

performance review 2020/21

HEALTH AND CARE PROFESSIONS COUNCIL





ABOUT THE PERFORMANCE REVIEW PROCESS

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

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

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

Further information about our review process can be found in [a short guide](#), available on our website. We also have a [glossary of terms](#) and abbreviations we use as part of our performance review process available on our website.

The regulators we oversee are:

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



Find out more about our work
www.professionalstandards.org.uk

Health and Care Professions Council performance review report 2020/21

At the heart
of everything
we do is
one main
purpose:
protection
of the public
from harm

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key facts & stats

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

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

286,810 allied health professionals

Registration fee is: £180, paid over a two-year cycle

The HCPC's work includes:

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

Standards of Good Regulation met for 2020/21 performance review

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

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

Executive summary

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



This report arises from our annual performance review of the Health and Care Professions Council (HCPC), which is one of 10 health and care professional regulatory organisations in the UK which we oversee. We assessed the HCPC's performance against the Standards of Good Regulation which describe the outcomes we expect regulators to achieve in each of their four core functions.

To carry out this review, we collated and analysed evidence from the HCPC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback. We also utilised information available through our review of final fitness to practise decisions under the Section 29 process¹ and conducted a check of the accuracy of the HCPC's register. We used this information to decide the type of performance review we should undertake. Further information about our review process can be found in our Performance Review Process guide, which is available on our website.

The HCPC's performance during 2020/21

The HCPC's performance review period runs from 1 January 2020 to 31 December 2020. We conducted a targeted review of the HCPC's performance against Standards 1, 3, 10, 12, 15, 16, 17 and 18. Following our targeted review, we concluded that the HCPC had not met Standard 3 because the amount of EDI data held about registrants, their patients and service users continues to be limited and therefore the HCPC could not undertake a full analysis to determine if its processes impose barriers to individuals with protected characteristics. The HCPC has invested significant resources in its fitness to practise process and developed a fitness to practise improvement programme in response to the concerns we identified in our previous reports. The programme was implemented in late 2020 and has continued into 2021, and we acknowledge that the programme will take some time to embed and for potential benefits to be realised. As the work begun in late 2020 it will not have affected performance in this review period. We therefore determined that the HCPC had not met Standard 15, 16, 17 and 18, because we have not yet seen tangible evidence of the impact of improvement actions during the review period.

¹ Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly, we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

Key developments

Equality, Diversity and Inclusion

Throughout 2020, the HCPC increased its engagement with its stakeholders to encourage registrants to complete the 2020 EDI survey, released in December 2020. Approximately 15% of its register responded to the survey, which is an improvement on the 5% for which this information was previously held. However, there continue to be gaps in the information about protected characteristics collected by the HCPC.² The HCPC is trying to increase the EDI information it holds about registrants, including through working with professional bodies. Changes will also be made to its IT systems so that this information is requested routinely. The HCPC commissioned an evaluation of its data but the small amount of data held meant that the HCPC was unable to effectively use this analysis to consider whether its processes adversely impact individuals with protected characteristics. The HCPC has committed to undertaking an analysis of the EDI data as part of its 2020 EDI survey.

Covid-19 guidance for registrants

The HCPC concentrated on providing guidance to assist registrants meet the Standards of Conduct, Performance and Ethics (SCPE) during the Covid-19 pandemic. It launched a Covid-19 hub on its website and developed resources to support registrants during the pandemic. To highlight the work of its registrants during the pandemic, the HCPC produced a series of stories from registrants who talked about their experience of working during the pandemic. In addition, the HCPC developed wellbeing resources for registrants, information on vaccines and guidance for employers and students.

The temporary register

The Coronavirus Act 2020 gave new emergency powers to the Registrar of the HCPC to temporarily register fit, proper, and suitably experienced former HCPC registrants and students to help ensure that the NHS was suitably supported and resourced to deal with the pressures of the pandemic. The HCPC created a temporary register of all former registrants (with no known fitness to practise concerns) who had de-registered in the previous three years and a temporary register of final year students. We were satisfied that the HCPC is managing the temporary register and the removal of registrants from the temporary register appropriately.

Performance in fitness to practise

For a number of years, we have reported significant concerns about the HCPC's performance against our Standards for fitness to practise. Concerns in relation to timeliness, decision making, risk assessments and ensuring parties are supported to participate in the process have been identified.

During this performance review period, the HCPC developed a fitness to practise improvement programme which focuses on improving the HCPC's performance in the areas identified. We are aware that the pandemic has hindered the HCPC's ability to implement its programme in full. However, we have been impressed by the energy and commitment of the HCPC in carrying this work forward.

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

The HCPC has not significantly changed its approach to its initial, triage stage of the process. The HCPC introduced Senior Decision Makers (SDMs) who are responsible for deciding whether to close a case under the Threshold policy, refer the case back for further investigation or determine that the case has met the Threshold and refer it to the Investigating Committee Panel (ICP). The process was introduced towards the end of the performance review period and we did not have enough information to assess the impact of the introduction of SDMs on the initial stages of the process.

The HCPC's performance in case progression has been mixed, and whilst we have seen an improvement of timeliness at the initial stages of the process, the HCPC's median time from ICP to final fitness to practise committee decision and end-to-end median timeframe significantly increased. The pandemic has affected the HCPC's ability to progress cases, particularly at the latter stages of the process and we are aware that the improvement programme has not had enough time to embed and improve the timeliness measures. Therefore, we are of the view that the HCPC's performance would not have been within our Standards even if the pandemic had not taken place.

We considered evidence from our Section 29 work, which indicates that there has not been any appreciable improvement in the quality of the HCPC's decision-making. The SDM process may alleviate the significant concerns we previously identified about the HCPC's decision-making at the early stages of its processes and may lead to more consistent and fair decisions being made against the Threshold policy. However, as this process will take time to embed and for benefits to be realised, we have limited information available to us to provide assurance that our longstanding concerns in this area have been addressed during the review period.

We were concerned about the increase in the median time taken to apply for an interim order from initial receipt of the complaint. However, we note that the HCPC acts quickly once it identifies the need to obtain an interim order. The HCPC's process for investigating high-risk cases did not change from its pre-pandemic process. The HCPC developed a new risk assessment tool during the performance review period. If properly implemented, the tool could mitigate some of the shortcomings we identified in our audit last year.

The fitness to practise improvement programme, if successfully implemented, should have a positive impact on the quality of customer service. The HCPC published the findings of research it had commissioned into the experience of registrants who had engaged in its fitness to practise processes. The key findings of the research were: parties not being supported to participate effectively in the process; avoidable delays in communicating with parties; and limitations in the quality of the correspondence issued by the HCPC. The research findings were used to inform its Registrant health and wellbeing strategy and action plan 2021-24. The activities in the action plan should improve support issued to all parties of a complaint to participate effectively in the fitness to practise process. However, we have continued to receive concerns relating to customer service and support provided to parties subject to the fitness to practise process. The HCPC started implementing its improvement programme in late 2020 and has conducted a significant amount of work in this area. We acknowledge that it will take some time to see the impact of this work and therefore there is limited information to provide assurance that our concerns from last year's audit have been addressed in the period under review.

The evidence we reviewed in this performance review cycle suggests that our concerns identified last year have not been alleviated during the period under review and that improvements have not yet fully materialised in the HCPC's performance. We are mindful however that the activities set out in the improvement programme will take time to fully embed and therefore we may not see an immediate improvement in performance. We determined that Standards 15, 16, 17 and 18 were not met.

How the Health and Care Professions Council is meeting the Standards of Good Regulation

General Standards

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

- 1.1 The HCPC's website, apart from the additional hubs created to provide information on the Covid-19 pandemic and a dedicated equality, diversity and inclusion hub, remains largely unchanged since last year and we are satisfied that it provides appropriate information for users.
- 1.2 We received feedback which suggested that some stakeholders were unable to contact the HCPC due to closure of its office during the first national lockdown as a result of the Covid-19 pandemic. The HCPC's website stated that it was unable to receive telephone calls and requested individuals contact staff via email. We wanted to understand what provisions the HCPC had put into place to ensure that it was fully accessible to individuals who did not have access to emails during the period of closure.
- 1.3 The HCPC told us that its call centre telephone system was closed between March and September 2020 because it did not have remote contact centre capability during that time. The HCPC continued to be contactable by email, social media, post, and a call back service. The HCPC procured a remote telephone system in June 2020 which was implemented by September 2020.
- 1.4 We have seen evidence that the HCPC's registration function continued to operate effectively during the period its call centre was closed and that its ability to progress applications for registration was not affected during the period of closure. In particular, its registration portal allowed registrants to manage their registration electronically.
- 1.5 The HCPC was contactable and accessible by other means, including a call back service, and we do not consider it unreasonable for there to be some delay in setting up a remote telephone system during an unexpected global pandemic. We are satisfied that this Standard is met.

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

Clarity of purpose

- 2.1 Last year, we were concerned that the HCPC's then vision for the future to become 'the UK healthcare multi-profession regulator of choice, delivering lean and intelligent regulation' was ambiguous and open to misinterpretation. In our response to its consultation on its draft Corporate Strategy, we were concerned about aspects of its aim to become a regulator that registrants and other professions would want to be regulated by: a 'regulator of choice' and other aspects of its strategy. This was because:
- the focus on public protection was insufficient given that this is the HCPC's overarching objective
 - there appeared to be a disconnect between the ambition and strategies outlined in the document
 - we were concerned about the aims as there is no choice in health profession regulation and to suggest otherwise is misleading.
- 2.2 In January 2021, the HCPC published its Corporate Strategy which had been amended in response to stakeholder feedback. The term 'regulator of choice' has been removed from the document. The focus on public protection also appears to be more prominent. We welcome the changes the HCPC has made to its Strategy which now appears to focus on its overarching objectives and is clear about its purpose. We will report on the implementation of the Corporate Strategy next year.
- 2.3 Last year, we noted that the HCPC had identified the need to move from the existing reactive model of regulation to one aimed at preventing problems with registrants' professional practise. In 2020, it developed a Professionalism and Prevention Framework to build on its upstream approach to regulation. The framework sets out the developments and activities the HCPC plans for the next two years. The framework appears to be consistent with the approach taken by the other regulators we oversee who have developed an upstream approach to regulation, including the General Dental Council (GDC), General Medical Council (GMC) and Nursing and Midwifery Council (NMC). It appears to be consistent with the HCPC's overarching objective. We will monitor and report on the activities following from the framework in future performance reviews.

Application of policies

- 2.4 Last year, we reviewed how the HCPC develops, implements and monitors its regulatory policies. We were satisfied with this approach and did not seek further information this year.
- 2.5 The HCPC updated its internal whistleblowing policy, which seeks to encourage its employees to raise concerns and provide assurance in the safety of doing so. The HCPC has a separate policy addressing its responsibilities as a designated body for external whistleblowing reports. The policies appear

appropriate and to comply with the HCPC's legislative responsibilities under the Public Interest Disclosure Act 1998.³

- 2.6 The HCPC's Code of Corporate Governance (the Code) was revised in 2020. The Code incorporates a series of regulatory documents and policies which govern how the HCPC operates, makes decisions and the procedures to be followed to ensure that its actions are fair, efficient, transparent, and accountable to stakeholders.

Performance in fitness to practise

- 2.7 Last year, we identified significant concerns about the HCPC's performance in respect of its fitness to practise work. We considered whether this poor performance suggested questions about its overall clarity of purpose. We continue to have concerns about its performance in this area. However, the HCPC acted swiftly in response to our concerns. It developed a fitness to practise improvement programme to address the root causes of the poor performance. It is too early to say how far this will in fact improve performance, but we are satisfied that the HCPC is addressing the question seriously and in good faith. This provides reassurance in respect of this Standard, but we will continue to bear this in mind in respect of its fitness to practise work.
- 2.8 We are satisfied that this Standard is met.

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

- 3.1 The HCPC did not meet this Standard last year because of the limited equality, diversity and inclusion (EDI) data it collected about its registrants, and because it did not use such data it did hold in order to understand whether its processes impose inappropriate barriers or otherwise disadvantage people with protected characteristics. It had, however, prepared an EDI action plan to address the deficiencies.
- 3.2 This year the HCPC has continued to progress its action plan. It has established an EDI forum made up of over 70 individual registrants and representative organisation members who, with a wide range of other stakeholders, helped shape the HCPC's 2021-26 EDI strategy. The HCPC completed most of the projects outlined in its action plan, including improving the clarity of its EDI resources on its website and monitoring and improving the use of equality impact assessments (EIAs). We have seen evidence that the HCPC continued to consider EDI implications across its functions.

Level of EDI data

- 3.3 While the HCPC collects some EDI data from its registrants through its registration renewal forms, it only covers age, nationality, and gender and does

³ The Public Interest Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013) (PIDA).

not require information on the other protected characteristics.⁴ Registrants are invited to voluntarily complete an equality and diversity monitoring form to provide the other information. In 2019, the response rate was approximately 1% of the register. To improve the level of EDI data it holds for registrants, the HCPC developed a secure EDI survey which it released in December 2019. The HCPC received 13,282 completed forms, which represents approximately 5% of the register. Throughout 2020, the HCPC increased its engagement with its stakeholders to encourage registrants to complete the 2020 EDI survey, released in December 2020. The HCPC told us that approximately 15% of its register responded to the survey, which represents an improvement, but the overall numbers remain low. The survey closed in March 2021, outside the period under review.

- 3.4 The HCPC told us that it sought advice from colleagues at the GMC and NMC, both of which collect higher levels of registrant EDI data. Most EDI data obtained by these regulators is collected via online registration systems. The HCPC has committed to develop its registration system to ensure that, in future, registrants will be able to declare their EDI data at the point of application, renewal, or as their circumstances change. The HCPC is expecting to provide the same option for complainants engaged in the fitness to practise process.
- 3.5 In common with some of the other regulators the Authority oversees, the HCPC does not routinely collect EDI information about patients, service users and others who interact with it, but plans to embed this within its fitness to practise system by December 2021. Although this information is not yet collected by the HCPC, we have seen evidence that it recognises the importance of this data to ensure that its registrants, patients and service users are able to interact with it without bias, and to ensure that its policies and processes do not adversely impact on these individuals.⁵

Analysis of EDI data

- 3.6 The absence of analysis of the HCPC's EDI data was a key concern last year. In this review period, the HCPC commissioned Cardiff Metropolitan University to conduct an evaluation of the EDI data held by the HCPC in relation to its registrants, employees and partners.⁶ The evaluation included an analysis of the 5% of data collected in response to the HCPC's 2019 registrant survey and recruitment data for HCPC staff and partners. The data was compared to benchmark data taken from the NHS England Hospital and Community Health Services workforce statistics (2019). We welcome the analysis commissioned by the HCPC but note that the impact was limited because of the small percentage of registrant data available and the comparison against data only from NHS England.⁷ The HCPC was therefore unable to effectively use this

⁴ The Equality Act 2010 makes it illegal to discriminate against someone on the basis of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. These are known as protected characteristics.

⁵ www.hcpc-uk.org/news-and-events/blog/2020/myedi/

⁶ Partners include CPD assessors, legal assessors, panel chairs and members, registration assessors and visitors. These comprise HCPC registrants, members of the public and legal professionals.

⁷ Full details of the report can be found at: www.hcpc-uk.org/resources/reports/2020/edi-data-2020-report/

analysis to consider whether its processes adversely impact individuals with protected characteristics.

- 3.7 The HCPC told us that it will consider the outcome of its 2020 registrant EDI survey and will use the data to consider whether its processes impose inappropriate barriers to those with protected characteristics. We will continue to monitor the HCPC's work in this area.

Conclusion

- 3.8 The HCPC has continued to work to deliver its commitment that everybody has equal access to its services and are treated fairly when doing so. The HCPC acts when its EIAs have identified inappropriate barriers which may disadvantage people with protected characteristics, specifically in relation to potential barriers imposed by some HCPC policies created in response to the Covid-19 pandemic. Staff have continued to receive EDI training and we received positive feedback about the HCPC's collaborative development of its 2021-26 EDI strategy.
- 3.9 The work that it has undertaken this year is encouraging for the future. However, despite this work, the level of EDI data held by the HCPC is low and continues to be a barrier to the HCPC developing a full understanding of the diversity of its registrants and others who interact with it. This means that the HCPC cannot yet conduct a meaningful analysis of its data or properly assess the impact of its processes on individuals with protected characteristics. Therefore, this Standard is not met for this year. We will continue to monitor the HCPC's progress in this area.

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

- 4.1 The HCPC held public Council meetings virtually, due to Covid-19 restrictions, during the period under review. At each meeting, the Council discussed and scrutinised the data and information provided by the Executive Team.
- 4.2 The HCPC has considered and responded to relevant reports about healthcare regulatory issues. In March 2020, the HCPC considered the Paterson inquiry⁸ and published information for registrants which signposted them to sources of support on raising concerns about patient safety. The HCPC also published a blog considering the relevant themes from the inquiry.⁹
- 4.3 In July 2020, the HCPC considered the report of the independent medicines and medical devices safety review 'First Do No Harm'. Whilst the HCPC was not named in the report, which detailed the avoidable harm suffered by

⁸ Published in February 2020, the Paterson Inquiry was commissioned to investigate the surgeon Ian Paterson's malpractice and to make recommendations to improve patient safety. Further information can be found at: www.gov.uk/government/publications/paterson-inquiry-report

⁹ www.hcpc-uk.org/registrants/updates/2020/the-paterson-inquiry-report-what-you-need-to-know/

thousands of patients and families over decades, it welcomed the report's recommendations about patient safety and published a [blog shining a spotlight on patient safety](#). The HCPC will review its approach to data and intelligence gathering and sharing, and patient centred care. It will also look at its role in ensuring that patient voices are heard through the review of the Standards of Proficiency (SOPs) and the regulation of Advanced Practice.

- 4.4 In response to the significant concerns we raised in last year's performance review about its fitness to practise process, the HCPC developed a fitness to practise improvement programme to implement sustainable improvements to its processes. The HCPC reports on the implementation of the programme and its impact at each public Council meeting and we saw its Council scrutinising this.
- 4.5 While the HCPC continues to publicly report on its performance in relation to most of its core regulatory functions, it did not provide information about protection of title cases in its performance reports to its Council. It changed its reports to Council to focus on the key areas that required improvements in performance, with areas operating as expected monitored by the SMT and reported to Council by exception. As the HCPC determined that its protection of title function was operating as expected, it did not publicly report on this function to its Council in the performance review period. The HCPC's Audit Committee instead had oversight of an internal audit which considered a sample of protection of title cases in November 2020. We consider it important that there should be public reporting for transparency in areas of risk, such as protection of title cases. However, we determined that the information provided by the HCPC does not give rise to such significant concerns to impact our assessment against this Standard.
- 4.6 We have seen evidence that the HCPC has sought to address any shortcomings identified in its work through feedback received from stakeholders. It continues to review the recommendations from public inquiries and other relevant reports about healthcare regulatory issues and acts where necessary and relevant to its work.
- 4.7 We are satisfied that this Standard is met.

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

- 5.1 The HCPC undertakes public consultations for substantive amendments or reviews of standards, policies, and guidance. Its consultation process follows the Government Consultation Principles.¹⁰ During this review period, the HCPC has consulted on its SOPs for all professions on its register and its 2021-26 Corporate Strategy. The HCPC worked with and engaged stakeholders on these consultations.

¹⁰ In 2018, the Government published a revised set of government consultation principles. These principles give clear guidance to government departments on conducting consultations.

- 5.2 Throughout 2020, the HCPC held a number of activities and events which were open to its stakeholders across the four countries of the UK, including:
- Continuing Professional Developments webinar – this webinar was held in February 2020 and explained the HCPC’s standards for CPD, along with activities and evidence required to demonstrate compliance with CPD requirements
 - *MyStandards* workshop in London – held in March 2020, this event provided information about the HCPC standards and how to apply them to everyday practice
 - Virtual focus groups which sought views on its draft corporate strategy.
- 5.3 During 2020, the HCPC and the General Chiropractic Council (GCC) jointly commissioned research to be undertaken on professionalism, patient safety and prevention with the aim of developing resources to support understanding of professionalism.
- 5.4 In addition, the HCPC commenced a project to consider the regulatory challenges and risks that may arise from its registrants advancing their practice. It has undertaken some initial desk-based research which has identified several challenges in finding systematic evidence. The HCPC has sought advice from the GMC and NMC, and the GDC which have experience in this area and has commissioned Bradford University to establish an evidence base for this project. The HCPC is due to report on this research in 2021.
- 5.5 We received positive feedback from HCPC stakeholders about the level of engagement with the HCPC on a number of topics, including the HCPC’s early engagement with them on the temporary register in response to the Covid-19 pandemic, the development of the Education Quality Assurance model and of its 2021-26 Corporate Strategy.
- 5.6 We have seen evidence that the HCPC collaborates with its stakeholders, systems regulators and patient and service user groups to mitigate and manage risks arising to the public from its registrants.
- 5.7 We are satisfied that this Standard is met.

Guidance and Standards

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

- 6.1 Last year the HCPC started to review its SOPs to ensure that they remain fit for purpose and are well understood by registrants, service users and carers, education providers and the public. The SOPs specify the threshold standards necessary to protect the public, the expectations of registrants’ knowledge and abilities as well as what the public should expect from registrants in each of the 15 professions it regulates.

- 6.2 During 2020, the HCPC consulted on the review of the SOPs. It engaged extensively with stakeholders in developing the revised SOPs and supported the changes made to address areas where further clarification was required, including the role of EDI in the standards, the central importance of the service user and the importance of maintaining fitness to practise. The HCPC anticipates that any changes to the SOPs will be implemented gradually through 2021-22.
- 6.3 The information we reviewed this year did not suggest that the Standards of Conduct, Performance and Ethics (SCPE) have become outdated since publication in 2016. The HCPC provided tailored supplementary guidance to help registrants apply the SCPE during the Covid-19 pandemic and the feedback we received from stakeholders suggests that the additional guidance provided was clear and comprehensible. We considered that the additional guidance demonstrated a focus on patient and service user centred care and safety.
- 6.4 We are satisfied that this Standard is met.

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

- 7.1 The HCPC publishes a wide range of guidance materials to help registrants meet the SCPE. The HCPC did not make any changes to its general guidance, instead it concentrated on providing guidance to assist registrants meet the SCPE during the Covid-19 pandemic.
- 7.2 The HCPC launched a Covid-19 hub on its website¹¹ and developed a set of resources to support registrants apply the SCPE during the pandemic. The HCPC also produced a series of stories from registrants who talked about their experience during the pandemic.
- 7.3 The HCPC frequently updated the hub with information and guidance including guidance on:
- managing risk: infection prevention and control
 - communicating during the pandemic
 - developing resilience
 - speaking up during an emergency
 - Covid-19 and your scope of practice
- 7.4 In addition, the HCPC encouraged its registrants to review and reflect on guidance provided by employers, professional bodies, and the UK Governments. We considered that the additional guidance issued to registrants focused on addressing risk and prioritised patient and service user centred care.

¹¹ www.hcpc-uk.org/covid-19/

- 7.5 The HCPC started to review its guidance on health and character. The purpose of the review is to align the guidance with existing online information on self-referrals, merge the current guidance with its health and character declarations policy and provide clearer guidance about when to declare health or character matters. The HCPC expects this review to conclude later in 2021. We will consider this as part of our next performance review.
- 7.6 We are satisfied that this Standard is met.

Education and Training

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

- 8.1 The HCPC continues to publish information and guidance about its standards of education and training (SETs) on its website. The SETs specify what programmes approved by the HCPC must do to prepare students for professional practice. The SETs are supported by guidance that provides information about the standards and how the HCPC assesses and monitors programmes against them.
- 8.2 In April 2019 the HCPC published a policy statement which provides guidance on when it will consider amending the level of qualification required for registration. The policy notes that changes to the scope of a profession's SOPs or complexity of the education and training required to meet the SOPs need to be reflected in the threshold level as set out in SET 1.
- 8.3 In 2020, the HCPC developed proposals to increase SET 1 for Operating Department Practitioners (ODPs). The HCPC has been considering this issue since 2014 and in response to the recommendation issued by the Council of Deans of Health (CoDH) which proposed increasing the register entry requirements for ODPs from a Diploma of Higher Education (DipHE) to a bachelor's degree with honours (BSc (Hons)). The CoDH argued that the 'changes to ODP practice, changes to the clinical environment and new expectations for the future of the role suggests that there is a strong case to move the educational threshold from DipHE to BSc (Hons) on the grounds of patient benefit.'¹²
- 8.4 The HCPC subsequently undertook initial research and stakeholder engagement which identified a notable discrepancy between education providers in England, where providers are already meeting the BSc (Hons) level, and Scotland where the single provider of ODP programmes offers the course at a DipHE level. Workforce pressures concerning ODPs in Scotland were also identified by the research.
- 8.5 The HCPC has recognised the need to progress its proposals to increase the register entry requirements for ODPs, and the potential implications on patient

¹² [ODP-BSc-Threshold-position-20131030-final1.pdf \(councilofdeans.org.uk\)](https://www.councilofdeans.org.uk/ODP-BSc-Threshold-position-20131030-final1.pdf)

and service user care and safety if it fails to do so. The HCPC consulted on its proposals in early 2021, and respondents were mainly supportive of the increase. On 1 July 2021, the HCPC decided to increase the register entry requirements for ODPs and we will consider this as part of our next performance review.

8.6 We are satisfied that this Standard is met.

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

- 9.1 The HCPC’s website provides detailed information about its approval process for education programmes. It provides information on why visits are carried out, the timescales for completing the approval process and the documentary requirements for providers. Further, there is a function which allows the user to search for an approved education or training programme.
- 9.2 The HCPC has developed proposals to review its approach to the approval and review processes for education programmes. The HCPC worked with key stakeholders and reviewed the regulatory approaches undertaken by the GMC and GDC to develop its proposals. The new quality assurance approach places the responsibility on the education provider to continue developing their programmes in line with the HCPC’s standards. The new approval model contains three main processes, which are: Approvals, Focussed review and Approved education provider (AEP) monitoring. The new approach to approval and processes was piloted for six months from January 2021 to test the ability of the proposed model to achieve the aim and objectives of the changes proposed.
- 9.3 To support the pilot, the HCPC has paused its annual education monitoring audit for the 2020-21 academic year and, instead, requires all education providers to submit annual monitoring declarations. To support its decision, the HCPC conducted a risk assessment and reported that the risks appeared to be appropriately mitigated by the annual monitoring declarations and the pilot process. The arrangements appear appropriate. We will consider the pilot and any subsequent amendments to the education approval process as part of our next performance review.
- 9.4 In response to the Covid-19 pandemic, the HCPC varied its approval process and replaced site visits with virtual visits. These were successful and the HCPC has decided that all future approval assessments will be conducted remotely as it considered that there was no visible adverse impact on the quality of the education approval process. The HCPC will only conduct site visits where necessary and proportionate to do so, based on specific issues encountered during the assessment process. We will consider the effectiveness of virtual site visits and any subsequent analysis the HCPC undertakes on the impact of such visits on the quality of the education approval process.

- 9.5 We have seen evidence that the HCPC's mechanisms for assuring itself that the education providers and programmes are proportionate, transparent, and effective, and action is taken when concerns are identified about training or wider patient safety.
- 9.6 We are satisfied that this Standard is met.

Registration

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

- 10.1 The HCPC's register remains clear and easily accessible, with an explanation provided on what the results and registration status of an individual mean, what additional entitlements are and when annotations will appear on the register, and the dates of the registration period.
- 10.2 During this review period, the HCPC opened a new annotation for podiatric surgery which is available for registered podiatrists who have completed HCPC approved training or had their training endorsed by the HCPC.
- 10.3 We checked a random sample of register entries to see whether the entry on the register reflected the outcome the fitness to practise hearings that concluded during the review period. We did not identify any errors in the register entries we reviewed.

The temporary register

- 10.4 The HCPC established a temporary register of former registrants and students who could be asked to help deal with the coronavirus pandemic. We looked at whether the HCPC had received any concerns about temporary registrants or had found any errors in adding individuals to it.
- 10.5 The HCPC received seven fitness to practise concerns about registrants and students on the temporary register. It revoked temporary registration of all seven. The concerns were managed in accordance with its published approach to the removal of registrants from the Covid-19 register which appears to be proportionate, based on risk and rooted in the HCPC's over-arching objective of public protection. The HCPC has not identified any instances of individuals being granted temporary registration inappropriately.

Conclusion

- 10.6 The information the HCPC provides about its register is generally clear and accurate. We have not seen any evidence to suggest that the HCPC added to its register anyone who failed to meet its requirements for registration this year and we are satisfied the HCPC is managing the temporary register in accordance with its published policies. Consequently, we are satisfied that this Standard is met.

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

11.1 The HCPC has not reported any changes to its registration process this year. However, it has taken longer to process applications to join the register from overseas applicants.

					2020/21 performance review period			
	16/17	17/18	18/19	19/20	19/20 Q4	20/21 Q1	20/21 Q2	20/21 Q3
UK graduate	5	5	7	7	2	2	3	6
EU/EEA graduate	38	49	52	46	48	53	53	69
Non-EU/EEA graduate	41	44	50	46	48	58	48	71

11.2 This may be a result of the Covid-19 pandemic as the directive to work from home severely affected the HCPC’s ability to complete the manual tasks integral to its processing of applications to join the register. We will monitor the HCPC’s performance in this area.

11.3 Last year we saw an increase in the number of registration appeals received and that the proportion of upheld appeals had remained the same level as the previous year. The evidence we assessed did not suggest that the HCPC was making incorrect decisions.

11.4 This year, there has been a marked reduction in the number of appeals received and upheld. Again, this function was impacted by the pandemic: there was a reduction in the number of applications for registration received overall and the HCPC decided to pause registration appeals at the start of the pandemic. Of the limited number of appeals concluded, none have been upheld where no new information was provided for this review period. This provides some assurance that the HCPC is not making incorrect decisions. We will continue to keep this decision under review.

Concerns with the renewal of podiatry registrants

11.5 We received information that there had been significant issues with the renewal of podiatry registrants due to the inability to communicate with the HCPC’s registration team. The HCPC told us that renewal rates were broadly in line with the previous renewal cycles. In the 2018 renewal cycle, 95.1% of podiatrists renewed their registration compared to 94.4% in 2020. The HCPC recognised that some registrants had found it difficult to contact the registration team during the height of the first wave of the pandemic and adapted its processes, including the implementation of remote telephony and SMS access codes for those needing to access their online account, to mitigate the concerns. This information provided assurance that the renewal process was not significantly affected during the initial period of the pandemic.

- 11.6 We are satisfied that the HCPC's processes for registration, including appeals, is proportionate and fair. Whilst we have noted an increase in the processing time for international applicants, the HCPC has been proactive in communicating that there may be some delay in processing these applications due to the effects of Covid-19 and the manual processes involved. We will continue to closely monitor the time taken for the HCPC to process international applications. We are satisfied that this Standard is met.

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

- 12.1 The misuse of title section of the HCPC website sets out the legal framework which governs the HCPC's work in this area. It lists the protected titles regulated by the HCPC and contains information about the actions the HCPC will take when it receives information that someone may be using a protected title. The HCPC's prosecution policy sets out the three offences broadly related to the protection of title under Article 39 (1) of the Health Professions Order 2001 and its approach to prosecution of offences under the Article. The HCPC will usually only prosecute when alternatives to prosecution have failed to secure compliance or are inappropriate.
- 12.2 Since the HCPC no longer reports information about protection of title cases in its performance reports to its Council, we sought further data to assess whether this work was being managed appropriately.
- 12.3 Last year, the HCPC's performance reporting showed that there had been an increase in the number of protection of title cases. The HCPC told us that it has changed its processes so that all protection of title matters are now logged on receipt which means that all potential cases are logged as a protection of title matter, which increased the number of protection of title cases.
- 12.4 The HCPC provided data on the number of protection of title cases it received and closed during the review period:

Number of Protection of title cases:		
Received		340
Closed with the following outcomes:	Insufficient information to proceed	13
	No contravention of the Order	87
	Compliance with order after HCPC intervention	244
Total closed:		344

- 12.5 The data shows that the HCPC had closed more protection of title cases during the review period than it received. We considered the historical data we held on this function and note that the number of open cases has increased since 2018. We are not concerned with this increase as it can be connected to the changes made to its case logging process and the HCPC's increased promotion of its protection of title function, while the throughput of cases continues. We consider that this information provides assurance that the HCPC continues to investigate and progress the protection of title cases it receives appropriately.
- 12.6 We are satisfied that this Standard is met.

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

- 13.1 The HCPC's standards for CPD are unchanged for this year. To assure itself that its registrants continue to meet the standards for CPD when a profession renews, the HCPC selects 2.5% of registrants from that profession and requests them to submit their CPD profile for an audit. The records of those selected are assessed against the standards by independent CPD assessors who must determine whether the:
- profile meets the standards for CPD
 - profile partially meets the standards for CPD; in which case, the HCPC will ask the registrant for more information to decide whether they meet the standards
 - profile does not meet the standards for CPD; in which case, the CPD assessor will decide whether to offer a registrant extra time (up to three months) to meet the standards.
- 13.2 During the first wave of the Covid-19 pandemic, the HCPC suspended its CPD assurance process between March and August 2020 for Physiotherapists and Arts Therapists (as they were the professions in the renewal cycle). The HCPC communicated this decision to those registrants selected for an audit, making it clear that, nevertheless, registrants were required to continue to comply with their CPD obligations. To support registrants in completing their CPD profiles during the pandemic, the HCPC produced a 'top tips' guide and introduced additional flexibility for those selected to submit CPD profiles in September. We considered that the decision to suspend CPD audits was proportionate in the exceptional circumstances.
- 13.3 The HCPC's CPD guidance and additional information provided to registrants during the pandemic remain clear and up to date. The HCPC articulated its expectations that those practising on the temporary registers are required to ensure that their skills, knowledge, and experience are kept up to date. Consequently, we are satisfied that this Standard is met.

¹³ The HCPC informed us that this figure includes one ongoing prosecution that it has been unable to conclude during 2020 due to the impact the pandemic is having on the court service.

Fitness to Practise

For a number of years, we have reported significant concerns about the HCPC's performance against our Fitness to Practise Standards. Concerns in relation to timeliness, decision making, risk assessments and ensuring parties are supported to participate in the process have been identified.

Following the concerns that we identified in our last report published in December 2020, the HCPC accelerated and added to its fitness to practise improvement programme to address our concerns in January 2021. The programme has developed workstreams in the following areas:

- replacing the current case management system to improve adherence to processes and timeliness
- improving the quality of decision making
- developing a new approach to risk assessments
- developing the skills and experience of its fitness to practise staff
- developing guidance for all parties involved in its fitness to practise processes and improving processes to ensure individuals are supported.

The HCPC has invested significant resources in this area and we have been impressed by its commitment and energy in doing so. As we discuss below, the work begun in late 2020 and we will not have affected performance in this review period. We will monitor it further. We were also mindful of the impact the Covid-19 pandemic has had on the HCPC's ability to implement its programme in full and the effect on performance improvement. The pandemic has affected the progress of cases in a number of ways:

Fitness to practise hearings had to be cancelled while the HCPC established methods of managing virtual hearings.

Many employers were affected by the pandemic and were not able to respond swiftly to requests for information to assist the HCPC's investigations. HCPC employees themselves had to adjust to working remotely and the pressures that the pandemic placed on all workers, particularly during the periods of lockdown.

We recognise that these points were unforeseeable and outside the HCPC's control and are likely to have significantly affected performance. We have taken this into account in our assessments against the Standards.

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

- 14.1 Last year, we found that the triage stage of the fitness to practise process is operating as intended, and there do not appear to be undue barriers to raising complaints, as most complaints progress to the next stage of the process. We were assured that the Threshold policy is operating as intended as fewer cases

are being closed by staff, with more considered by the Investigating Committee Panel (ICP), which makes independent decisions.

- 14.2 The table below shows the number of referrals received and the number of decisions made by the ICP in the period under review. The increase in the proportion of cases considered by the ICP has continued.

	2018/19 Annual	2019/20 Annual	20/21 Annual ¹⁴
Number of referrals received	2,424	2,284	1,266
Number of decisions made by the ICP	556	1,062	720
% of cases considered by the ICP	23%	46.5%	56.9%

- 14.3 In response to the Covid-19 pandemic, the HCPC developed guidance for its staff on applying the Threshold policy when assessing concerns relating to Covid-19. We considered the guidance and note that it is consistent with guidance produced by other health and care regulators we oversee. We have seen no evidence that this guidance has placed a barrier to individuals raising a concern about a HCPC registrant.
- 14.4 In October 2020, the HCPC introduced three Senior Decision Makers (SDMs) who are responsible for deciding whether to close a case under the Threshold Policy, refer the case back for further investigation or determine that the case has met the Threshold and refer to the ICP. In addition, the SDMs are responsible for providing guidance and case direction to case managers. As the process was introduced towards the end of the performance review period, we did not have enough data to assess the impact the SDMs had on the initial stages of the fitness to practise process. We will continue to closely monitor this process.
- 14.5 The HCPC has not significantly changed its approach to the Threshold policy (including triage). We have not received any concerns that the HCPC is inappropriately closing cases and we note that our statistical dataset shows that there has been a steady stream of referrals made to the ICP, despite the Covid-19 pandemic. Consequently, we are satisfied that this Standard is met.

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

- 15.1 The HCPC did not meet this Standard in 2019/20 as our audit identified significant concerns about the HCPC’s performance against the different aspects of this Standard. These issues have been on-going for several years. In 2019/20, we were concerned that the evidence available to us suggested that

¹⁴ In December 2019, the regulation of Social Workers transferred to Social Work England which has reduced the number of referrals received by the HCPC.

the additional financial investment and changes to the HCPC's processes prior to our audit had had only a limited effect in addressing the long-standing issues. The shortcomings identified in the cases we reviewed that year were likely to have resulted in delays and poor-quality evidence to support decision makers and, therefore, impact on their ability to reach a fair decision that protects the public. Furthermore, the relevant measures in our statistical dataset had not improved significantly.

15.2 As part of its 2020/21 improvement programme, the HCPC introduced the following changes to improve the quality of investigations and to aid the progress of cases:

- The introduction of SDMs
- Introducing corrective case plans for cases that have missed the key performance indicators
- Separating the oldest cases from the main caseload in the investigation team, to be managed by a dedicated team
- A new consent process whereby registrants and/or representatives can suggest case disposal by consent.

15.3 In principle, the changes should address our concerns. However, these measures are likely to take time to embed and we would not necessarily expect to see improvements this year.

The dataset

15.4 The table below records the HCPC's performance in respect of timeliness by setting out the median number of weeks taken for each stage of the process and the number of older cases open.

					2020/21 performance review period			
	16/17	17/18	18/19	19/20	19/20 Q4	20/21 Q1	20/21 Q2	20/21 Q3
Median from receipt to ICP	34	41.1	61	61.6	57	50	54	58
Median from ICP to FtPC	49	49.6	50	33.6	34	39	45	51
Median from receipt to FtPC	97	92	102	103.2	104	119	114	118
Open cases older than:								
52 weeks	334	444	596	344	344	360	383	402
104 weeks	91	105	172	134	134	172	181	186
156 weeks	58	38	42	40	40	55	78	87
Total more than 52 weeks	483	587	810	518	518	587	642	675

15.5 The table shows:

- Performance in the median timeframe from receipt of a complaint to the final decision of the ICP has improved

- Performance has declined in cases where the ICP determines that there is a case to answer. The median is higher in all four quarters of this review period compared to the annual median in 2019/20. This may have been impacted by the pandemic
- The median time from receipt to final Fitness to Practise Committee (FtPC) decision has increased in all four quarters of the review cycle and is at its highest since 2016/17. This represents a significant decline in performance against this measure, but this may well have been impacted by the pandemic
- The number of aged cases in the three categories we report on has steadily and significantly increased in the period under review

15.6 The Covid-19 pandemic has had a significant impact on the HCPC's ability to progress cases through the latter stages of its fitness to practise process. This means that the number of older cases was also likely to increase. To improve the quality and consistency of decisions at ICP stage, and to mitigate the impact of the pandemic on final hearings, the HCPC increased its capacity to hold hearings through the introduction of legally qualified ICP chairs (effective from April 2021). This will free up the capacity of hearings officers and panel chair resources to be redirected to substantive hearings.

Case progression

- 15.7 To improve case progression in relation to older cases the HCPC:
- developed and implemented a 'capacity and demand model' to accurately forecast case flow, and to enable it to manage resources required for its case load
 - separated the older cases at the investigation stage (cases which met the threshold criteria) from the case load to be managed by a dedicated team.
- 15.8 The HCPC told us that the backlog of older cases is on target to be listed for an ICP by September 2021, which is in line with the target set out in the improvement programme to eliminate the backlog within a year.
- 15.9 The data we have received shows that the number of older cases in each age category that we report on has continued to increase during this review period from a position where the number was already too high. We have already acknowledged that the HCPC's ability to progress cases has been adversely impacted by the pandemic. However, while the HCPC has made a number of changes to its processes aimed at improving timeliness and reducing the number of older cases, these were unlikely to affect the data during this review period.
- 15.10 To improve overall case progression, the HCPC:
- implemented corrective case plans for all cases outside of their key performance indicator to timetable the case to a threshold decision or ICP, by identifying actions required to progress the case with clear deadlines set
 - implemented case plans on all new cases and across all fitness to practise teams

- outsourced approximately 280 of the oldest threshold cases to three legal firms to allow the HCPC to build its internal capacity through a case manager recruitment drive and to progress the cases.

15.11 We welcome the HCPC's focus on case progression. In principle, the activities implemented should address some of our concerns. Many of the measures outlined were introduced towards the end of the period under review or in early 2021 and therefore we have not seen significant improvement in the HCPC's performance. While the Covid-19 pandemic will have added to the delays, we do not expect that, even without it, the HCPC's performance would have been within our Standards. This is because some measures may require time to become embedded and because it is in the nature of a fitness to practise caseload that it is hard to demonstrate immediate improvements.

Third party feedback

15.12 We received feedback from three organisations about the length of time taken to progress cases, the quality and accuracy of correspondence and the quality of investigations conducted. We shared this feedback with the HCPC.

Conclusion

15.13 We have recorded significant concerns about the HCPC's performance against the different aspects of this Standard for several years now. The information we reviewed this year, including feedback received about the HCPC's fitness to practise investigations do not suggest that significant actual improvements have been achieved in this performance review year, though we recognise an encouraging improvement in pre-ICP timeliness.

15.14 However, the HCPC's improvement programme has suggested that there is a real impetus and genuine intention of achieving improvements. The areas within the programme appear to be the right ones and there is a clear understanding of our concerns. It is too early to expect significant change to be demonstrated and, we cannot at this stage comment on the effectiveness of the HCPC's implementation of the programme. We are encouraged by the HCPC's commitment in this area and to working with us. We will continue to monitor progress closely. Overall, however, we cannot say that this Standard is met in this period.

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

16.1 In our last report we identified a number of concerns relating to decision-making and determined that there had not been any appreciable improvement in the quality of the HCPC's decision-making.

Section 29 process

- 16.2 As we have indicated, as a result of pandemic and the associated lockdowns, the HCPC paused its fitness to practise hearings before subsequently holding hearings online or as hybrids (a mix of physical and online). Therefore, the number of final fitness to practise hearing cases notified to the Authority in the period under review decreased.
- 16.3 In the period under review, the Authority did not refer any HCPC decisions to the court, unlike the previous year when nine cases were referred. However, we considered a number of HCPC decisions in detail and issued learning points. The concerns identified include:
- poor or unclear written reasonings
 - poor assessment or consideration of misconduct and impairment
 - overly complex legal advice and legal advice which did not focus on public protection and/or focused on fairness and proportionality to the registrant rather than the HCPC's overarching objective.

Senior Decision-Makers

- 16.4 As outlined in Standard 14, the HCPC introduced three SDMs in October 2020. Between October 2020 and 31 December 2020, the SDMs made 231 threshold decisions. It is too early to consider the impact of SDMs on timeliness and quality of decisions. However, we note that as part of the process, feedback, learning, and best practice is disseminated to the fitness to practise team in the form of workshops, meetings, and monthly bulletins. Moreover, the HCPC is keeping the impact of the SDMs under review. We consider that the initiative is likely to have a positive impact on the HCPC's process for examining and investigating cases and a wider impact on the quality of decision making. We are reassured that the HCPC is keeping the process under review. We will review it ourselves in later performance reviews.

Consent guidance

- 16.5 The HCPC formalised its process for registrants and their representatives to request that a case be considered for disposal by consent in the review period. A guidance document was published to be used in conjunction with the Disposal of Cases by Consent Practice Note, effective from March 2018. The HCPC told us that it collaborated with its Representative Bodies Forum to develop the guidance. Between June and December 2020, 14 cases were resolved by consent, which is consistent with previous years. These cases have also been subject to our scrutiny under the Section 29 process and no concerns have been identified with the appropriateness of the disposal.

Training

- 16.6 Last year, we considered that given the nature and severity of the concerns identified in some of the HCPC decisions submitted to the Authority, training for relevant staff and panellists could be expanded to include the new Sanctions Policy and further work on ensuring that decisions are fair, consistent and transparent.

16.7 The HCPC delivered training to all legal assessors and panel Chairs in April 2021. The training focused on the Sanctions Policy, the Authority’s learning points received in the last 12 months and the quality of decision drafting. In addition, the HCPC will be launching a new programme of training for all panel members from September 2021. Since the end of the performance review period, the HCPC has engaged with the Authority to develop training for its fitness to practise Committees. It is positive that the HCPC has expanded its training to include the Sanctions Policy. We will monitor the impact further training has on decision-making in future performance reviews.

Conclusion

16.8 The SDM process may address the significant concerns we previously identified about the HCPC’s decision-making at the early stages of its processes and may lead to more consistent and fair decisions being made against the Threshold Policy. Similarly, we have been encouraged that the HCPC is providing training for decision makers at a later stage. As we have indicated, however, it is too early for us to say that these initiatives have led to improved performance. We will keep the position under review, but for this year this Standard is not met.

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

17.1 The HCPC did not meet this Standard last year as our audit findings suggested that the HCPC’s approach to risk assessments did not ensure that information is fully and properly assessed in order to prioritise serious cases and/or progress cases as quickly as possible. The HCPC has not met this Standard since 2015/16.

17.2 Our dataset shows a fluctuation in the median time taken to obtain an interim order (IO) from receipt of an initial complaint as demonstrated in the table below:

					2020/21 performance review period				
Median weeks	2016/17	2017/18	2018/19	2019/20	19/20 Q4	20/21 Q1	20/21 Q2	20/21 Q3	2020/21
From receipt to IO decision	18.9	14	15.5	19.1	19.6	17	16	20	21
From decision that information indicates possible need for IO	2.9	2.85	4	2.7	3.5	6	3	3	3

17.3 The time taken to obtain an IO from receipt of concern remains high, which is concerning given its direct impact on public protection. The statistical dataset shows that the annual medians have also increased year on year since 2017/18. However, with the exception of quarter one of 2020/21, the HCPC acts

quickly once it identifies the need to obtain an IO. We considered that the figure in quarter one 2020/21 may be attributed to the impact of the Covid-19 pandemic, the requirement for HCPC staff to work from home and the logistics of setting up virtual hearings.

- 17.4 The dataset shows that the number of High Court extensions has decreased between 2019/20 and 2020/21, which is an improvement in performance. The table below shows the HCPC's performance in this area in recent years:

					2020/21 performance review period				2020/21
	2016/17	2017/18	2018/19	2019/20	19/20 Q4	20/21 Q1	20/21 Q2	20/21 Q3	
No. of High Court extensions to IO's applied for	12	38	54	64	15	14	15	5	44

- 17.5 The decrease in the number of cases with an IO requiring an extension could indicate that the HCPC is appropriately prioritising high-risk cases. It is also positive that none of the applications submitted by the HCPC during this review period were rejected by the High Court, which provides assurance that the HCPC's requests for additional time to conclude its investigations were not unreasonable.

- 17.6 Last year, the HCPC told us that the increasing timeframes were primarily due to external factors such as ongoing police investigations, the receipt of new health information and the receipt of information from other sources which increased the risk. We also understood that there were some cases where the risk category changed following consideration of a profession specific matter by a registrant panel member at the ICP. We were concerned some risks were only identified by the ICP at what is a late stage in the investigation. While we were reassured that the ICP provides this additional safeguard for public protection, it raised a concern that the HCPC's staff may not be appropriately trained or supported to identify concerns that may impact on public protection.

- 17.7 To better understand the number of cases referred by the ICP to the interim Order Committee (IOC), we asked the HCPC to provide us data for the period under review:

	Triage / Investigation Team	The Investigating Committee Panel	Total
Number of cases referred to the IOC by:	84	7	91

- 17.8 The number of cases referred to the IOC by the ICP represents 0.91% of all cases considered by the ICP. The IOC did not impose an order in any of the cases referred to it by the ICP. The small number of referrals made by the ICP to the IOC provides us with assurance that most high risk cases are being identified at the Triage/Investigation stages of the process and our audit last year did not identify any instances where the HCPC failed to consider the need to apply for an interim order. Although IOs were not granted in the seven cases,

the HCPC should consider whether there are relevant learning points to be fed back to case managers in terms of risk identification and consideration.

- 17.9 We asked the HCPC to provide information on how it was ensuring that high-risk cases and IO applications were progressed during the pandemic. The HCPC told us that it followed its usual process where high-risk cases identified at the Triage stage are transferred to the Serious Case Team for priority case progression. All high-risk cases are transferred to this team when the risk profile increases during the investigation. Interim order applications and interim order review hearings were not paused during the first lockdown and instead these were held remotely between March 2020 and June 2020. During this period, the HCPC conducted 85 remote interim order applications and 34 interim order reviews. The HCPC introduced additional managerial oversight of interim order cases, including weekly reviews and monitoring which aimed to reduce the need for High Court applications.
- 17.10 We consider that the measures put in place by the HCPC to manage high risk and interim order cases during the pandemic appear appropriate. However, we did not have any qualitative data to assesses how and if the processes have worked. The statistical dataset suggests that the median time to interim order from receipt of referral has increased during this performance review period by an average of approximately two weeks. We note however that the time taken from receipt of information indicating the possible need for IO to an IO application improved following an increase correlating with the start of the pandemic. The number of high court extensions applied for also reduced during this period which may suggest that the additional management oversight has been effective.

Risk assessment tool

- 17.11 The HCPC commenced a review of how it managed risk in fitness to practise cases in August 2020, including how it undertakes risk assessments. This included benchmarking against other regulators, seeking input from stakeholders such as its Registrant Representatives Bodies Forum. This was used to develop and implement the new risk assessment tool which is one of the key focuses of its improvement programme.
- 17.12 We reviewed the risk assessment tool and guidance documents and considered that, if properly implemented, they could mitigate some of the shortcomings we identified in our audit last year.
- 17.13 We understand that the HCPC's new case management system will trigger an action to conduct a risk assessment at the relevant required times and case managers cannot progress further until the risk assessment is completed. If used properly, this function may mitigate the concerns we raised regarding non-compliance with the process and lack of consistency in completing risk assessments.
- 17.14 The HCPC told us that that it will be introducing Risk Champions across the case management teams who will be responsible for testing the risk assessment tool, developing guidance and training, implementing the new tool, providing feedback and collecting evidence to evaluate the tool. The Risk

Champions will also provide support and coaching to the teams to ensure that risk is being managed effectively. This should help to ensure that the risk assessment tool and approach to risk is properly understood and embedded by the wider fitness to practise team.

- 17.15 Following the publication of our 2019/20 report in December 2020, the HCPC also developed a learning activity for teams on the topic of risk assessments. This includes understanding risk in fitness to practise cases, how and when a risk assessment should be carried out, a reminder of the IO process and the basis on which an IO should be applied for. The aim of this learning was to improve the quality and timeliness of risk assessment before implementation of the new process in April 2021.

Conclusion

- 17.16 We conducted an audit of this Standard in 2019/20, and the key reasons the HCPC did not meet this Standard last year were:
- an increase in the median time taken to obtain an IO following receipt of the information indicating the need for one
 - the timeliness of risk assessments
 - the quality of risk assessments.
- 17.17 The dataset for the period under review shows that, the HCPC's performance in the time taken to obtain an IO decision following receipt of the information indicating the need for one improved during the second half of the review period. However, there has been an increase in the time taken to apply for an IO from initial receipt of the complaint. The HCPC told us that the impact of the pandemic on third parties affected performance against this measure as there were delays in obtaining information. While it is possible that the Covid-19 pandemic may have had an impact on this measure, the HCPC told us that its process for investigating high-risk cases did not change from its pre-pandemic process and it continued to list IO applications during the first lockdown. Therefore, it seems unlikely that the deterioration in the performance could be solely attributed to the impact of the pandemic.
- 17.18 While we have been encouraged by the work the HCPC has undertaken during the review period, we have not seen the impact of this work and therefore cannot say that this Standard is met.

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

- 18.1 The HCPC did not meet this Standard last year. We were concerned that parties were not being updated adequately, there were avoidable delays in communicating with parties, there were limitations in the quality of the correspondence issued by the HCPC, and that correspondence could be less than courteous and provide misleading information.
- 18.2 The fitness to practise improvement programme, if successfully implemented, should have a positive impact on the quality of customer service. The

improvement programme aims to ensure that there is a proactive, rather than reactive, approach to fitness to practise case activity. With the introduction of the SDMs, a new case closure form was created which allows the decision maker to explain the full reasons for closure. This new process may improve the quality of correspondence sent to parties in relation to case closure and may provide clear, accurate and tailored information which explains the process and decisions made. The HCPC is also undertaking further improvement activity, including working on changing the culture within its fitness to practise department.

Experience of registrants who had engaged in the HCPC's fitness to practise processes

- 18.3 In 2019, the HCPC commissioned Surrey University to undertake research to explore the experience of registrants who had engaged in its fitness to practise processes.¹⁵ The findings of the research were published during this review period and the HCPC's intention was to use the findings, along with intelligence gathered through feedback and in-house research to make the fitness to practise process less stressful and to better support registrants. The main issues identified by the research were similar to the concerns that we identified in our audit last year.
- 18.4 Following the research, Surrey University produced a film depicting the findings of the research which has been shared with the fitness to practise team and Council. The research report and film are intended to be incorporated into all ongoing employee training, development and inductions as well as being shared with wider stakeholders.
- 18.5 The HCPC told us that the research findings were used to inform its Registrant health and wellbeing strategy and action plan 2021-24.¹⁶ The strategy and action plan covers all aspects of the HCPC's regulatory functions and includes: collecting and sharing examples of good customer service; collecting and analysing EDI data across all regulatory functions; undertaking a tone of voice review to improve communication; establishing consistent points of contacts; and transparency in decision making. These activities should improve support issued to all parties of a complaint to participate effectively in the fitness to practise process and individuals who contact the HCPC in relation to its other regulatory functions.

Third party feedback

- 18.6 We received feedback from three organisations about the standard and tone of communications with registrants and the quality of support offered. One of the third parties told us that registrants regularly receive correspondence which has been copied and pasted, is grammatically incorrect and has sections missing or which do not make sense. It also said that there is an issue with multiple case

¹⁵ Further information on the research paper can be found at: www.hcpc-uk.org/about-us/what-we-do/our-work/promoting-the-value-of-regulation/registrant-health-and-wellbeing-strategy/

¹⁶ Further information can be found at: www.hcpc-uk.org/about-us/what-we-do/our-work/promoting-the-value-of-regulation/registrant-health-and-wellbeing-strategy/

managers being involved in each case which means that registrants and other parties have to repeat information which is distressing.

- 18.7 We received feedback from registrants who had been subject to the fitness to practise process who raised concerns about lack of information and updates from the HCPC, unclear evidential bundles and multiple case managers leading to confusion and irrelevant requests being made.

Virtual hearings

- 18.8 The HCPC developed remote hearings guidance which sets out its approach to holding hearings remotely, which became necessary during the pandemic. The HCPC told us that its guidance continues to be subject to regular review as its experience develops and an updated version is published on its website when reviewed. We have seen evidence that the guidance has continued to develop as lessons have been learned throughout the pandemic. The guidance appears appropriate and in accordance with the guidance for regulators on fitness to practise hearings during the Covid-19 pandemic¹⁷ issued by the Authority in September 2020.
- 18.9 The HCPC told us that feedback is obtained from participants of virtual hearings, including panel members. Feedback was used to inform the development and subsequent reviews of the virtual hearings guidance. The HCPC told us that feedback was also central to moving its virtual hearings from a teleconferencing system to Microsoft Teams. The HCPC created guidance documents for all participants in virtual hearings which are regularly updated.

Conclusion

- 18.10 Last year's review identified significant concerns about communications with parties to hearings. During this review period, we have continued to receive similar concerns from members of the public which suggest that these concerns remain to some degree.
- 18.11 We have considered the significant amount of work the HCPC is conducting as part of its improvement programme, including the commitments set out in the registrant health and wellbeing strategy and action plan. These initiatives have the potential to address the concerns we identified. However, we consider that there is limited information to be assured that they have been addressed during the period under review. Consequently, we have determined that this Standard is not met.

¹⁷ www.professionalstandards.org.uk/news-and-blog/latest-news/detail/2020/09/24/guidance-for-regulators-on-fitness-to-practise-hearings-during-the-covid-19-pandemic

Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled a glossary, spelling out abbreviations, but also adding some explanations. You can find it on our website [here](#).

You will also find some helpful links below where you can find out more about our work with the 10 health and care regulators.

Useful links

Find out more about:

- [the 10 regulators we oversee](#)
- [the evidence framework we use as part of our performance review process](#)
- [the most recent performance review reports published](#)
- [our scrutiny of the regulators' fitness to practise processes, including latest appeals](#)

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