Professional Standards Authority for Health and Social Care

Annual Report and Accounts and Performance Review Report 2012-13

Volume II

Performance Review Report 2012-13

professional standards authority

2. Executive summary

Introduction

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

2.2 This report contains both an overview of general findings from our performance review of the regulators we oversee and our individual detailed reports about the performance of each of the regulators against the Standards of Good Regulation. The performance review took place between September 2012 and May 2013 and draws primarily on evidence of performance during the 2012/13 financial year. We have summarised our findings in Chapter 7.

Changes to health and social care regulation during 2012/13

The National Health Service Reform and Health Care Professions Act 2002

2.3 On 1 December 2012 the Council for Healthcare Regulatory Excellence (CHRE) became the Professional Standards Authority for Health and Social Care (the Authority) following the amendment to the NHS Reform and Health Care Professions Act 2002.

2.4 As part of these reforms to our legislation, we acquired new powers which enhanced our ability to promote the public interest and included:

- An amendment of the Authority's role to include oversight of the regulation of social workers in England, as a result of the transfer of the regulation of social workers in England to the Health and Care Professions Council (HCPC) from August 2012 following the abolition of the General Social Care Council (GSCC)
- Responsibility for advising the Privy Council on the quality of the processes the health and care professional regulators (excluding the Pharmaceutical Society of Northern Ireland (PSNI)) use to recommend candidates for appointment as chairs and members of their councils from July 2012 and following the abolition of the Appointments Commission.

The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012

2.5 There have also been changes to the regulatory framework in Northern Ireland. The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 came into force on 1 October 2012. The changes within the legislation addressed some concerns we previously highlighted about the limitations on the PSNI's ability to run an effective fitness to practise process. In particular it changed the legislative framework to enable the PSNI to impose interim orders and impose a full range of sanctions at final fitness to practise panel hearings.

The Mid Staffordshire NHS Foundation Trust public inquiry report

2.6 In February 2013, the final report of the Mid Staffordshire NHS Foundation Trust public inquiry[3] was published. This report examined why the serious problems at the Mid Staffordshire NHS Foundation Trust were not identified and acted on sooner by the commissioning, supervisory and regulatory bodies in place at the time (January 2005 – March 2009). A number of recommendations were made (indirectly and directly) for implementation by the regulators we oversee.

2.7 The inquiry report also recommended that we work with the regulators we oversee to devise procedures for dealing consistently, and in the public interest, with cases arising out of the same event or series of events but involving professionals regulated by more than one body. We are commencing work with the regulators we oversee to consider how to implement this recommendation and we will report on this in next year's performance review.

2.8 We welcome the Government's recognition, in response to the Mid Staffordshire NHS Foundation Trust public inquiry report, that the regulators that we oversee are hampered from performing as effectively as they could in some areas by an outdated legislative framework. We welcome the government's commitment to implementing the Law Commissions' review (of the law relating to the regulation of health professionals in the UK, and social workers in England) and radically overhauling 150 years of complex legislation into a single act.

2.9 In 2013 our annual schedule of audits of the cases closed by the regulators at the initial stages of the fitness to practise process (without referral for a final fitness to practise hearing) will include the General Medical Council (GMC) and the Nursing and Midwifery Council (NMC). In these audits we will consider a sample of the cases that involved registrants employed at Mid Staffordshire NHS Foundation Trust. We will pay particular attention to the outcomes of final fitness to practise panel hearings concerning employees of the Mid Staffordshire NHS Foundation Trust.

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

2.10 We have found that the regulators are generally performing well against most of the Standards of Good Regulation and are meeting their statutory responsibilities, however, we have identified that three of the regulators (the General Chiropractic Council (GCC), General Dental Council (GDC) and NMC) do not meet one or more of the Standards of Good Regulation. We have also reported on good practice in some areas by all the regulators.

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[3] The Mid Staffordshire NHS Foundation Trust Public Inquiry, 2013. Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. London: The Stationery Office. Available at: http://www.midstaffspublicinquiry.com/report

2.11 A failure to meet certain standards (for example a failure to meet the standards relating to timeliness of case progression or the quality of decision making in the fitness to practise function) may have serious implications for public protection. Failure to meet one standard in a particular function, however, may not be significant but instead reflect a regulator's developing practice – this is the case in relation to those regulators who do not currently have a system to ensure registrants' continuing fitness to practise. We judge whether a regulator has met or failed to meet a standard against our evidence framework. The individual reports for each regulator expand further on any concerns we have about the regulator's performance against the Standards of Good Regulation.

2.12 In relation to our general findings about the regulators' performance in the four regulatory functions which the Standards of Good Regulation cover, we have summarised our findings as follows:

Guidance and standards

2.13 The four Standards of Good Regulation for guidance and standards require regulators to ensure that the guidance they have in place prioritises safety and helps registrants to apply the regulators' standards to address current issues and the diverse needs of the public.

2.14 All of the regulators we oversee are meeting the Standards of Good Regulation for guidance and standards. We noted particular examples of good practice in relation to the approaches taken to stakeholder engagement, with regulators identifying a variety of means for gathering information such as identifying the greatest possible range of stakeholders to communicate with and how to best support stakeholders with providing feedback.

Education and training

2.15 There are five Standards of Good Regulation for education and training which require regulators to ensure that their standards for education are linked to their standards for registrants and that there is a proportionate process for the quality assurance of education programmes so the public can be assured that education providers provide students, trainees and professionals with the skills and knowledge to practise safely and effectively. The standards also require regulators to have a system in place to assure themselves of the continuing fitness to practise of registrants.

2.16 The Standards of Good Regulation are being met by all the regulators, with the exception of the NMC and the PSNI which are not meeting the Standard of Good Regulation that requires regulators to have a system of continuing fitness to practise in place. They are not likely to meet this standard before 2016. We note that the NMC's Council is considering plans to implement a scheme to be launched in December 2015 and that the PSNI's Council will consider the implementation of a scheme after it has implemented its new legal requirement for registrants to complete compulsory continuing professional development (CPD). We understand the reasons for delay in both cases.

2.17 The other seven regulators are currently developing schemes of continuing fitness to practise and the GMC has implemented a scheme during 2012/13.

Registration

2.18 There are five Standards of Good Regulation for registration which require regulators to: ensure that only those that meet the regulator's standards are registered; hold accurate information on the register about the current and historical fitness to practise of registrants; make this information publicly available so that employers are aware of the need to check the registration status of registrants; have processes in place to manage the registration process; and prevent individuals practising illegally.

2.19 The Standards of Good Regulation for registration are being met by all the regulators, with the exception of the NMC, which is not meeting two of the five standards.

2.20 We were also pleased to note that all the regulators were able to demonstrate improvements in their registration function during 2012/13 including the NMC.

2.21 While significant improvements remain to be made by the NMC, including enhancing its ability to identify for itself when amendments are needed to its register, we acknowledge the action that the NMC has already taken to address the errors in its register when we identified them, and to address the causes of those errors.

2.22 During 2012/13 the NMC itself identified that improvements were needed to its procedure for validating identity requirements as it had been operating different systems for evaluating the training requirements for applicants from New Zealand, America, Canada and Australia compared with the system for evaluating the training requirements for applicants from other non-European Union countries. It also discovered that improvements were needed to its procedure for validating identity requirements. This is a serious matter but we commend the NMC for the way it is now dealing with it. The NMC is keeping us informed on its progress in dealing with this matter.

Fitness to practise

2.23 There are 10 Standards of Good Regulation for fitness to practise which cover performance throughout the fitness to practise function. We check that regulators manage the function in a way that is transparent, fair, proportionate and focused on public protection. We are pleased to report that four regulators (HCPC, GMC, General Osteopathic Council (GOsC) and General Optical Council (GOC)) are meeting all 10 of the Standards of Good Regulation for fitness to practise and are managing their caseloads effectively and efficiently. The GDC is meeting all but one of the standards for fitness to practise and therefore it needs to continue to seek improvement in the area we highlight. We are not able to confirm whether the GPhC is meeting the 10th Standard of Good Regulation for fitness to practise (*information about fitness to practise cases is securely retained)* because we are waiting for a ruling from the Information Commissioner's Office about a data security breach. We are also not able to confirm whether the PSNI is

meeting the 4th Standard of Good Regulation for fitness to practise (*all fitness to practise complaints are reviewed on receipt and serious cases are prioritised)* as only one interim order has been imposed since the legislation came into effect. Please see the individual performance review reports for further details.

2.24 We have identified a continuing concern in relation to the performance of the GCC (which is not meeting two standards for fitness to practise) and the NMC (which is not meeting five standards for fitness to practise) although we recognise that both the GCC and NMC have improved their performance in some aspects of fitness to practise since 2011/12. The GCC and NMC are already taking action to address the relevant areas for improvement and we acknowledge that improvement in their performance resulting from those actions will take some time to become evident. We will report on the progress and impact of the NMC and GCC's remedial activities in next year's performance review.

2.25 We are also pleased to note that during 2012/13 all the regulators have implemented initiatives aimed at improvements to their performance in the fitness to practise function which has supported them to either improve or maintain their performance against the Standards of Good Regulation for fitness to practise.

Conclusions and recommendations

2.26 We continue to be satisfied that most of the regulators are performing well across their regulatory functions.

2.27 We have drawn attention, at the end of each of the sections within each regulator's performance review report, to the areas of that regulator's work which we intend to follow up on in next year's performance review. We have also included within each regulator's performance review report any recommendations about areas of concern. In addition to this we make the following general recommendations:

For the regulators

2.28 We recommend that the regulators should:

- Review this year's performance review report as a whole, taking account of our views, and consider whether they can learn and improve from the practices of the other regulators
- Address any areas of concern that are highlighted in this year's performance review report
- Ensure that their Councils review and discuss the performance review report in a public Council meeting.

For the Authority

2.29 We will continue to review and refine the approach we take to undertaking the performance review process. We will consult on any proposed changes during 2013.

2.30 The Mid Staffordshire NHS Foundation Trust public inquiry report makes recommendations (indirectly and directly) that are relevant to us and to the regulators we oversee and we will monitor the regulators' responses and report on this in next year's performance review.

For the Departments of Health in the UK

2.31 During 2012 we have, at the request of the Department of Health in England, reviewed a number of proposals and suggestions from seven of the regulators we oversee for changes to their primary legislation through Section 60 orders.[4] We were aware that many of the proposals we considered have been discussed by the regulators and the Department of Health for some time. We were asked to consider and prioritise those that are required to protect patients and the public, improve the efficiency and effectiveness of the regulatory body, are consistent with government policy and do not pre-empt or contradict any proposals from the Law Commissions. We identified a number of changes that in our view fulfilled these criteria, including a number that would close potentially serious loopholes in current public protection arrangements. We recommended that the Department of Health in England considers these as candidates for a Section 60 order ahead of any changes that may be anticipated arising from the Law Commissions' review.

2.32 In May 2013 the Department wrote to all the regulators stating that it was 'seeking an early legislative opportunity to bring forward the draft legislation being constructed by the Law Commission' and that consequently it would not proceed at this time with the recommendations we put forward for inclusion in Section 60 orders. We agree that the Law Commissions' legislative proposals are, if they can be implemented quickly, the best opportunity for reform. However, we recommend that this matter is kept under review by the Department and devolved administrations as the gaps in the regulators' powers to protect the public and do so efficiently and effectively remain.

[4] A Section 60 order allows Parliament to make changes to the regulators' legislation without the need for an Act of Parliament. They can take up to two years to be approved.

8. The regulators in numbers

8.1 In this section, we provide some basic numerical data on the regulators' performance. The regulators themselves have provided this information and it has not been audited by us.

8.2 The data provides some context about the size of the regulators, in terms of the number of professions and professionals that they regulate and the size of their workloads.

8.3 When reading this data for each of the regulators, care should be taken to ensure that misleading comparisons are not made. There are differences in the size of the regulators both in terms of staff numbers and registrants, they all work to differing legislation, rules and processes, they have a varying caseload in terms of registration applications and fitness to practise referrals, and are dependent to a greater or lesser extent on information from third parties, which can impact on the timeliness of their work. Furthermore the time period to which some of the data relates is not directly comparable, as it is only for part of the financial year 2012/13.

Data relates to the financial year 2012/13 unless otherwise stated in the notes.	GCC	GDC	GMC	GOC	GOsC	GPhC	HCPC	NMC	PSNI
REGISTRATION ACTIVITY									
Number of registrants	2,846	101,901	252,431	23,858 2,107 bodies corporate (6)	4,681 (8)	69,231 14,186 premises	310,942	675,148	2,111
Number of new initial registration applications received	158	11,863	12,072	2,098 663 bodies corporate	194	4,091 464 premises	19,424	20,904	1
Number of registration appeals received and concluded and the outcomes of the appeals	0	16 received 12 concluded (1 upheld, 3 rejected, 8 withdrawn)	45 received 58 concluded (1 upheld, 38 rejected, 18 withdrawn, 1 remitted for new decision)	6 received 5 concluded (1 upheld, 4 rejected)	1 received 0 concluded	4 received 3 concluded (3 rejected)	68 received 43 concluded (20 upheld, 17 rejected, 2 remitted to E&T Committee (15), 4 withdrawn)	37 received 28 concluded (7 upheld, 17 rejected, 3 withdrawn, 1 remitted to registrar)	0
Median time taken to process initial registration applications for:									
• **UK graduates**	1 day	11 days	1 day	2 days	2 days	Pharmacists - 9 days Pharmacy technicians - 3 days (13)	6 days	0.6 days (20)	1 day
• **International non-EU graduates**	1 day	11 days	22 days	1 day	54 days	Pharmacists – 9 days (13)	59 days	1.1 days (20)	No applications
• **EU applicants**	1 day	12 days	27 days	2 days	57 days	Unable to provide in this form (12)	40 days	1.6 days (20)	No applications
Annual retention fee	£800 practising £100 non-practising	Dentists - £576 Dental care practitioners - £120	£390 with licence to practise £140 without licence	£260 £20 students	Yr 1 - £340 Yr 2 - £455 After - £610 (9)	Pharmacists - £240 Pharmacy technicians - £108 Premises - £221	£76	£100	£372
EDUCATION ACTIVITY									
Number of educational institutions the regulator is responsible for quality assuring	3	46	55 (3)	16	11	57	150	79	2
FITNESS TO PRACTISE ACTIVITY									
No of cases <u>considered</u> by an investigating committee	197	530	2,183	225 (7A)	28	151	663 (16)	3,540	37
No of cases <u>concluded</u> by an investigating committee	182	291	1,973	223 (7A)	28	100	643 (16)	1,270	24
No of cases <u>considered</u> by a final fitness to practise committee	12	199	209	28 (7B)	9	93	293 (17)	1,535	1
No of cases <u>concluded</u> by a final fitness to practise committee	11	161	209	28 (7B)	9	61	250 (18)	1,280	1

	GCC	GDC	GMC	GOC	GOsC	GPhC	HCPC	NMC	PSNI
FITNESS TO PRACTISE ACTIVITY continued									
The median time taken from receipt of initial complaint to the final investigating committee decision:									
• Median time taken to conclude	60 weeks	33 weeks	27 weeks (4)	26 weeks	18 weeks	52 weeks	24 weeks	49 weeks	12 weeks
• Longest case to conclude	260 weeks	257 weeks	389 weeks (4)	122 weeks	39 weeks	280 weeks	178 weeks	220 weeks	133 weeks
• Shortest case to conclude	3 weeks	11 weeks	1 week (4)	3 weeks	6 weeks	13 weeks	5 weeks	9 weeks	12 weeks
The median time taken from receipt of initial complaint to final fitness to practise hearing determination:									
• Median time taken to conclude	68 weeks	80 weeks	88 weeks	99 weeks	45 weeks	113 weeks	61 weeks	109 weeks	65 weeks (22)
• Longest case to conclude	101 weeks	432 weeks (1)	316 weeks (4)	184 weeks	154 weeks (10)	379 weeks	258 weeks	361 weeks	65 weeks (22)
• Shortest case to conclude	44 weeks	33 weeks	22 weeks (4)	44 weeks	37 weeks	15 weeks	25 weeks	27 weeks	65 weeks (22)
The median time taken from final investigating committee decision to final fitness to practise hearing decision	35 weeks	52 weeks	38 weeks (4)	66 weeks	28 weeks	33 weeks	34 weeks	35 weeks	12 weeks
The median time taken from initial receipt of complaint to interim order decision and receipt of information indicating the need for an interim order and an interim order decision:									
• Receipt of complaint	17 weeks	23 weeks (2)	7 weeks (4)	12 weeks	6 weeks	21 weeks	8 weeks	4 weeks	4 weeks
• Receipt of information	11 weeks	5 weeks (2)	2 weeks (4)	4 weeks	6 weeks	Not collected (14)	2 weeks	Not collected (21)	3 weeks
Number of open cases that are older than:									
• 52 weeks	36	124	853	19	3 (11)	119	103 (19)	1,251	5
• 104 weeks	12	31	239	6	1 (11)	28	21 (19)	370	1
• 156 weeks	4	16	90	5	0	7	2 (19)	148	1
Number of registrant/Authority appeals against final fitness to practise decisions:									
• Registrant appeals	0	8 received	39 received (5)	2 received	0 (12)	5 received	3 received	15 received	0
• Authority appeals	0	0	1 received	0	0	0	1 received	1 received	0

Notes

GDC

(1) The GDC has explained that this case proceeded under the previous legislation which allowed a decision on impairment to be deferred to enable the registrant to undertake steps to be able to demonstrate fitness to practise

(2) The GDC has explained that under its new IT system, introduced in April 2012, the GDC is unable to distinguish between the two available methods of initiating an interim order hearing (registrar referrals and Investigating Committee referrals)

GMC

(3) 33 medical schools and 22 deaneries

(4) These figures have been rounded to the nearest whole week

(5) The period in which the appeals were received is 1 January 2012 to 22 April 2013

GOC

(6) The number of registrants is recorded as at 4 April 2013, representing the register following the end of the 2013/14 annual renewal period (and consequently reflect the removals from the register following the end of that period)

(7) The GOC has changed the way it defines:

- 7A - number of cases 'considered' by Investigation Committee – this now excludes multiple considerations by the Investigation Committee of individual cases (they now count the first appearance only), and now includes each individual registrant whose case is considered (they previously counted as a single case one where a single referral featured multiple registrants)

- 7B - 'final fitness to practise committee' – this now excludes reviews of suspension/conditions imposed at final hearings

GOsC

(8) The number of registrants is recorded as at 4 April 2013

(9) For overseas and non-practising osteopaths the figures are 2nd year £230, subsequent years £340

(10) The GOsC has explained to us that this was a health case suspended for 43 weeks in accordance with legislation

(11) The GOsC has defined 'open cases' as ones that have been screened in for investigation but where a final determination has not been made

(12) One appeal which was reported in the 2011/12 performance review report was heard and upheld this year

GPhC

(13) The data is for the period 1 July 2012 to 31 March 2013, for eligible and complete applications. The GPhC has informed us that for applications from EU pharmacist applicants which were complete the general processing times are:

- European automatic applications – 10 days
- European applications via the comparative assessment route – four months

(14) The GPhC has told us that it does not collect this data

(15) Education and Training Committee

HCPC

(16) Includes 120 social worker cases transferred from the General Social Care Council (GSCC) on 1 August 2012

(17) Includes 27 social worker cases transferred from the GSCC

(18) Includes 22 social worker cases transferred from the GSCC

The HCPC has provided data for social worker cases transferred from the GSCC on 1 August 2012 as follows:

- 120 cases considered by an investigating committee
- 120 cases concluded by an investigating committee
- 27 cases considered by a final fitness to practise committee
- 22 cases concluded by a final fitness to practise committee

Receipt of initial complaint to final investigating committee:
- 7 weeks Median time to conclude
- 22 weeks Longest
- 7 weeks Shortest

Receipt of initial complaint to final fitness to practise hearing
- 34 weeks Median time to conclude
- 36 weeks Longest
- 20 weeks Shortest

18 weeks median time taken from final investigating committee decision to final fitness to practise hearing decision

6 weeks median time taken from initial receipt of complaint to interim order decision

4 weeks median time taken from receipt of information indicating the need for an interim order and an interim order decision

(19) HCPC has defined 'open cases' as those which are still under investigation and which have not yet been listed for a hearing

NMC

(20) This data is for average processing times rather than median. As the measure only relates to the time taken once all relevant information is received, the recent pause on processing overseas applications is not reflected in this data

(21) The NMC has told us that it does not collect this information as it measures from the receipt of a referral (complaint)

PSNI

(22) One case has progressed from an initial complaint to final hearing determination during this reporting period

14. The General Osteopathic Council (GOsC)

Overall assessment

14.1 The GOsC has maintained its effectiveness as a regulator and is meeting all the Standards of Good Regulation across its regulatory functions.

14.2 We note that the GOsC has evaluated our previous performance review reports to identify learning from the activities of other regulators and best practice. It used this to identify new areas of work in its corporate plan for 2013 – 2016. We anticipate that this will lead to improvement and we will follow up on this in next year's performance review.

Guidance and standards

14.3 The GOsC continues to meet the Standards of Good Regulation for guidance and standards.

14.4 The GOsC has achieved this in 2012/13 in the following ways:

- The GOsC has conducted activities to raise awareness about its new *Osteopathic Practice Standards* (OPS) which came into effect from 1 September 2012. In April 2012 the GOsC tested awareness of the new OPS (published in September 2011) through its registrant opinion survey and results indicated that 72% of respondents said they were aware of the new OPS. The GOsC continued with awareness raising activities until September 2012 when the standards came into effect. The GOsC is working to evaluate the effectiveness of its work in this area. We consider this to be an example of good practice
- The GOsC has set up a Patient and Public Partnership Group to provide patient and public perspectives about standards and guidance and assist in the development of communication materials. The group has helped develop new public information leaflets and has fed back on draft guidance on consent. This is an improvement which should help ensure stakeholder involvement in the GOsC's development of guidance and standards
- Following consultation in 2012, the GOsC formed a steering group (with professional, educational and osteopathic research bodies in the UK) to promote professional standards and values across the profession. The GOsC is adopting a facilitating role in the group. This approach aims to provide support for the future development of the osteopathic profession by those organisations best placed to do so
- The GOsC has worked with the National Council for Osteopathic Research and the British Osteopathic Association (BOA) to establish a repository of information about risks in osteopathic care. The GOsC intends for this to be used to inform the development of additional guidance and standards

- In 2009 the GOsC commissioned a number of research projects exploring adverse events associated with osteopathy to improve understanding of these risks. The GOsC published the final research findings in August 2012 and these have contributed to the GOsC's review of its guidance on consent and revised public and practitioner information
- The GOsC has adopted a common system of classification for claims and complaints about osteopaths made to the regulator, the BOA and the professional indemnity insurance providers from January 2013 to identify trends.

14.5 In next year's performance review we will follow up on:

- Progress with the GOsC's research into the effectiveness of osteopathic regulation and how this can help to ensure registrants meet and maintain standards
- Any early outcomes from the analysis of the data from the common system for categorising complaints about osteopaths (which the GOsC aims to complete by April 2014) with a view to developing standards and guidance to address weak areas of osteopathic practice
- Progress with the GOsC's collaborative work with professional, educational and osteopathic research bodies in the UK on the future development of the osteopathic profession.

Education and training

14.6 The GOsC meets all the Standards of Good Regulation for education and training.

Guidance on osteopathic pre-registration education

14.7 In August 2012, the GOsC published *Preparedness to Practise,* the findings of research commissioned by the GOsC to help it to identify whether further support is required to help students make the transition to being a practitioner. The research found that new graduates are safe to start practising independently after graduation and they are familiar with the current standards. However, it also identified areas that could benefit from further education and training or other support (such as clinical and communication skills).

Continuing fitness to practise

14.8 In September 2012 the GOsC successfully concluded a 12-month pilot study for its proposed continuing fitness to practise scheme, which had involved 5% of all registered osteopaths. The proposed scheme had four stages and the pilot study was limited to the first of these stages: self-assessment. The other three stages involve clarification, peer review and a formal assessment of clinical performance. Registrants are only required to proceed to the next stage when responses at the earlier stage are unsatisfactory. The registrant can be directed to undertake remedial activities at any stage of the process, and a referral can be made using the GOsC's fitness to practise procedures if significant concerns arise.

14.9 The aim of the pilot was to explore how osteopaths can best demonstrate that they continue to be fit to practise, given that they are often self-employed and/or work alone which can limit their opportunities for peer review or evaluation from colleagues. The pilot used tools such as clinical audit, patient feedback and structured reflection to support osteopaths to demonstrate their continuing fitness to practise.

14.10 We note that an independent evaluation of the pilot found that 75% of participants reported that they reflected more on their clinical practice and 40% reported that their participation benefitted patients. We were pleased to note that many participants said they would continue to use pilot tools such as patient feedback and peer review to develop their practice in future, and that taking part in the pilot had enabled them to document their practice better. Some registrants perceived the scheme to be complex and administratively burdensome, and the GOsC is considering how to develop the scheme while addressing these issues. We acknowledge the work involved in the pilot. We note the GOsC's commitment to considering our paper on continuing fitness to practise[18] in developing its scheme and note it will approve a scheme design for further consultation in 2013/14.

14.11 In next year's performance review, we will follow up on the following:

- The development of guidance on osteopathic pre-registration education to ensure learning outcomes are aligned with the new OPS, which is being undertaken by the GOsC's Osteopathic Pre-registration Working Group (comprising education providers, patients and students)
- The design for a scheme of continuing fitness to practise which combines the outcomes of the revalidation pilot and the CPD consultation, due to be consulted on at the end of 2013
- The outcomes from the development of 'professionalism in osteopathy' tools which are web-based inventories that pose ethical scenarios for student participants and elicit their views on the seriousness of the ethical case posed and what action they would take in certain situations (such as breaches of patient confidentiality). The student is able to compare their responses to those of other participants so that they can evaluate where their view fits within their student cohort.

Registration

14.12 We consider that the GOsC continues to meet the Standards of Good Regulation for registration.

14.13 We note that the GOsC completed a review of the appearance and functionality of the online register. Additional information was made available on the register in 2012/13. Information about a registrant's gender and the full date of registration is available and the register can be searched by

[18] CHRE, 2012. An Approach to Assuring Continuing Fitness to Practise Based on Right-Touch Regulation Principles. London: CHRE. Available at: http://www.professionalstandards.org.uk/docs/psa-library/november-2012---right-touch-continuing-fitness-to-practise.pdf

registration number. These improvements should make it easier for the public and employers to access information about registrants.

14.14 In the GOsC's 2012 survey of registrants the GOsC queried the attitudes and responses to unregistered practice. The survey found that 96% of osteopaths would take action if they knew of an unregistered person claiming to be an osteopath and 84% of these respondents would contact the GOsC. Some of these respondents said they would also talk to the person directly about the issue or spread the word locally and others would refer the matter to professional bodies, the police and their local trading standards organisation. Based on this, the GOsC wants to clarify to its registrants that the purpose of regulatory action by the GOsC is patient protection rather than safeguarding the market. The GOsC has added to its website more information regarding the risks to patients of being treated by an individual who is not registered by the GOsC.

14.15 The GOsC is reviewing its process for registration appeals. The GOsC received feedback on procedures from Council members involved in the two most recent appeals to inform improvements to the procedures. The GOsC will introduce the new procedure in 2013. The GOsC has not reviewed its approach to registration appeals since 1998. We note that appeal numbers are low (there was only one in 2012/13); nonetheless, it is important that procedures reflect operational reality and reviewing procedures at regular intervals ensures they remain accurate and aligned with overall business systems. We therefore recommend that a shorter timeframe is agreed for future reviews of the procedure.

14.16 The GOsC used to have a policy of listing certain osteopaths on its register as non-practising while in limited circumstances they may have been taking clinical responsibility for patients. In October 2012, the GOsC's Council reconsidered its position and removed this anomaly to ensure that any osteopath listed as non-practising must in no circumstances be taking clinical responsibility for patients. The GOsC has written to the small number of osteopaths affected to explain the position. It has also updated publicly available information to communicate this to registrants and patients.

14.17 In next year's performance review, we will follow up on:

- Any outcomes of the work to design and conduct a public survey to test the usability and accessibility of the online register, with the aim of identifying where improvements may be needed
- The outcomes of the work on illegal practice including ensuring that those reporting concerns about unregistered individuals practising osteopathy are informed about the regulatory action taken, the GOsC's development of guidance and its work to link register searches to advice about the appropriate action to take in the event of discovering an unregistered practitioner.

Fitness to practise

14.18 The GOsC has demonstrated that it continues to meet the Standards of Good Regulation for fitness to practise.

14.19 Examples of how the GOsC has achieved this are set out below:

- Agreeing a policy in December 2012 that convictions or cautions involving drugs or alcohol will be investigated as evidence of a possible underlying health problem. We note that other regulators who have adopted a similar approach have found it useful in identifying health and performance concerns which might not otherwise be apparent
- Conducting a hearings management audit considered by the GOsC's Audit Committee in November 2012 which concluded that hearings were conducted appropriately, were well managed by chairs and determinations were well set out and reasoned
- Developing new guidance to assist the Professional Conduct Committee (PCC) when it is considering the imposition of conditions of practice orders. This was the subject of a consultation which closed in May 2013.

14.20 We note that the GOsC closed a consultation in May 2013 on its revised *Indicative Sanctions Guidance* (ISG) which sets out guidance to the PCC when considering the appropriate sanction to impose. We note that before the Fitness to Practise Policy Committee's review of this guidance in 2012 the ISG had not been reviewed since November 2007. We therefore reiterate our recommendation (see para 14.15) that a shorter timeframe is agreed for future reviews.

Re-introduction of Rule 8 of the GOsC's Professional Conduct Committee (Procedure) Rules 2000

14.21 Rule 8 allows certain cases which have been referred by the Investigating Committee (IC) to the PCC to be disposed of without a hearing. Rule 8 may be used where the registrant admits all allegations, the registrant accepts that the allegations amount to unacceptable professional conduct and the PCC concludes admonishment is the appropriate sanction. Rule 8 only operates in the time between a referral from the IC and the hearing of the PCC. The GOsC has not exercised its discretionary powers under Rule 8 since 2003.

14.22 Our response to the GOsC's targeted consultation in August 2012 asked the GOsC to consider how such cases would be included on the public register, whether there was provision for quality assurance of these types of decisions, particularly to ensure consistency and what approach would be taken if a complainant objected to the GOsC dealing with a case under Rule 8, which could impact on confidence in the GOsC's system of regulation. We also recommended that the GOsC consulted more formally and widely particularly because most complaints come from members of the public so, in our view, their opinions should be considered.

14.23 We are pleased that the GOsC concluded that wider public consultation would be appropriate before any decision to re-introduce Rule 8. This consultation concluded on 31 January 2013. Despite efforts to engage patient groups, the GOsC noted that responses were almost exclusively from osteopaths who favoured the re-introduction of Rule 8. In March 2013 the GOsC therefore recommended to its Council that Rule 8 be re-introduced. We will follow up on this in next year's performance review and we will also

review decisions made using Rule 8 using our powers under Section 29 of the NHS Reform and Health Care Professions Act 2002.

14.24 In next year's performance review we will follow up on:

- The changes made as a result of the public consultation on the revised ISG and guidance for the PCC on conditions of practice orders
- The outcomes from the decision of the GOsC's Council that Rule 8 of the GOsC's Professional Conduct Committee (Procedure) Rules 2000 is re-introduced
- The plans to improve registrants' understanding of and confidence in the fitness to practise process, share learning from the fitness to practise process with registrants and set out the regulatory role of the GOsC related to providing assurance about the fitness to practise of osteopaths, in light of the GOsC's analysis of the 2012 survey of osteopaths.