform and Health Care Professions Act 2002](#) gives us the power to appeal to the Courts against final decisions made by the regulators' fitness to practise committees, if we consider those decisions are unduly lenient and do not protect the public. Where we think that we may need to refer a final decision taken by a fitness to practise committee to court we hold a formal case meeting to consider whether a court referral would be in the public interest. We review every final fitness to practise committee outcome and we promote good practice by the regulators by sharing with them "learning points" that we identify from our reviews.

- 2.9 In mid-2014 we brought in a part-time project manager to take forward the further development of the performance review proposals, with a view to preparing to consult publicly on the proposed new process in early 2015 and to implement the new process in 2015/16. As part of that work, the proposals we put to our Board in 2013 were reconsidered and further developed, in light of the suggestions made by the regulators during a programme of pre-consultation engagement with them that took place in the autumn of 2014 and in early 2015.
- 2.10 The 2014 engagement work consisted of our project manager meeting with a representative/representatives from each regulator to invite their suggestions about potential changes to the performance review process; as well as attending various meetings of an inter-regulatory group which was set up by the regulators to discuss issues around the current and future performance review process. In February 2015 we held a further series of meetings with the regulators to discuss aspects of the proposals which had been initially considered by our Board in January 2015.
- 2.11 The proposals contained in this consultation document therefore differ in some respects from the plans we asked our Board to consider in 2013. This is because the consultation proposals are the result of our further consideration of what the performance review process should achieve and the most proportionate methods of ensuring that it succeeds in doing so, in light of the input we have received from the regulators both in 2013, 2014 and 2015.
- 2.12 We are very grateful to all the regulators for the suggestions and comments they have made to us and would like to thank their staff for making themselves available to assist with our work on this.
- 2.13 The draft process (and this consultation document) was initially considered by the Board at its meeting in January 2015 and then re-considered (following the meetings with the regulators in February 2015) in March 2015. Following this, the consultation on the proposals and revised process was launched.

3. The revised performance review – in overview

- 3.1 As set out above, the performance review is the method by which we report to Parliament and the public on each regulator’s performance against the Standards of Good Regulation.
- 3.2 The proposals in this consultation do not involve any change to the purpose of the performance review process itself. However they will involve changes to the methods we use to check the level of each regulator’s performance against the Standards of Good Regulation. We have made changes to the way that the Standards are presented, as well as proposing a possible new Standard relating to regulatory risk.
- 3.3 We plan to introduce a two stage process. The first stage will consist of an assessment by us, based on our analysis of specified categories of information to be provided to us by each regulator at regular intervals, of which aspects (if any) of each regulator’s performance need to be the subject of further review by us. Broadly the information that each regulator will provide to us for the purpose of our assessment will consist of the following:
- A standardised set of quantitative data (‘the dataset’) as set out in section 6 and annex 3
 - The outcome of the previous year’s performance review
 - Information about any significant changes in practices, policies or processes that have taken place since the previous performance review, notified to us by the regulator
 - Evidence of how the regulator continues to meet the Standards, particularly where there have been changes to practice, processes or policies
 - Information we gather in relation to s29 learning points and appeals
 - Information we hold about complaints made about the regulator
 - Third party feedback
 - Information the regulator publishes about its own activities (e.g.in its Council papers).
- 3.4 We will use that information, alongside other information we may have, either from our own work or from third party sources, to come to a decision as to whether or not any further review (which may be a change review, a targeted review or a detailed review as detailed in paragraphs 3.7 – 3.10 below) is required before we can report on the regulator’s performance, or whether we can simply publish our assessment outcome as our review of the regulator’s performance.
- 3.5 If we decide that a change review, a targeted review or a detailed review is required (see further below for details of what is involved in each of these types of review), we will also rely upon the information set out in paragraph 3.3 in deciding on the scope of our review.

- 3.6 In the event that there have been no significant changes to the regulator's practices, processes or policies during the performance review period, and none of the information available to us indicates any concerns about the regulator's performance that we wish to explore in more detail, our published report of that regulator's performance will consist of the assessment outcome.
- 3.7 In the event that there have been one or more significant changes to a regulator's practices, processes or policies during the performance review period, but none of the information we have indicates any concerns or raises any queries about the regulator's performance that we wish to explore in more detail, we may ask the regulator for some additional information so that we can assess the reasons for the change(s) and the expected/actual impact of that change/those changes before we publish our performance review report (a 'change' review) about that regulator. We may also highlight that we intend to conduct a 'targeted' performance review in the following year, in order to check the ongoing impact of the change(s).
- 3.8 If we consider that there are one or more aspects of a regulator's performance that we wish to examine in more detail (whether or not there has been a significant change in one or more of the regulator's practices, processes or policies) e.g. because the information we have raises one or more concerns or queries about the regulator's performance against one or more of the Standards of Good Regulation the regulator will undergo either a 'targeted' or 'detailed' review.
- 3.9 A 'targeted' review will be undertaken where we consider that the information we have indicates a concern about the regulator's performance in relation to a small number of specific Standards of Good Regulation, all falling within the same performance review area (e.g. all the relevant Standards fall within regulatory risk). A 'targeted' review is likely to involve us asking the regulator for some further information relating to the specific areas of concern about performance. It *may* also involve an audit by us of aspects of either the fitness to practise or the registration process, depending on the nature of the performance concerns that have been identified.
- 3.10 A 'detailed' review will be undertaken where we consider that the information we have indicates a concern about the regulator's performance across several Standards of Good Regulation, particularly where they span more than one area (e.g. where we have concerns about performance against Standards in both guidance and Standards and registration, or in both fitness to practise and regulatory risks). A 'detailed' review is likely to involve us asking the regulator for further information both about specific areas of concern that have been identified, as well as more general information about the regulator's management of the relevant risks. It is also likely to involve an audit by us of either or both the fitness to practise and registration processes, depending on the nature of the performance concerns that have been identified.
- 3.11 The performance review process for each regulator (whether that consists only of an assessment, or an assessment plus a change review, targeted review or detailed review) will take place on a rolling basis throughout the year. A separate report will be published in relation to each regulator's performance

against the Standards of Good Regulation every year, rather than one consolidated performance review report being published as part of our annual report in June.

- 3.12 We will refer to the outcomes of all assessments and these reviews in our own annual report on our work. Our annual report will continue to be published in June each year.

4. The Standards of Good Regulation

- 4.1 The Standards of Good Regulation are the cornerstone of our assurance that a regulator is performing effectively. They describe the outcomes of good regulation for each of the regulators' statutory functions. They also set out how good regulation promotes and protects the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession.
- 4.2 As part of our revision of the performance review process, we have considered whether changes are required to the Standards, to ensure that they continue to be an effective tool for assessing aspects of the regulators' performance.
- 4.3 We have concluded that the Standards remain a valid and effective way of assessing the work of the regulators. We have made some changes to the format and text of each of these Standards to make them clearer, but we have not altered the Standards themselves.
- 4.4 In line with the proposals we discussed with our Board in July and September 2013 we have also proposed a possible new Standard of Good Regulation relating to regulatory risk.
- 4.5 This new Standard focuses on the effectiveness of each regulator's management of risk and resources, and how it ensures that its governing Council is able to provide effective oversight of the Executive. We hope that this new Standard will provide outcome-focused measures against which the effectiveness of the regulators' internal governance mechanisms in practice can be assessed.
- 4.6 An alternative is not to include a new Standard relating to regulatory risk, but to gain an understanding of the regulator's governance and risk management in a different way.
- 4.7 This alternative proposal would mean that the regulators would be asked at a meeting (prior to any decision being taken about the scope of their PR) whether they have identified any risks in the coming year, and how this might impact on their ability to fulfil their duty to protect the public.
- 4.8 As currently formulated, the question to be asked of the regulators would be: "What is the likelihood that you will fail in the coming year to protect the public, and have you identified any specific risks?"
- 4.9 The regulator would be required to put their response to this question in writing.
- 4.10 This question will help us to understand how the regulator is identifying risks, and will prompt us to ask further detailed questions about these risks if we deem it necessary. We will use the answer to this question, as well as the other information we have gathered, to decide whether further information relating to how the regulator identifies and manages risks is required.
- 4.11 The revised Standards can be found at annex two.

5. Meeting the Standards

- 5.1 In order for us to establish how each regulator performs against the Standards of Good Regulation, we will need to ask each regulator to provide information and evidence as to how they meet each of the Standards.
- 5.2 In previous years, we have asked each regulator a series of questions about their performance against each Standard on an annual basis. We recognise that this often means that where a regulator's evidence of achievement has not changed from year to year there is little additional information that can be provided during the performance review (and what information is provided may be repetitive). Furthermore, the perceived need to demonstrate how a regulator meets each Standard may lead it to provide us with information about possible future plans, which may change or fall away before the next review. This can potentially lead to confusion between us and the regulator as to what activities they are planning to undertake, and the timescales for completing them.
- 5.3 The revised process will no longer require the regulators to provide information and evidence on how they have met each Standard on an annual basis. This will help to avoid the regulator having to provide repetitive evidence where there has been no significant change in how they meet some or all of the Standards.
- 5.4 The first year of implementation of the new process will be slightly different to subsequent years. In the first year, we will ask each regulator to provide evidence of how they currently meet each of the Standards (as set out in annex two of this document) and to set out clearly to us their relevant policies, practices and procedures.
- 5.5 We will assess the information supplied to us by the regulator, alongside other information that we have (e.g. arising from our own work or from third party feedback). We will assess whether we are satisfied that the information demonstrates that the regulator has in fact met each Standard. If our conclusion is that the regulator has met each Standard, no further review will be undertaken during that first year, and the assessment outcome will be published.
- 5.6 If in the first year of implementation of the new process a regulator is unable to demonstrate to our satisfaction that it meets all of the Standards, we may ask for further information/clarification of its practices, policies and processes before we decide whether or not to undertake a change review, a targeted review or a detailed review (as set out at paragraphs 3.4 - 3.10 above).
- 5.7 The process that we will follow in subsequent years is detailed in section three above.

6. Performance data

- 6.1 The provision to us of consistent and accurate quantitative data is an essential element of the proposed new performance review process. Provision of such data to us, at regular intervals, will assist us in conducting a fair and robust assessment process so that we can decide whether or not to undertake a change review, a targeted review or a detailed review of any regulator's performance. As noted in paragraph 2.2 above, the regulators themselves highlighted to us in 2013 the value of a genuinely comparable dataset. Strengthening the quantitative data that we collect in the dataset, to enable the regulators to benchmark their own performance as well as to provide us with a robust means of evaluating their performance in certain areas was also one of the objectives we highlighted to our Board at that time (see paragraph 2.3 above).
- 6.2 We currently request from each regulator performance data (the dataset) on an annual basis. While this data is useful in providing a 'snapshot' of how the regulator is performing each year, it does not allow us to understand how the regulator's performance changes throughout the year, and only provides a crude mechanism for assessing how a regulator's performance changes over time.
- 6.3 As we noted in the proposals we put to our Board in 2013, a key disadvantage of the current dataset is the level of inconsistency in the data provided to us by the regulators, which makes meaningful comparisons of their performance difficult. In addition, in some cases, a lack of clarity about how the data is to be measured has resulted in individual regulators providing us with inaccurate data, which has made it difficult to compare their own performance year on year. The importance of the new performance review introducing a genuinely comparable dataset is reinforced by the fact that each regulator is subject to differing legislation, and the regulators have (for perfectly valid reasons – largely to do with their differing legal frameworks) not developed a consistent set of Key Performance Indicators to measure and report internally and externally on their own performance. This means that it is difficult for any member of the public to draw genuine comparisons between the regulators across key areas of their performance.
- 6.4 The purpose of the change in our approach to the dataset is to provide greater consistency and reliability and therefore strengthen the quality of the conclusions that we are able to reach about each regulator's performance. This will enable us to draw meaningful comparisons in relation to each regulator's performance compared to its own previous performance and, where relevant, compared to others' performance. It will also allow us (and the regulators) to identify more accurately any trends in their performance which may either indicate an improvement in their performance or which may give cause for concern, thereby enabling them to take early remedial action.
- 6.5 The revised process will change the data and our collection and analysis of it in the following ways:
- We have reviewed the current dataset. We have reconsidered the value of each of the categories of data we currently ask for in the dataset. We have

also reviewed the additional questions that we currently ask each regulator to answer which technically fall outside of the dataset but which essentially require the regulator to provide standardised quantitative data about process outcomes. Where we consider it appropriate, we have consolidated these additional questions into the revised dataset set out at annex 3 of this document.

- We have also considered whether there are any additional categories of data that should be added to the dataset, in order to ensure that we can reach robust and meaningful conclusions about the regulators' performance against the relevant Standards, without imposing a disproportionate burden on the regulators. In particular we have considered how to capture information about the outcomes of processes that the regulators have introduced since the establishment of the current dataset (for example, the increasing use of consensual methods of resolving fitness to practise cases). The revised dataset (at annex three) represents the outcome of this process of consolidation and review that we have undertaken.
- Once the dataset has been finalised following the outcome of the consultation, we will liaise with the regulators to establish a consistent approach to how they measure the relevant data (for example, to ensure consistency about the date each regulator treats a fitness to practise case as being opened).
- We will ask the regulators to provide the dataset to us on a quarterly basis. This will allow both us and each regulator to identify any trends in performance (positive or negative) more promptly than the provision of annual data would, and therefore will enable the regulator to take any remedial action earlier. It may also provide us with a more detailed picture of the regulator's performance throughout each year, and therefore strengthen the quality of our reporting on their performance.
- Alongside the dataset provided to us by the regulator, we will use all the information that we hold (such as information on s29 appeals and learning points that we have sent to the regulator) as well as data that the regulator publishes itself (for example in Council papers or its annual report) and any information we receive from third parties in the assessment (and where relevant, the change review, targeted review or detailed review) stage of the performance review process as set out in paragraphs 3.4 – 3.10 above.

6.6 We have identified within the dataset those items which we believe provide a demonstration of how the regulators are performing, and which demonstrate outcomes of most importance to the public. We have described these elements of the dataset as "indicators", and will refer to them in our report on the work of the regulators in our annual report (in addition to the individual performance review reports).

6.7 We may also report on the indicators (and other items from the dataset and the other information we rely upon to assess each regulator's performance) in our individual performance review of the regulator, if we consider it appropriate to do so.

6.8 More information about the dataset and how we will use it can be found at annex three.

7. Deciding the scope of a review

- 7.1 As set out above, the revised performance review process will continue to take place on an annual basis for each regulator, but will be staggered throughout the year rather than being conducted according to the same timetable for all the regulators.
- 7.2 If, following the assessment phase of the process, we decide that a change review, targeted review or detailed review should be undertaken (please see paragraphs 3.4-3.10 above) we will consider all the information we hold in order to decide the nature and scope of the review. A description of the decision making process can be found at annex 1 of this document.
- 7.3 Information we will consider will include the following:
- The trends shown by the quarterly datasets
 - The outcome of our previous performance review
 - Information about any significant changes in practices, policies or processes that have been notified to us by the regulator, and information about how the regulator continues to meet the Standards in light of such changes
 - Information we hold about s29 learning points and appeals
 - Complaints/concerns about the regulator that we have received
 - Any third party feedback
 - Any information the regulator publishes about its own work
 - Any request from a regulator that we review their performance or a particular aspect of it.
- 7.4 Once we have gathered all of the information that we need to make the decision, we will make a recommendation about the level of review required. This recommendation will be shared with the regulator in advance of the decision being taken, so that they can comment on the factual accuracy of our recommendation.
- 7.5 The recommendation will then be considered by a panel of decision-makers within the Authority. The regulator will be notified in writing of the decision. As set out in paragraph 3.6 above, where we are satisfied that the regulator has met all of the Standards and there are no significant changes to policies, practices, or processes that we consider require further review by us, the written outcome of the assessment will be published as our report into the regulator's performance during that performance review period.
- 7.6 The process we will follow for deciding the scope of the assessment/review of each regulator can be found at annex four.

8. Audits of the initial stages of the regulators' fitness to practise processes

- 8.1 We carry out an annual programme of audits of the regulators' decisions in relation to complaints that are not referred for a formal hearing in front of a fitness to practise committee. We audit a random sample of these complaints and assess whether the interests of users of health and care services and the public were properly considered by the regulator before the regulator made its decision not to refer the complaint for a formal hearing.
- 8.2 The frequency of audits of each regulator varies according to our assessment of the relevant risks, with each regulator being audited at least once every three years (until 2011 we audited all the regulators each year).
- 8.3 Findings from the audits are published separately, as well as forming part of the information used in the performance review.
- 8.4 One of the changes to be introduced in the new performance review process is to enable us to audit the regulators' handling of registration applications/decisions (rather than just their fitness to practise decisions) as an integral part of any 'targeted' or 'detailed' performance review.
- 8.5 We anticipate that the actual auditing process (whether an audit relates to fitness to practise or to registration) will be largely the same as that we currently use in relation to fitness to practise audits, i.e. it will involve our staff looking at a sample of the regulators' files on-site at the regulator's premises, before compiling written audit findings.
- 8.6 In addition to any audits conducted as part of a targeted or detailed performance review, we will aim to conduct an audit of each regulator's initial stages fitness to practise process of each regulator at least once every 5-6 years, regardless of whether or not the outcome of our assessment of the regulator's performance against the relevant Standard at that particular time indicates that a targeted or detailed review is merited. We consider that it is important to retain our commitment to audit each regulator's handling of fitness to practise complaints periodically, given the importance of this aspect of their statutory functions to the public. Only by undertaking our own audits can we provide independent assurance to the public and Parliament and to the regulators themselves both about the actual impact of any changes that have been made to the regulators' fitness to practise processes and about the ongoing quality of the regulators' day to day handling of fitness to practise complaints.
- 8.7 Details of the current audit process can be found here: <http://www.professionalStandards.org.uk/library/document-detail?id=ba684993-1738-41ad-9824-2f56ffbb88f4>.
- 8.8 If an audit is undertaken our findings will be incorporated into the regulator's performance review report and will not be published separately.

9. Producing the report

- 9.1. Once we have completed our review of the performance of the regulator, we will produce a report which describes the process we have undertaken and the outcome.
- 9.2. We will provide the regulator with a reasonable opportunity to confirm that the report is factually accurate prior to publication.
- 9.3. We will publish the report once it is complete. Over the course of a 12 month period we will publish a report about each regulator's performance.
- 9.4. We are required to publish an annual report each year on our work which is laid before the four UK Parliaments. As part of that report we will report on the assessment and performance review process and set out our view on the overall operation of health and care professional regulation in relation to the regulators that we oversee.

10. Possible impact of the proposals

- 10.1 We recognise that aspects of these proposals may mean that some or all of the regulators may need to amend aspects of their processes to achieve the requirements set out above.
- 10.2 We anticipate that providing the revised dataset may require some of the regulators to make changes to how they capture and report their data. Although we already ask for the majority of the revised dataset as part of the current PR process, providing the data to us on a quarterly basis may pose a greater logistical challenge for some regulators.
- 10.3 In order to allow those regulators time to make the necessary changes to provide the data on a quarterly basis, we will in the first of operation consider transitional arrangements for the providing of data. These arrangements may include a phased approach to the dataset, focussing first on the quarterly reporting of the key indicators set out in annex three.
- 10.4 The increased scope of our audit may require the regulator to provide more information than is currently required solely for the audit of the initial stages of the fitness to practise process.
- 10.5 Should the need for such an audit be identified, then we will provide the regulator with information as to the scope of the audit and the timescales required. As with our current audit process, we will endeavour to minimise the impact of our activity on the regulator's operation.
- 10.6 The proposals set out an option to create a Standard relating to regulatory risk. We consider that the regulators will be able to provide evidence against this Standard, but we recognise that this might involve resource at the beginning of the process to provide this evidence to us.
- 10.7 The alternative option in relation to the assessment of the management of risk may involve the participation of the regulator's Audit and Risk Committee (ARC).
- 10.8 When the new performance review process commences, the regulators will need to provide at the outset evidence of how they meet all of the Standards of Good Regulation. In order to assist the regulators with the provision of this evidence, we will clearly set out the evidence we require.
- 10.9 We will evaluate the effectiveness of the new performance review process once we have completed the two complete cycles of performance review reports.

11. Consultation questions

Section three, and annex one

Q1: Do you agree with the proposal to move to a rolling programme of performance review?

Section four, and annex two

Management of Risk Standard

Q2: Do you agree with the proposal that the Standards of Good Regulation should include a new Standard relating to the management of risk?

Q3: If so, do you agree with the areas of focus relating to the management of risk?

Q4: Are there other areas that could be defined as management of risk that should be included as part of this standard?

Management of risk question

Q5: Would you prefer the alternative proposal that, instead of including a new Standard about the management of risk, we should ask the regulator about forthcoming risks as part of the information we use to decide the scope of their review?

Q6: Do you have any views on the effectiveness of the question as currently drafted, and whether it will assist us in determining how risk is managed?

Q7: Should the response to the question be signed off by the Chief Executive, the Chair of Council, the Chair of the Audit and Risk Committee, or a combination of these individuals?

Section five, and annex four

Q8: Do you agree with the proposal that each regulator should provide information on how it meets the Standards at the outset of the revised performance review process, and in subsequent years only provide information relating to any changes to how the Standards are met?

Section six, and annex three

Q9: Do you agree with the revised elements of the dataset?

Q10: Are there elements that you believe should not be included? If so, please explain your specific objections.

Q11: Is there additional data that you believe should be included in the dataset in order for us to gain a clearer understanding of the performance of the regulator?

Q21: Do you agree with the indicators that we have set out in annex three?

Q13: Are there other indicators from the dataset that we should include?

Q14: Do you agree with the proposals that the dataset should be collected from the regulator on a quarterly basis?

Section seven, and annex four

Q14: Do you agree with the proposed methods of assessment and review of each regulator? If you disagree with one or more aspects, please explain why.

General

Q15: Are there any other possible impacts relating to these proposals that we have not considered?

Q16: Are there any further comments you would like to make which are relevant to the proposals, and which you have not already covered?

How to respond

1. You can respond to this paper by email to Philip.Hallam@professionalstandards.org.uk, or by post to:
Philip Hallam
Professional Standards Authority
157-197 Buckingham Palace Road
London
SW1W 9SP
2. If you have any queries, or require an accessible version of this document, please contact us on 020 7389 8030 or by email at Philip.Hallam@professionalstandards.org.uk.
3. Please return your response to us by 27 July 2015.

Confidentiality of information

- We will manage the information you provide in response to this discussion paper in accordance with our information security policies.
- Any information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA) the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

- If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.
- We will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

12. Our consultation process

This consultation follows the 'Government Code of Practice'.⁵ In particular, we aim to:

- Consult formally at a stage where there is scope to influence the policy outcome
- Consult for at least 12 weeks with consideration given to longer timescales where feasible and sensible
- Be clear about the consultation process in the consultation documents, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
- Ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach
- Keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process
- Analyse responses carefully and give clear feedback to participants following the consultation
- Ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact us

Philip Hallam
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157-197 Buckingham Palace Road
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Tel: 020 7389 8030
Fax: 020 7389 8040

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⁵ HM Government Code of Practice on Consultation.

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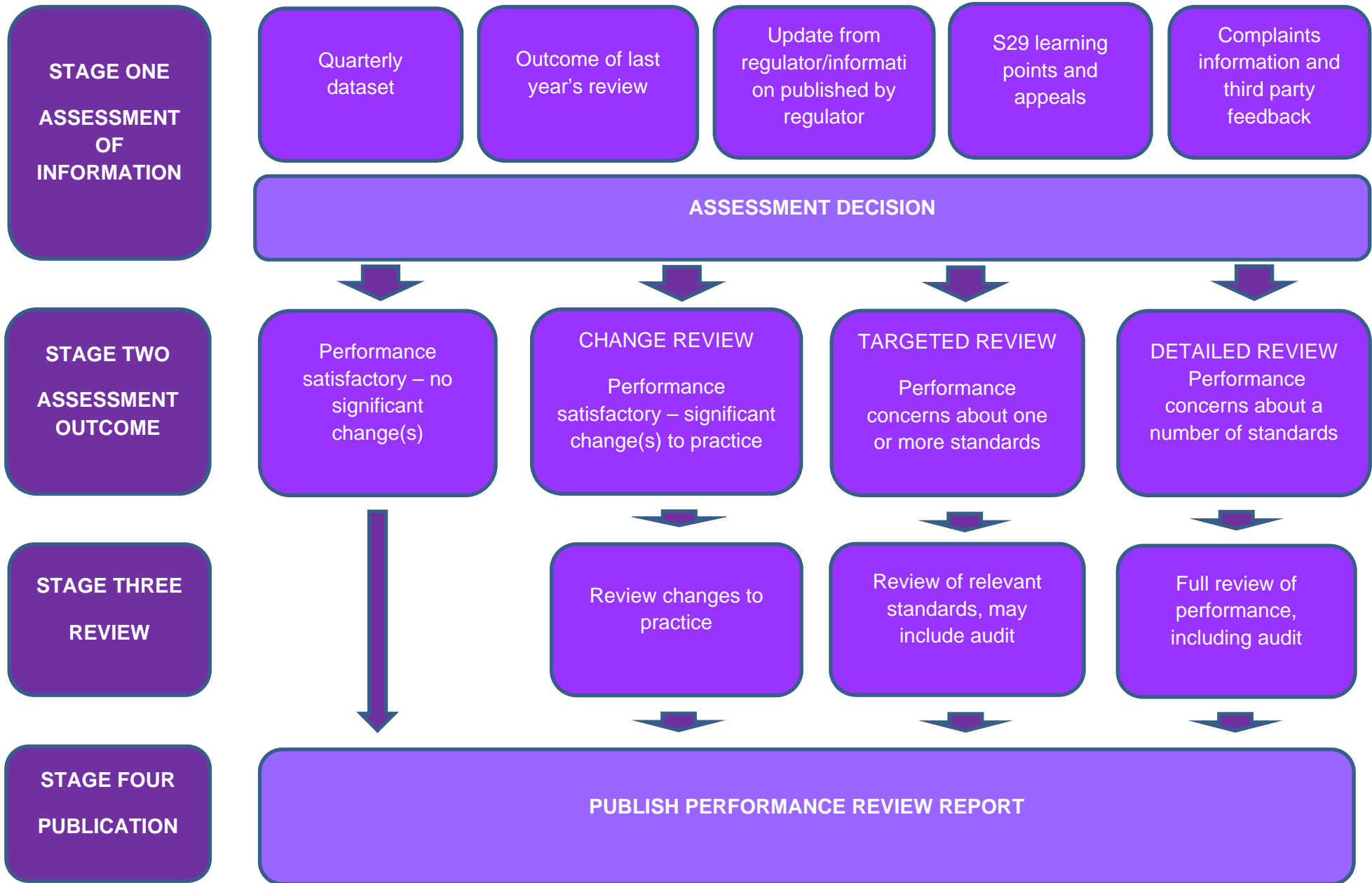
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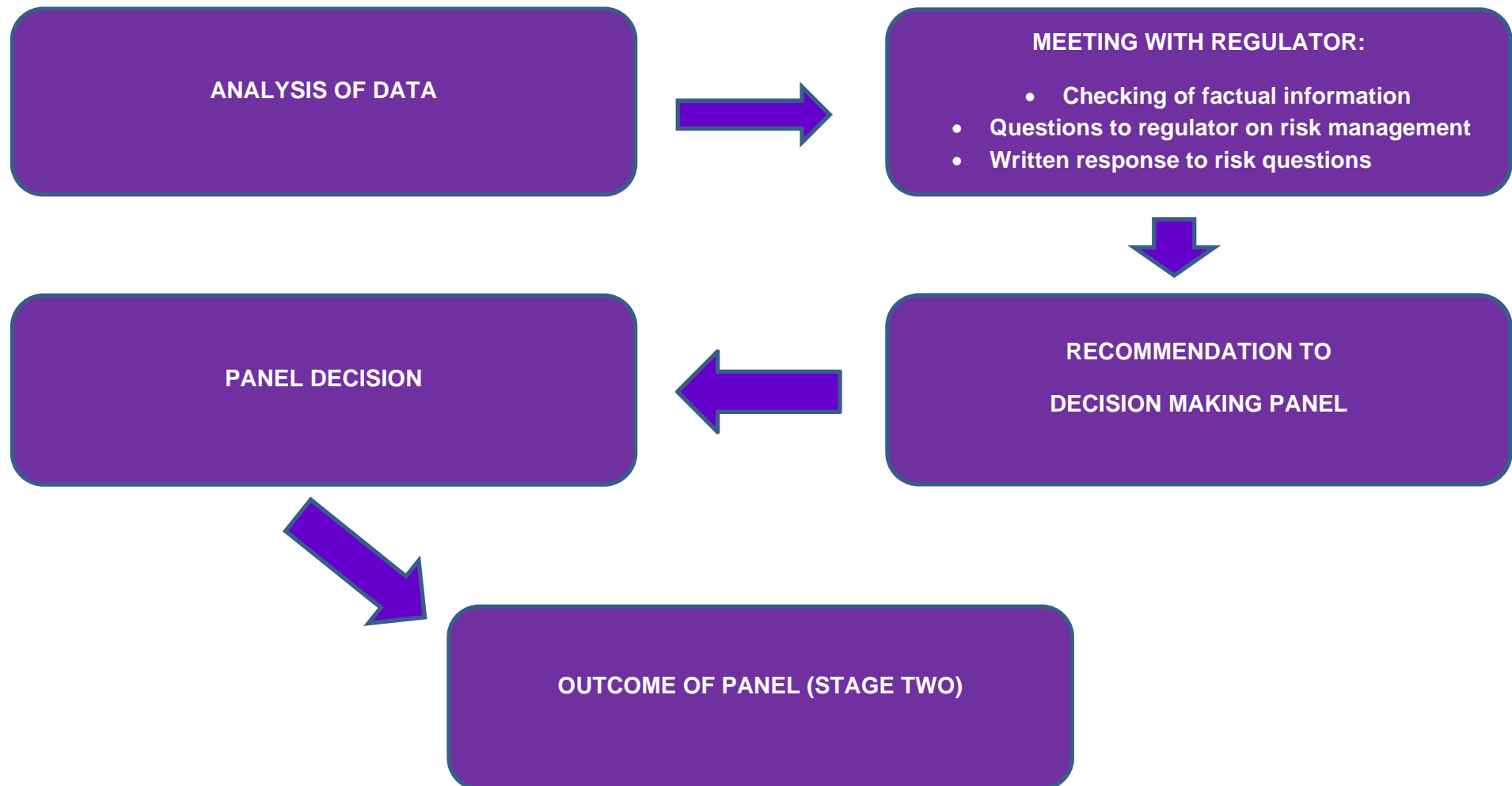
Annex one



Annex one

STAGE ONE PROCESS

In the proposal which includes a question asked of the regulator about their identification of risk (as opposed to the proposal for a risk standard) the process would be as follows:



ANNEX TWO

The Performance Review Standards

Standards of Good Regulation

May 2015

The Professional Standards Authority

The Professional Standards Authority for Health and Social Care promotes the health and well-being of patients, service users and the public in the regulation of health professionals in the UK and social workers in England only. We scrutinise and oversee the work of the nine regulatory bodies¹ that set standards for training and conduct of health professionals in the UK and social workers in England.

We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals in the UK and social workers in England. We are an independent body accountable to the UK Parliament.

Our aim

The Professional Standards Authority for Health and Social Care works to raise standards and encourage improvements in the registration and regulation of people who work in health and social care. We do this in order to promote the health, safety and well-being of patients, service users and other members of the public.

Our values

Our values and principles act as a framework for our decision-making. They are at the heart of who we are and how we would like to be seen by our partners. We are committed to being:

- focused on the public interest
- independent
- fair
- transparent
- proportionate

Our values will be explicit in the way that we work; how we approach our oversight of the registration and regulation of those who work in health and social care, how we develop policy advice and how we engage with all our partners. We will be consistent in the application of our values in what we do.

1 General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health and Care Professions Council (H(C)PC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI)

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3. Standard two: Education and Training	6
4. Standard three: Registration	8
5. Standard four: Fitness to Practise	10
6. Standard five: Management of risk	12

1. The Standards of Good Regulation

Introduction

1.1 Our *Standards for Good Regulation* cover the regulators' four core regulatory functions.

These are:

- Setting and promoting guidance and Standards for the profession(s)
- Setting Standards for and quality assuring the provision of education and training
- Maintaining a register of professionals
- Taking action where a professional's fitness to practise may be impaired.

1.2 The *Standards for Good Regulation* are the basis of our performance review process. They describe the outcomes of good regulation for each of the regulators' functions. They also set out how good regulation promotes and protects the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession.

Using the Standards of Good Regulation in the Performance Review

1.3 We regularly ask the regulators to demonstrate how they meet the Standards in order for us to fulfil our statutory requirement and report on how the regulators use their powers and resources to meet their statutory purpose. We ask each regulator to describe to us how they carry out their work in each of the core regulatory functions. We then reflect this back to each regulator so that we can agree that we understand how they meet the Standards.

1.4 Additionally we ask each regulator to provide to us on a quarterly basis data that we have agreed with them, and we will use this, as well as other data and information we hold or gather, to decide how we are going to assess their performance each year, as well as including that information in our report.

1.5 In addition to the data that we ask each regulator to provide to us on a quarterly basis, we will look at information from sources such as their published Council papers and reports, or concerns that third parties have raised with us. We may then ask the regulator specific questions about their performance against individual Standards.

1.6 The outcome of our analysis of the information will determine the scope of our assessment, and subsequently where we will focus our review. We may ask specific questions relating to any areas of concern based on our assessment of the information we have reviewed. We may also decide to audit aspects of the regulator's processes.

2. Standard one: Guidance and Standards

Introduction

- 2.1 All of the regulators are responsible for publishing and promoting standards of competence and conduct. These are the standards for safe and effective practice which every health professional and social worker² should meet to become registered and to maintain their registration. They set out the quality of care that patients and service users should receive from health professionals in the UK and social workers in England.
- 2.2 Regulators also publish additional guidance to address specific or specialist issues. These complement the regulators' standards of competence and conduct.

How does good regulation through standards and guidance promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Sets out the clearly the rules that health professionals and social workers have to work within when providing care, treatment and services to patients and service users as well as guidance that they should follow.
- Provides a clear framework so that members of the public, employers or commissioners, service users and patients can understand the standards that registered professionals are required to follow and can use that information to raise concerns.
- The standards and guidance meet the needs of relevant stakeholders.

The Standards of Good Regulation relating to guidance and standards:

- 2.3 You should demonstrate how you ensure that the standards of competence and conduct:
 - Reflect up to date practice and legislation
 - Prioritise patient and service user centred care and safety
 - Are available in accessible formats which everyone can find
 - Are regularly reviewed
 - Are developed and revised taking account of; stakeholder views, external developments (in the UK, and internationally), and the work of other regulators
 - Are supported by additional guidance, which helps registrants apply the standards to specialist or specific issues.

² The Health and Care Professions Council are responsible for the regulation of social workers in England only and consequently we only have oversight of the regulation of social workers in England.

3. Standard two: Education and Training

Introduction

- 3.1 The regulator has an important role in ensuring that students and trainees obtain the required skills and knowledge to be safe and effective.
- 3.2 It also has responsibilities for ensuring that, once registered, registrants remain up-to-date with evolving practices and continue to develop as professionals.
- 3.3 As part of this work, the regulators assure the quality of, and, where appropriate, approve educational programmes that students must complete in order to be registered. Some regulators also approve programmes for those already on the register who are undertaking continuing professional development, a particular qualification or specialist training.

How does good regulation through education and training promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that those who are registered have and/or continue to meet the regulator's standards
- Assures the public that those providing education and training to students, trainees and registrants give them the required skills and knowledge so that they can practise safely and effectively
- Effective stakeholder involvement in the education and training process increases everyone's trust, confidence and knowledge of health professional and social work regulation.

The Standards of Good Regulation relating to education and training:

- 3.4 You should demonstrate how you ensure that the Standards of education and training:
 - Link to standards for registration
 - Prioritise patient and service user centred care and safety
 - Are available in accessible formats that everyone can find
 - Are up-to-date and regularly reviewed, taking into account; stakeholder views, external developments (in the UK and internationally)
 - Are supported by additional guidance which helps education providers to apply the standards of education and training
- 3.5 You should demonstrate how you ensure that the quality assurance process for education and training is:
 - Effective
 - Proportionate
 - Risk-based
 - Able to take account of the views of patients, service users, students and trainees

- Focused on confirming that providers are producing students and trainees who meet your Standards for registration
- Able to identify concerns so that appropriate action can be taken
- Publicly available alongside reports of the outcomes of the quality assurance process and any other associated documentation

4. Standard three: Registration

Introduction

- 4.1 In order for a health professional to practise legally in the UK and a social worker to practise legally in England, they must register with the relevant regulator. The regulators only register those professionals who meet their standards. The regulator is required to keep an up-to-date register of all the professionals it has registered. The register should include a record of any action taken against a registrant that limits their entitlement to practise.

How does good regulation through registration promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Assures the public that professionals are regulated and are required to meet certain Standards before they are able to provide care, treatment or services to them
- Informs the public of any limits imposed on the way a registrant is allowed to practise
- Helps the public and others to identify and report those who practise illegally.

The Standards of Good Regulation relating to registration

- 4.2 You should demonstrate how you ensure that the registration process (including the process for appeal):
- Ensures that only those who meet the required standard are registered
 - Takes account of the outcomes of your continuing fitness to practise process
 - Is fair
 - Is efficient
 - Is transparent
 - Is secure
 - Is continuously improving
- 4.3 You should demonstrate how you ensure that the register:
- Is accurate
 - Is accessible to all and well publicised
 - Provides information on the limits imposed on a registrant's practise and if their fitness to practise is impaired
- 4.4 You should demonstrate how your continuing professional development/revalidation systems ensure registrants maintain the standards required to stay fit to practice.
- 4.5 You should demonstrate how you ensure that risk of harm to the public, and damage to public confidence in the profession, which is related to non-registrants using a protected title, or carrying out activities restricted to registrants, is managed:
- Effectively

- Proportionately
- In a risk-based manner

5. Standard four: Fitness to Practise

Introduction

- 5.1 Anyone, including members of the public, employers and the regulator itself can raise a concern about a registered health professional or social worker's conduct, competence or health that calls into question their fitness to practise. The regulator is required to take action under its fitness to practise procedures where it receives such concerns or where it identifies such concerns itself, even if a third party has not formally raised them. This can lead to a variety of outcomes including no further action, a health professional or social worker prevented from practising, or restrictions imposed on their practice.

How does good regulation through fitness to practise promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Ensures that prompt and effective action is taken in relation to those professionals whose fitness to practise is impaired
- Assures the public that those whose fitness to practise is impaired are not able to continue to practice, or are not able to practice without restriction.
- Helps the public to understand why action is and is not taken to limit a health professional's or social worker's practice
- A joined up approach to fitness to practise mitigates the risk to public protection from regulators working independently of each other
- Effective involvement of all parties in the fitness to practise process increases trust, confidence and knowledge of health professional regulation.

The Standards of Good Regulation relating to fitness to practise

- 5.2 You should demonstrate how you ensure that the fitness to practise process is:
- Focused on public protection
 - Fair
 - Effective
 - Efficient
 - Proportionate
 - Transparent
 - Secure
 - Documented
 - Timely, taking into account the complexity of the case, its nature, and the conduct of both sides
 - Actively monitored so that any delays in the process can be identified and addressed

- 5.3 You should demonstrate how to ensure that the fitness to practice process enables all cases to be:
- Risk assessed on receipt and throughout their lifetime
 - Prioritised according to seriousness
 - Referred to an Interim Orders Panel where appropriate
 - Where necessary, shared with other professional or systems regulators, employers, or local arbitrators, within the relevant legal framework so that they can take appropriate action
- 5.4 You should demonstrate how you ensure that all fitness to practise decisions:
- Are well reasoned
 - Protect the public
 - Maintain confidence in the profession, and the system of regulation
 - Are published, available where appropriate on the register, and communicated to stakeholders, except where there are matters that have been considered in private, such matters which relate to a registrant's health
- 5.5 You should demonstrate how you ensure that:
- Clear and accessible information on how to raise a fitness to practise concern about a registrant, and what action you can take, is available to those who require it
 - The process is focused on concerns relating to fitness to practise, and that other matters are appropriately signposted to other organisations when it is appropriate to do so
 - All parties are kept up-to-date with the progress of their case
 - Witnesses, including complainants, are supported so that they can participate effectively in the process

6. Standard five: Management of risk

Background

- 6.1 The following Standard has been developed to provide an indication of how a regulator uses its governance and resources to manage organisational risk effectively.
- 6.2 A regulator will be asked to demonstrate how they meet the Standard, and in line with the performance review process for the other Standards, this will be reviewed with the regulator on an annual basis.
- 6.3 As set out in section four of the consultation document, this is one possible approach to understanding how a regulator understands and manages its risks. An alternative approach is also set out in section four of the consultation document. Below is the proposal for the new standard for management of risk.

Introduction

- 6.4 The regulator ensures, through its use of its resources, that it has in place processes and policies to enable it to meet its statutory obligations. Its governance, financial stewardship, leadership and compliance with its own legal and regulatory frameworks help to maintain and develop its work on behalf of patients and the public.

How does good regulation through the management of risk promote and protect the health, safety and well-being of patients, service users and other members of the public and maintain public confidence in the profession?

- Demonstrates to the public that the regulator has the resources in place to effectively carry out its statutory role.
- Assures the public that the regulator's Council has appropriate and effective oversight of the work of the regulator.
- Helps the public to understand how the regulator understands and manages its risks, and works within its legal and regulatory frameworks.

The Standards of Good Regulation relating to the management of risk

- 6.5 You should demonstrate how you ensure that:
 - You have an effective process for identifying, assessing, escalating and managing risk, and this is communicated and reviewed on a regular basis by the Executive and Council.
 - You have effective controls relating to your financial performance, so that you can assure yourself, your auditors and others, that you have the resources you need to perform your statutory functions effectively, as well as a financial plan that takes into account future risks and developments.
 - Your governing Council has effective oversight of the work of the Executive.
 - Your performance, and the outcomes for patients, service users and the public, is used by your Council when reviewing the strategic objectives of the organisation.

- You comply with your responsibilities under those legal and regulatory frameworks to which you are subject, keep up to date with changes and take prompt and effective remedial action if required.

6.6 You should demonstrate how you ensure that you learn from the context in which you work. This may include:

- Consideration of the issues and recommendations in the previous year's performance review report, including the adoption of any good practice.
- Understanding and explaining where your performance improved since last year, and where you have identified good practice in each of the four functions.
- Understanding and explaining where concerns have been identified in each of the four functions and how you addressed these.
- How you use the learning from your performance in other areas of your work such as fitness to practise, policy development or quality assurance of educational institutions.
- How you manage and learn from organisational complaints.
- How you learn from and use the outcomes of the Authority's work, feedback from stakeholders from the four UK countries, and public policy reports from the four UK countries.
- How you address information, other than formal fitness to practise complaints, which you may receive from other sources on possible failures in performance of organisations or individuals.
- How you respond to changes in regulation or forthcoming changes in regulation
- How you work with service regulators, other regulatory bodies or other bodies with shared interests to ensure that relevant intelligence is shared, within legislative requirements, on individuals or organisations, and that cross-regulatory learning is shared.

ANNEX THREE

The dataset

May 2015

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.² We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

¹ The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence

² CHRE. 2010. *Right-touch regulation*. Available at <http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation>

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1. The dataset

- 1.1 Set out below is the data that we propose to collect from the regulators in order to inform our assessment of the scope of the review we decide to undertake. We will collect this data on a quarterly basis, so that we can gain a better understanding of changes in performance over a period of time.
- 1.2 We anticipate that some of this data will already be collated and published by regulators either externally (for example in Council papers) or internally (for example in management reporting packs). We recognise that not all of this information will be available, or available on a quarterly basis, and we will liaise with regulators as to how they will be able to make the necessary arrangements to report this data to us.
- 1.3 We have separated the data into two types. All of the data we collect will be used as part our assessment decision as to the type of review we will undertake, and in our overall assessment of the regulator's performance. However, we do not envisage that we would routinely publish all of the data as part of our performance review of each regulator, nor use all of it for comparative purposes in our discussion of the performance of the regulators in our annual report, though we may include any of the data in our reports (and draw any comparisons we consider relevant) if we consider it appropriate to do so. If the data we receive gives rise to a concern that we investigate in more detail, it is likely that we will publish this data in our performance review report.
- 1.4 We recognise that not all of the data set out below relates to all regulators, and prior to the start of the collection process we will work with each regulator to identify which data is relevant to them.
- 1.5 The proposed new indicators are on the next page.

Proposed Key Indicators

Below are the indicators that we have identified as being key indicators across the Standards of Good Regulation. We expect to routinely report on these indicators both in each regulator's performance review report, and in our overarching reports on performance across the sector. We will compare the regulators' performance against these indicators where we consider it appropriate to do so. The key indicators are:

1. The number of registration appeals upheld where no new information is presented.
2. Median time (in working days) taken to process initial registration applications
3. The percentage of educational quality assurance visits where concerns are raised resulting in the regulator taking regulatory action
4. Median time from receipt of initial complaint to the final Investigating Committee/Case Examiner decision, and longest and shortest times
5. Median time from receipt of initial complaint to final Fitness to Practise hearing determination and longest and shortest times
6. Median time from receipt of information from complainant or informant to an interim order decision
7. Number of cases disposed of by
 - Undertakings
 - CPD agreement reviewed by an Fitness to Practise Committee
 - Other consensual agreement (not including voluntary removal/erasure)
8. Outcomes of the Authority's appeals against final fitness to practise decisions
9. Number of data breaches reported to the Information Commissioner
10. Number of successful judicial review applications

2. Registration dataset

- 2.1 We will ask each regulator to provide information about their registrants, and those applying for registration. For those regulators that register businesses and students as well as qualified individuals, we will also ask for information about the registration of those groups, so we can understand the effect their registration has on the overall work of the regulator.
- 2.2 Where a regulator has in the previous five years increased the number of professions it regulates, we will ask for data on each of the registered professions, so we can understand any effect that the registration of any new profession or professions might be having on the regulator's overall performance.

Current data requested
1. Number of registrants (including where applicable students, premises and bodies corporate)
2. Number of new registration applications received (including where applicable students, premises and bodies corporate)
3. Number of registration appeals (received and concluded)
4. Of those appeals concluded, the number of appeals: <ul style="list-style-type: none">• Upheld• Rejected• Withdrawn
5. Of those appeals concluded, and where no new information was presented by the applicant, the number of appeals: <ul style="list-style-type: none">• Upheld• Rejected• Withdrawn
6. Median time (in working days) taken to process initial registration applications for: <ul style="list-style-type: none">• UK graduates• EU (non-UK) graduates• International (non-EU) graduates
Additional data
7. Number of registrants to be broken down into the following categories: <ul style="list-style-type: none">• UK applicant

<ul style="list-style-type: none"> • EU/EEA applicant • Non-EU/EEA applicant
<p>8. Number of new registration applications to be broken down by type:</p> <ul style="list-style-type: none"> • UK applicant • EU/EEA applicant • Non-EU/EEA applicant <p>Data to be reported for applications received where the received application is correctly completed.</p>
<p>9. The percentage of registrations that have lapsed (at the last renewal period) where the registrant is (or was at the time) the subject of an FTP investigation that had not concluded, or the subject of a finding of impairment or a sanction that is/was still current, and</p> <ul style="list-style-type: none"> • The Investigation Committee or Case Examiner has yet to reach a decision • The case has been referred to an Fitness to Practise Committee but no final decision has been reached (this includes where a decision has been made but the case is subject to appeal) • The Investigation Committee or Case Examiner has decided to accept undertakings.
<p>10. The number of rejected applications, broken down into the following types</p> <ul style="list-style-type: none"> • Application for registration • Application for restoration • Application for renewal
<p>11. The number of rejected applications, broken down into the following reasons for rejection:</p> <ul style="list-style-type: none"> • Failure to demonstrate indemnity insurance in place or due to be in place • Concerns relating to conduct or competence • Concerns relating to health
<p>12. The median time taken to reach a decision on a registration application where there are FTP concerns that need to be investigated</p>
<p>13. The number of cases of unregistered practice that have been closed, and the reasons for their closure:</p> <ul style="list-style-type: none"> • No action taken • 'Cease and desist' letter sent • Prosecution

3. Education dataset

3.1 We will ask each regulator for data about their quality assurance activity relating to education.

Current data requested
14. Number of education institutions the regulator is responsible for quality assuring
Additional data
15. The number of visits where concerns are raised resulting in the regulator taking regulatory action
16. The number of cases of 'student whistleblowing' i.e. the numbers of concerns raised by students to the regulator
17. Number of accreditation visits in a year
18. Number of institutions visited
19. Percentage of total institutions visited against regulator's agreed visit schedule

4. Fitness to practise dataset

- 4.1 We will ask each regulator to provide information about their fitness to practise work. For those regulators that register businesses and students in addition to qualified individuals, we will also ask for information about fitness to practise in relation to those groups, so we can understand the effect they have on the overall work of the regulator.
- 4.2 Where a regulator has in the previous five years increased the number of professions it regulates, we will ask for data on each of the registered professions, so we can understand any effect that the registration of any new profession or professions might be having on the regulator's overall performance.

Current data requested
20. Number of cases considered by an Investigating Committee/Case Examiner
21. Number of cases concluded by an Investigating Committee/Case Examiner
22. Number of cases considered by a final Fitness to Practise Committee/Case Examiner
23. Number of cases concluded by a final Fitness to Practise Committee/Case Examiner
24. Time from receipt of initial complaint to the final Investigating Committee/Case Examiner decision: <ul style="list-style-type: none"> • Median • Longest case • Shortest case
25. Median time from final Investigating Committee decision to final Fitness to Practise Committee decision or other final disposal of the case
26. Time from receipt of initial complaint to final Fitness to Practise Committee determination/or other final disposal of the case: <ul style="list-style-type: none"> • Median • Longest case • Shortest case
27. Median time from initial receipt of complaint to interim order committee decision
28. Median time from receipt of complaint or information indicating the need for an interim order to an interim order committee decision
29. The number of interim orders which have lapsed without review by a committee
30. The number of High Court extensions to interim orders: <ul style="list-style-type: none"> • Applied for • Granted • Rejected
31. Number of open cases (at the end of the quarter) which are older than: <ul style="list-style-type: none"> • 52 weeks

<ul style="list-style-type: none"> • 104 weeks • 156 weeks
32. Total number of ongoing registrant appeals against final fitness to practise decisions
33. Number of registrant appeals which have not concluded filed in the quarter against final fitness to practise decisions
34. Outcomes of registrant appeals against final fitness to practise decisions: <ul style="list-style-type: none"> • Upheld and outcome substituted: • Upheld and case remitted to regulator for re-hearing • Settled by consent • Withdrawn
35. Total number of ongoing appeals by the Authority against final fitness to practise decisions (we hold this data ourselves and will not require the regulator to produce it)
36. Number of Authority appeals filed in the previous year against final fitness to practise decisions (we hold this data ourselves and will not require the regulator to produce it)
37. Outcomes of the Authority's appeals against final fitness to practise decisions (we hold this data ourselves and will not require the regulator to produce it): <ul style="list-style-type: none"> • Dismissed • Upheld and outcome substituted • Upheld and case remitted to regulator for re-hearing • Settled by consent • Withdrawn
Additional data
38. Number of cases opened as a result of: <ul style="list-style-type: none"> • Self-referral by registrant • The regulator deciding to open the case without any third party raising a concern • Referral by non- NHS employer • Referral by patient • Referral by NHS • Referral by another registrant • Anonymous informant • Referral by another regulator body • Any other informant
39. Number of cases that are closed at the Investigation Committee/Case Examiner stage due to the referrer being anonymous
40. Number of occasions a case has been referred to another investigating body/regulator
41. Number of voluntary erasure applications received prior to the case being considered by an Investigation Committee/Case Examiner
42. Number of voluntary erasure applications granted prior to the case being considered by an Investigation Committee/Case Examiner
43. Number of voluntary erasure applications received subsequent to the case

being considered by an Investigation Committee/Case Examiner
44. Number of voluntary erasure applications granted subsequent to the case being considered by an Investigation Committee/Case Examiner
45. Number of voluntary erasure applications granted by decision maker: <ul style="list-style-type: none"> • Registrar • Case Examiner • Fitness to Practise Committee
46. Number of cases disposed of via consensual disposal (including voluntary erasure and voluntary removal) by allegation type. Number of cases should count the allegation type as set out in the published Notice of Inquiry: <ul style="list-style-type: none"> • Misconduct • Performance • Health • Conviction • Other • Combination of two or more of the above
47. Number of cases disposed of by: <ul style="list-style-type: none"> • Undertakings • CPD agreement reviewed by an Fitness to Practise Committee • Other consensual agreement (not including voluntary removal/erasure)
48. Number of cases concluded by an Investigation Committee/Case Examiner with the following outcome: <ul style="list-style-type: none"> • No further action • Advice • Warning • Warning published on register • Referral to Fitness to Practise Committee
49. The median and mean time from final Investigating Committee/Case Examiner decision to final Fitness to Practise Committee decision/other final disposal
50. Number of cases awaiting an Fitness to Practise Committee hearing that has not yet opened that have been referred by the Investigation Committee/Case Examiner for a substantive hearing
51. Number of cases referred back to the Investigation Committee/Case Examiner, following a previous decision to refer to the Fitness to Practise Committee: <ul style="list-style-type: none"> • Request made by respondent • Request made by regulator • Where rescission is used
52. Number of cases referred back to the Investigation Committee/Case Examiner, following a previous decision to refer to the Fitness to Practise Committee, and where a different decision is reached: <ul style="list-style-type: none"> • Request made by respondent • Request made by regulator • Where rescission is used
53. Number of cases concluded by a final Fitness to Practise Committee where the outcome is:

- Regulator offered no evidence
- No case to answer
- Facts not proved
- Misconduct not found
- Impairment not found
- No impairment warning
- Impaired but no sanction
- Reprimand
- Warning/Caution Order
- Conditions
- Fine
- Suspension with a review
- Suspension without a review
- Indefinite suspension
- Erasure

54. Total number of hearing days

55. Total number of hearing days lost to adjournment

56. % of final hearings that conclude within their original hearing day allocation

5. Management of Risk dataset

Current data requested
57. Annual retention fee
Additional data
58. Number of data breaches: <ul style="list-style-type: none">• Reported internally• reported to the Information Commissioner
59. Number of organisational complaints in the following areas: <ul style="list-style-type: none">• Timescales for FTP or registration activities• Customer service, including quality of decision letters relating to FTP or Registration• Policy matters
60. Number of judicial review applications (where leave has been given) relating to: <ul style="list-style-type: none">• Registration processes and decisions• Education quality assurance processes and decisions• FTP processes and decisions
61. Number of successful judicial review applications
62. Staff turnover (%)

6. Dataset rationale

6.1 Below we explain our rationale for the data in the tables above, each number below corresponds to the number in the tables.

Registration

1. We will continue to ask for statistical data that measures volumes of registrants over time
2. We will continue to ask for statistical data that show trend changes in volumes of registrants over time
3. This statistical data relating to registration appeals indicates the volume of decisions to refuse registration that are dealt with by the regulator, and we will continue to ask for this data.
4. This appeals data indicates the robustness of registration decision making process, and we will continue to ask for this.
5. This new data reflects our recognition that a registration appeal is statutory, and that there is a difference in decision making by the Appeals Committee where a registrant provides information to the Committee which was not available to the Registrar when the refusal decision was made.
6. This data indicates the differing processing times depending on route to registration, and therefore effect of volumes and processing on workload. We currently ask for this data and will continue to do so.
7. This statistical data shows the nature of the register
8. This statistical data shows the volumes of registration applications by route to registration.
9. In previous performance reviews, we have asked for this data where have been concerns relating to the regulator losing the ability to continue an FTP case due to the loss of jurisdiction.
10. This new data helps us to understand the nature and volumes of refusal decisions.
11. This new data helps us to understand the nature and volumes of refusal decisions.
12. This new data helps us to understand the kinds of rejection decisions the regulator is taking. This new data helps us to understand the timeliness of the processing of applications where concerns have been raised.
13. This new data helps us to understand more about how the regulator is taking action to maintain public confidence in protected titles

Education

14. We currently ask for this statistical data that measures volumes over time
15. This data helps us to understand the effectiveness of the education quality assurance process, and we will continue to ask for this data.

16. This data helps us to understand the effectiveness of the education quality assurance process, and we will continue to ask for this data.
17. This data will allow us to understand the way in which the regulator manages the education quality assurance process.
18. This data will allow us to understand the way in which the regulator manages the education quality assurance process.
19. This data will help us to understand the effectiveness of the education quality assurance process.

Fitness to Practise

20. We currently ask for this statistical data that measures volumes over time
21. We currently ask for this statistical data that measures volumes over time
22. We currently ask for this statistical data that measures volumes over time
23. We currently ask for this statistical data that measures volumes over time
24. Measures the timeliness of the FTP process. We have collected this data over a number of years.
25. Measures the timeliness of the FTP process. We have collected this data over a number of years.
26. Measures the timeliness of the FTP process. We have collected this data over a number of years.
27. This data (which we currently collect) Indicates how the regulator is taking steps to protect the public and maintain confidence in the profession
28. This data (which we currently collect) indicates how the regulator is taking steps to protect the public and maintain confidence in the profession
29. We asked each of the regulators to provide this information as part of the 2014 performance review. The data Indicates potential failures to protect the public and maintain confidence in the profession
30. We asked each of the regulators to provide this information as part of the 2014 performance review. The data Indicates the way that the regulator is managing its cases, and also ensuring fairness towards the parties.
31. We currently collect this statistical data that measures volumes over time
32. We currently collect this statistical data that measures volumes over time
33. In addition to the above, this statistical data will also help us measure volumes over
34. This data (which some regulators already provide to us), is a useful indication of the effectiveness of panels and their decision making
35. We currently use this data that we hold when reviewing the performance of the regulator, and will continue to do so.
36. We currently use this data that we hold when reviewing the performance of the regulator, and will continue to do so
37. We currently use this data that we hold when reviewing the performance of the regulator, and will continue to do so

38. Some regulators currently publish information about the source of referrals, and we will request this information from all. This data provides an indication of the effectiveness of the regulator's awareness raising, as well as information relating to how a regulator manages whistleblowing and anonymous complaints.
39. This data provides us with an indication of how the regulator ensures that cases involving anonymous informants are appropriately disposed of.
40. We currently ask for this information, which relates to how the regulators ensure information they receive is appropriately dealt with to ensure the protection of the public.
41. This data will help us to understand the volume of voluntary erasure (VE) applications, and their effective and appropriate closure. We asked all of the regulators to provide information about the closure of cases outside of the Fitness to Practise Committee decision in 2014
42. This data will help us to understand the volume of VE applications, and their effective and appropriate closure. We asked all of the regulators to provide information about the closure of cases outside of the Fitness to Practise Committee decision 2014
43. This data will help us to understand the volume of VE applications, and their effective and appropriate closure. We asked all of the regulators to provide information about the closure of cases outside of the Fitness to Practise Committee decision in 2014
44. This data will help us to understand the volume of VE applications, and their effective and appropriate closure. We asked all of the regulators to provide information about the closure of cases outside of the Fitness to Practise Committee decision in 2014
45. This data will help us to understand the volume of VE applications, and their effective and appropriate closure. We asked all of the regulators to provide information about the closure of cases outside of the Fitness to Practise Committee decision in 2014
46. This data will help us to understand how the regulator disposes of different types of cases appropriately.
47. This data will help us understand (for those regulators that have these powers) how cases are being disposed of consensually
48. This statistical data measures volumes over time and indicates how a regulating is disposing of cases.
49. This data will help us to understand the timeliness of case progression
50. This data will help us to understand the timeliness of case progression
51. This new data relates to cases referred back to an Investigation Committee/Case Examiner and helps us to understand case management and decision making

52. This new data relates to cases referred back to an Investigation Committee/Case Examiner and helps us to understand case management and decision making
53. This new statistical data measures volumes over time. We recognise that some regulators currently report this data publicly.
54. This new statistical data measures volumes over time
55. This new data helps us to understand how a regulator effectively manages the adjudication process
56. This new data helps us to understand how a regulator effectively manages the adjudication process
57. This statistical data measures volumes over time
58. This data helps us to understand the management of risk
59. This data helps to understand a regulator's organisational management and customer service processes
60. This data helps us to understand the management of risk
61. This data helps us to understand the management of risk
62. This data helps us to understand the management of risk

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for Health and Social Care May 2015



Annex Four

The Performance Review process

May 2015

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.² We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

¹ The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence

² CHRE. 2010. *Right-touch regulation*. Available at <http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation>

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1. Introduction

- 1.1 On an annual basis, we will undertake a review of the performance of each of the health and care regulators. The first step in undertaking each regulator's review will be to decide the scope of that review, using the information gathered by us, and provided by the regulator, in order to decide which (if any) elements of a regulator's performance should be reviewed by us in greater depth.
- 1.2 The method by which we will make this assessment of the scope of the review is set out below.

2. Assessment of the scope of the review

2.1 When making the assessment of the scope of the review, we will consider any information available, which may include:

- The outcome of the previous year's performance review.
- Assurance from the regulator that our understanding of the policies and processes used to meet the Standards of Good Regulation have not changed significantly since the last review, such that we would need to reconfirm our understanding of those processes.
- The dataset provided by the regulator, as well as s29 data and our analysis of information published by the regulator including its published Council papers/reports,
- Any other information that we may have collected or generated about the work of the regulator, for example in the course of a policy project, or as part of an investigation undertaken by us.
- Any third party feedback that we have received.
- Any concerns about the regulator's performance that we have raised, or that have been brought to our attention.
- Any significant changes notified to us by the regulator, or that we are aware of, such as change of leadership, governance arrangements, or change in statutory responsibilities.

2.2 The factors listed above are for guidance purposes only.

3. What action should we take?

- 3.1 Having assessed the information available, we will notify the regulator of the recommendation we intend to make to the panel of decision makers based on our assessment of the information we have reviewed, and offer them the opportunity to meet with us to share our proposed assessment of the scope of our review, so that we can amend any factual errors relating to our assessment. Following this meeting, the recommendation will be considered by a panel of decision makers, which will either confirm the proposed scope, or amend it. We will then inform the regulator of the scope of our review.
- 3.2 The potential outcomes of any assessment are as follows:
- In the event that there have been no significant changes to the regulator's practices, processes or policies during the performance review period and none of the information available to us indicates any concerns about the regulator's performance that we wish to explore in more detail, our published report of that regulator's performance will consist of the assessment outcome.
 - In the event that there have been one or more significant changes to a regulator's practices, processes or policies during the performance review period, but none of the information we have indicates any concerns or raises any queries about the regulator's performance that we wish to explore in more detail, we may ask the regulator for some additional information so that we can assess the reasons for the change and the expected/actual impact of that change/those changes before we publish our performance review report (a 'change' review) about that regulator. We may also highlight that we intend to conduct a 'targeted' performance review in the following year, in order to check the ongoing impact of the change.
 - If we consider that there are one or more aspects of a regulator's performance that we wish to examine in more detail (whether or not there has been a significant change in one or more of the regulator's practices, processes or policies) e.g. because the information we have raises one or more concerns or queries about the regulator's performance against one or more of the Standards of Good Regulation, the regulator will undergo either a 'targeted' or a 'detailed' review
 - A 'targeted' review will be undertaken where we consider that the information we have indicates a concern about the regulator's performance in relation to a small number of specific Standards of Good Regulation, all falling within the same performance review area (e.g. all the relevant Standards fall within fitness to practise). A 'targeted' review is likely to involve us asking the regulator for some further information relating to the specific areas of concern about performance. It may also involve an audit by us of aspects of either the fitness to practise or the registration process, depending on the nature of the performance concerns that have been identified.
 - A 'detailed' review will be undertaken where we consider that the information we have indicates a concern about the regulator's

performance across several Standards of Good Regulation, particularly where they span more than one area (e.g. where we have concerns about performance against the Standards in both guidance and standards and registration, or in both fitness to practise and management of risks). A 'detailed' review is likely to involve us asking the regulator for further information both about specific areas of concern that have been identified, as well as more general information about the regulator's management of the relevant risks. It is also likely to involve an audit by us of either or both the fitness to practise and registration processes, depending on the nature of the performance concerns that have been identified.

4. The performance review requirements

- 4.1 Once we have notified the regulator of the outcome of our assessment, and (if required) the parameters of any further review, we will inform them of the process for that further review, including the timeframes within which they will need to respond to any questions.
- 4.2 If our assessment indicates the need for a change review, we will send the regulator questions relating to the areas we wish to focus on as indicated above.
- 4.3 If we identify areas of concern as set out above, then we will send questions to the regulator focusing on those areas.
- 4.4 If we decide that an audit of the initial stages of the fitness to practise process, the registration process (or both) is required, then we will notify the regulator. We intend to adopt a similar approach to that used currently in our audit programme. Details of this can be found here:
<http://www.professionalstandards.org.uk/library/document-detail?id=ba684993-1738-41ad-9824-2f56ffbb88f4>

5. Analysing the regulator's response

- 5.1 Once the regulator has provided its response to the questions we have asked, we will in turn review this response.
- 5.2 If necessary, we will follow up with the regulator where we need clarification.
- 5.3 If the regulator fails to respond fully within a reasonable timeframe, we will base our assessment on the information we already have.
- 5.4 If an audit has been undertaken by us, we will give the regulator an opportunity to check the factual accuracy of our audit findings.

6. Preparing the report

- 6.1 Once we have received all of the information we require (including the findings from any audit(s)), then we will draft the performance review report.
- 6.2 The report will be quality assured internally, and then sent to the regulator so that any factual inaccuracies can be corrected.
- 6.3 Once any factual inaccuracies (if they are identified) are resolved, then the report will be released to the regulator, and published on our website.

7. Factors to consider when assessing the scope of the review

Area of assessment	Factors to consider	Possible methods of assessment
Outcome of previous performance review.	<ul style="list-style-type: none"> • Number of recommendations/areas of concern from previous review. • Evidence of impact of action to address those recommendations undertaken by the regulator. 	<ul style="list-style-type: none"> • Review of previous performance review report
Changes to policy or process relating to areas covered by the <i>Standards of Good Regulation</i> .	<ul style="list-style-type: none"> • Regulator identifies a number of changes to processes or policies across one or more of the Standards. 	<ul style="list-style-type: none"> • Regulator identifies any changes based on information previously provided.
Change in performance data.	<ul style="list-style-type: none"> • Performance data indicates a change against previous data submitted • Change suggests a trend that needs further explanation • Internal/external audit reports 	<ul style="list-style-type: none"> • Dataset returns from regulator • Analysis of information from annual reports/Council papers etc. • Analysis of s29 information/other Authority data • Review of corporate risk register and comparison against previous
Third party feedback and concerns raised.	<ul style="list-style-type: none"> • Increase in concerns raised/complaints made to Authority. • Outcome of investigations undertaken by the Authority • Outcome of investigations undertaken by other bodies • Information provided by other bodies (i.e. ICO/Charity Commission) 	<ul style="list-style-type: none"> • Analysis of complaints received by Authority • Information provided by other bodies
Operational changes to regulator which may impact	<ul style="list-style-type: none"> • Change to senior management team 	<ul style="list-style-type: none"> • Information provided by regulator

on performance.	<ul style="list-style-type: none">• Significant staff turnover• Legislative change• Governance changes – change of Council etc.• New processes which may affect performance	<ul style="list-style-type: none">• Information gained from review of Council minutes/papers etc.• Information provided by other bodies
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8. Evaluating the impact of the risk

8.1 When considering risk we need to evaluate the impact of the risk on the regulator's performance, and how the regulator is responding to the risks identified.

Impact	3	2	1
Is the area of concern identified restricted to one function, one aspect of a function or is it spread across the functions?	Concern covers one or more function or aspect of function	Concern is restricted to one to two aspects of one function	Concern is restricted to one minor aspect of a function
Has the regulator identified this as a concern?	The regulator does not consider this to be an area of concern	The regulator has insight into the concern	The regulator expresses clearly that this is a cause for concern
Has the regulator begun to take action to address the concern?	The regulator has taken no steps to address the concern nor are steps planned. The regulator has taken steps to address the concern, but the evidence does not suggest that these have resolved the concern	The regulator has taken/planned to take action to address the concern and has identified mechanisms to monitor implementation and effectiveness of the remedy. Willing to modify plans to speed up or better enable improvement	The regulator is already taking action to address the concern and can demonstrate that the action has resolved the issue/is on course to resolve the issue.
Is the regulator capable of responding to this concern?	Few or unsatisfactory systems in place to enable the regulator to respond to the concern, to remediate it and to ensure non-recurrence. Inadequate levels of support from the Council and the Executive	Systems for identification, remediation and future prevention are in place and improvement is documented and ongoing. Has the support of the Council and the Executive who are carrying out effective oversight	Systems for identification, remediation and future prevention are in place and fully implemented, and resolution of issue is evidenced. Has the support of the Council and the executive

9. Evaluating the consequences of the risk

9.1 When considering the impact, we need to consider the consequence level

Consequence	1	2	3	4	5
Descriptor	Negligible	Minor	Moderate	Major	Catastrophic
How long would the impact be felt for?	No impact felt	Less than six months	six months to 12 months	12 months	Over 12 months
Who would be most affected?	No one	No one group in particular	Some groups notably, patients, service users, and the public	All groups	All groups
What impact would this have on the public's confidence in the regulator?	No impact felt	Limited impact -short term loss of confidence Few elements of public expectation not met	Medium term loss of confidence Some elements of public expectation not met	Long term loss of confidence Significantly below public expectation	Permanent loss of confidence Significantly below public expectation
What effect would this have on the effectiveness of the organisation?	No impact felt	Likely to have a small impact on the effectiveness of the organisation	Likely to have a significant effect on the effectiveness of the organisation.	Likely to prevent the organisation from running effectively	Likely to prevent the organisation from running effectively

10. Evaluating the action we should take

10.1 The need for a review will be informed by, but not limited by, the following calculation:

- (impact) x (consequence) = review required

Impact	1	2	3
	Minor	Limited	Significant
5 Catastrophic	5	10	15
4 Major	4	8	12
3 Moderate	3	6	9
2 Minor	2	4	6
1 Negligible	1	2	3

1. Change review or targeted review to be considered

2. Some concerns about performance; targeted or detailed review to be considered

3. Significant concerns about performance in one or more statutory functions; detailed review to be considered

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