

Annual review of performance 2015/16

# General Chiropractic Council



## About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care<sup>1</sup> promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

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

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

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

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

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

<sup>2</sup> *Right-touch regulation revised (October 2015)*. Available at [www.professionalstandards.org.uk/policy-and-research/right-touch-regulation](http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation)

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## About the General Chiropractic Council

The General Chiropractic Council (the GCC) regulates the practice of chiropractors in the United Kingdom. Its work includes:

- Setting and maintaining standards of practice and conduct for the chiropractic profession
- Maintaining a register of qualified professionals
- Assuring the quality of chiropractic education and training
- Taking action to restrict or remove from practice registrants who are not considered fit to practise.

As at 30 September 2016, the GCC was responsible for a register of 3,242 chiropractors. It recognises and assures the quality of five degree programmes at three educational institutions.

The GCC's fee for initial registration is £750. The fee for retention is £800. The GCC offers a reduced fee of £100 for those not intending to practise.



# At a glance

Annual review of performance

Regulator reviewed: **General Chiropractic Council**

## Standards of good regulation

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### Core functions

**Met**

Guidance and Standards

**4/4**

Education and Training

**4/4**

Registration

**6/6**

Fitness to Practise

**9/10**

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# 1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the GCC.<sup>3</sup> More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- It tells everyone how well the regulators are doing
  - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

## The Standards of Good Regulation

- 1.4 We assess the regulators' performance against the Standards. They cover the regulators' four core functions:
- Setting and promoting guidance and standards for the profession
  - Setting standards for and quality assuring the provision of education and training
  - Maintaining a register of professionals
  - Taking action where a professional's fitness to practise may be impaired.
- 1.5 The Standards describe the outcomes we expect regulators to achieve in each of the four functions. Over 12 months, we gather evidence for each regulator to help us see if they have been met.
- 1.6 We gather this evidence from the regulator, from other interested parties, and from the information that we collect about them in other work we do. Once a year, we collate all of this information and analyse it to make a recommendation to our internal Panel of decision-makers (the Panel) about how we believe the regulator has performed against the Standards in the

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<sup>3</sup> These are the General Chiropractic Council; the General Dental Council; the General Medical Council; the General Optical Council; the General Osteopathic Council; the General Pharmaceutical Council; the Health and Care Professions Council; the Nursing and Midwifery Council; and the Pharmaceutical Society of Northern Ireland.

previous 12 months. We use this to decide the type of performance review we should carry out.

- 1.7 We will recommend that additional review of their performance is unnecessary if:
- We identify no significant changes to the regulator’s practices, processes or policies during the performance review period; and
  - None of the information available to us indicates any concerns about the regulator’s performance that we wish to explore in more detail.
- 1.8 We will recommend that we ask the regulator for more information if:
- There have been one or more significant changes to a regulator’s practices, processes or policies during the performance review period; but
  - None of the information we have indicates any concerns or raises any queries about the regulator’s performance that we wish to explore in more detail.
- 1.9 This will allow us to assess the reasons for the change(s) and the expected or actual impact of the change(s) before we finalise our performance review report. If the further information provided by the regulator raises concerns, we reserve the right to make a further recommendation to the Panel that a ‘targeted’ or ‘detailed’ review is necessary.
- 1.10 We will recommend that a ‘targeted’ or ‘detailed’ performance review is undertaken, if we consider that there are one or more aspects of a regulator’s performance that we wish to examine in more detail because the information we have (or the absence of relevant information) raises one or more concerns about the regulator’s performance against one or more of the Standards:
- A ‘targeted’ review may be carried out when we consider that the information we have indicates a concern about the regulator’s performance in relation to a small number of specific Standards, usually all falling within the same performance review area
  - A ‘detailed’ review may be carried out when we consider that the information we have indicates a concern about the regulator’s performance across several Standards, particularly where they span more than one area.
- 1.11 We have written a guide to our performance review process, which can be found on our website [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

## 2. What we found – our decision

- 2.1 During April 2016, we carried out an initial review of the GCC's performance from 1 April 2015 to 31 March 2016. Our review included an analysis of the following:
- Council papers, including performance and committee reports and meeting minutes
  - The findings of internal audits
  - Policy, guidance and consultation documents
  - Statistical performance dataset (see sections 2.8 to 2.11 below)
  - Third-party feedback
  - A check of the GCC register
  - Information available to us through our review of final fitness to practise decisions under the Section 29 process.<sup>4</sup>
- 2.2 As a result of this assessment (and following a further assessment in July 2016), we undertook a review of Standards 1 and 2 for Guidance and Standards, Standards 1 and 2 for Registration, and Standards 1, 4, 5, 6, 7, 8 and 10 for Fitness to Practise.
- 2.3 We obtained further information from the GCC relating to these Standards through targeted written questions. We also undertook a targeted audit of 24 fitness to practise cases handled by the GCC and closed during the period 1 April 2015 to 30 July 2016. We audited all of the cases within the following three categories:
- Cases closed prior to referral to the Investigating Committee
  - Cases that the Investigating Committee closed as 'no case to answer'<sup>5</sup>
  - Cases considered by the Professional Conduct Committee in which either (1) no evidence was offered or (2) allegations were amended, or both.<sup>6</sup>
- 2.4 Further information on these categories can be found in the relevant sections below.
- 2.5 As a result of a detailed consideration of this further information and our audit findings, we decided that the GCC had met all but Standard 7 for Fitness to

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<sup>4</sup> 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 \(as amended\)](#).

<sup>5</sup> The Investigating Committee (IC) investigates all complaints made against chiropractors who are registered in the UK which raise an issue of unacceptable professional conduct, professional incompetence, a criminal conviction or unfitness to practise due to ill-health, determining whether they have a case to answer.

<sup>6</sup> The Professional Conduct Committee is made up of chiropractic and lay panellists. It considers complaints against chiropractors referred to it by the IC.

Practise. The reasons for this are set out in the following sections of the report.

### Summary of the GCC's performance

2.6 For 2015/16 we have concluded that the GCC:

- Met all of the *Standards of Good Regulation* for Guidance and Standards
- Met all of the *Standards of Good Regulation* for Education and Training
- Met all of the *Standards of Good Regulation* for Registration
- Met nine of the ten *Standards of Good Regulation* for Fitness to Practise. The GCC did not meet Standard 7.

2.7 We are pleased to report that this represents a notable improvement in the GCC's performance since last year, when it did not meet Standards 4, 5, 7, 8 and 10 for Fitness to Practise. During this performance review period however we did identify a number of issues in respect of Standards which overall we considered were met. We report on these below. We will monitor how the GCC addresses these matters over the next performance review period.

### Key comparators

2.8 We have identified with all of the regulators the numerical data that they should collate, calculate and provide to us, and which items of data we think provide helpful context about each regulator's performance.

2.9 We expect to routinely report on these comparators both in each regulator's performance review report and in our overarching reports on performance across the sector. We will compare the regulators' performance against these comparators where we consider it appropriate to do so.

2.10 Set out below is the comparator data which the GCC has provided to us for the period 1 April 2015 to 30 June 2016.

2.11 The key comparators are:

	Comparator	Annual <sup>7</sup> 2015/16	Quarter 1 2016/17
1	The number of registration appeals concluded, where no new information was presented, that were upheld	0	0
2	Median time (in working days) taken to process initial registration applications for <ul style="list-style-type: none"> <li>• UK graduates</li> <li>• EU (non-UK) graduates</li> </ul>	1 1	1 1

<sup>7</sup> Annual refers to data between 1 April 2015 and 31 March 2016. Quarter 1 refers to data between 1 April and 30 June 2016.



	<ul style="list-style-type: none"> <li>International (non-EU) graduates</li> </ul>	1	1
3	<p>Time from receipt of initial complaint to the final Investigating Committee/Case Examiner decision</p> <ul style="list-style-type: none"> <li>Median</li> <li>Longest case</li> <li>Shortest case</li> </ul>	<p>21 weeks</p> <p>46 weeks</p> <p>3 weeks</p>	<p>20 weeks</p> <p>35 weeks</p> <p>4 weeks</p>
4	<p>Time from receipt of initial complaint to final fitness to practise hearing</p> <ul style="list-style-type: none"> <li>Median</li> <li>Longest case</li> <li>Shortest case</li> </ul>	<p>61 weeks</p> <p>229 weeks</p> <p>34 weeks</p>	Not requested <sup>8</sup>
5	Time to an interim order decision from receipt of complaint	6 weeks	6.5 weeks
6	<p>Outcomes of the Authority's appeals against final fitness to practise decisions</p> <ul style="list-style-type: none"> <li>Dismissed</li> <li>Upheld and outcome substituted</li> <li>Upheld and case remitted to regulator for re-hearing</li> <li>Settled by consent</li> <li>Withdrawn</li> </ul>	<p>0</p> <p>0</p> <p>0</p> <p>0</p> <p>0</p>	<p>0</p> <p>0</p> <p>0</p> <p>0</p> <p>0</p>
7	Number of data breaches reported to the Information Commissioner	0	0
8	Number of successful judicial review applications	0	0

<sup>8</sup> For some comparators we only ask for annual data from 1 April to 31 March.

### 3. Guidance and Standards

- 3.1 As we set out in Section 2, we identified concerns about the GCC's performance against Standards 1 and 2 for Guidance and Standards and carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that both of these Standards were met and therefore the GCC has continued to meet all of the *Standards of Good Regulation* for Guidance and Standards in 2015/16.

**Standard 1: Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care**

- 3.2 The GCC started a review of its standards to replace the *Code of practice and standards of proficiency* in September 2013. Its Council approved *The Code - standards of conduct, performance and ethics for chiropractors* (the Code) in June 2015, with the revised Code becoming effective on 30 June 2016.<sup>9</sup>
- 3.3 We undertook a targeted review of performance in relation to this Standard to understand how the GCC had mitigated any risks arising from the then current *Code of practice and standards of proficiency* not reflecting up-to-date practice and legislation in the period leading up to the implementation of the revised Code.
- 3.4 The GCC told us that it had provided information in writing to registrants about current legislation and other relevant issues while the Code was being updated. The GCC had also informed registrants that they had to adhere to the *Code of practice and standards of proficiency* until the revised Code had been implemented.
- 3.5 The GCC told us that no risks to patient safety were identified during the revision process because research and consultation had largely found that the *Code of practice and standards of proficiency* remained relevant. The GCC explained that the 12-month lapse before the revised Code came into force allowed registrants time to familiarise themselves with the contents.
- 3.6 In light of this information, we are satisfied that the GCC took appropriate steps to understand and minimise any risks to patient safety whilst the Code was being revised.

**Standard 2: Additional guidance helps registrants apply the regulators' standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centred care**

- 3.7 In our 2013/14 performance review report, we said we would follow up on the GCC's work to identify areas which would benefit from additional guidance to

<sup>9</sup> The Chiropractors Act 1994 requires the GCC to publish changes to its standards of proficiency a year before they come in effect.

support its *Code of practice and standards of proficiency*. The following year, we noted that the GCC had identified a number of areas where it considered that additional guidance was required, including: maintaining sexual boundaries; obtaining informed consent; use of social media; and ethical advertising. The GCC told us that it had already begun working to develop guidance on these topics and that they would be completed during 2015/16.

- 3.8 This year we undertook a targeted review of performance of this Standard to assess whether the GCC had addressed those areas requiring further guidance, as we considered that the public could be placed at risk if sufficient guidance was not in place.
- 3.9 The GCC published guidance in April 2016 for registrants in support of the revised Code. Individual guidance on advertising, candour, confidentiality, consent, maintaining sexual boundaries and use of social media provides information linked to specific aspects of the Code. We are therefore satisfied that the GCC has provided sufficient additional guidance for registrants.

**Standard 3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulators' work**

- 3.10 The GCC ran a public consultation on the guidance for registrants in support of the revised Code from 5 November to 10 December 2015. There were 241 responses received from chiropractors, other healthcare professionals and members of the public. The responses were analysed by external consultants (instructed to run the consultation) who found that the majority of respondents (over 80 per cent) viewed the guidance to be helpful, useful and easy to understand.
- 3.11 Between April and May 2016, the GCC publicly consulted on its proposed new *Education standards* to replace its *Degree recognition criteria*. The consultation received 34 responses. More information about this exercise can be found under Standard 1 of Education and training.

**Standard 4: Standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed**

- 3.12 The GCC website provides clear information about its standards, how to complain if an individual has a concern about a registrant and what action can be taken against a registrant under the GCC's fitness to practise procedures. The previous and current versions of the Code are published on the GCC website, along with the supporting guidance.

## 4. Education and Training

- 4.1 The GCC has met all of the *Standards of Good Regulation* for Education and Training during 2015/16. Examples of how it has demonstrated this are indicated below each individual Standard.

**Standard 1: Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process**

- 4.2 In September 2015, the GCC commissioned work to review and produce new *Education standards* to replace its *Degree recognition criteria*. Desk-based research was carried out to review student chiropractic degree and postgraduate programmes, current developments within higher education, and equivalent quality-assurance processes used by other regulators within and outside of the healthcare sector. In December 2015, interviews were held with stakeholders about the review and in January 2016, a workshop was held with education institutions to consider in detail particular issues relating to the Code, the guidance required and areas such as research, patient involvement in student assessment, coverage of business skills and inter-disciplinary learning.
- 4.3 The GCC shared a first set of draft *Education standards* with stakeholders followed by a public consultation in April and May 2016. Workshops on the draft *Education standards* were held in September and November 2016, with the implementation of the new standards anticipated for September 2017. We will continue to monitor the progress of this review.
- 4.4 A research proposal to measure professionalism in undergraduate study was considered by the GCC's Education Committee in April 2015. The Committee aimed to gather information from education providers and students so data could be analysed to identify trends and see which information could be used to embed and raise awareness of the new Code and of professional behaviour. In its report to Council in December 2015, the Committee said a survey of students and tutors had been started in the autumn. The initial research findings were discussed with the chiropractic educational institutions in April 2016. The GCC repeated the exercise in late 2016.

**Standard 2: The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration**

- 4.5 As part of the GCC's quality assurance of chiropractic degree programmes, a panel appointed by the Education Committee conducts visits to education providers. The visiting panel make a decision as to whether programmes delivered adhere to the criteria set by the GCC. Conditions of recognition and

recommendations are given to each institution following a visit. Providers are subject to an annual monitoring process to ensure that the programme meets the conditions and the recommendations.

- 4.6 In April 2015 and April 2016, the Education Committee met with the educational institutions to discuss their annual monitoring reports and share good practice. Discussions have begun with a new education provider regarding the development of an undergraduate chiropractic programme, but there is at present no identified timeframe for a formal submission for recognition.
- 4.7 In conjunction with its review of the education standards described at paragraph 3.11, the GCC is reviewing its quality assurance and accreditation process. In September 2016, the Education Committee reported to Council that the aim of the review was to ensure that the GCC's quality assurance process remained fit for purpose in terms of quality, effectiveness and cost efficiency. The proposed changes to the current system include the recruitment and training of a pool of education visitors from whom approval teams can be formed to carry out visits, the use of the term 'approval' rather than 'recognition', and that all programmes will have on-going approval with educational institutions required to notify the GCC of programme changes.
- 4.8 In December 2016, the Committee reported to Council that discussions had been held with other regulators in the UK and the chiropractic accreditation agencies around the world with regard to developing new approval processes and policies. We will continue to monitor how the GCC takes this work forward.

### **Standard 3: Action is taken if the quality assurance process identifies concerns about education and training establishments**

- 4.9 The GCC continues to publish on its website information about how concerns can be raised about an education provider. We have not identified a situation during the course of this performance review in which the GCC has had to take action.

### **Standard 4: Information on approved programmes and the approval process is publicly available**

- 4.10 The GCC publishes reports of visits conducted under its quality-assurance programmes on its website.
- 4.11 In July 2015, the Education Committee conducted a recognition visit to an educational institution and it subsequently recognised a chiropractic master's degree programme from September 2015 to August 2020. However, we noted that the visit report is not available on the GCC's website and the most recent report published on the website is from 2013.<sup>10</sup> We will continue to monitor the information published by the GCC to ensure that such reports are published, as failure to do so may put the GCC at risk of not meeting this Standard in future performance reviews.

<sup>10</sup> The report has since been published on the GCC's website.

## 5. Registration

- 5.1 As we set out in Section 2, we identified concerns about the GCC's performance against Standards 1 and 2 for registration and carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that both these Standards were met and therefore the GCC has met all of the *Standards of Good Regulation* for Registration in 2015/16.

### **Standard 1: Only those who meet the regulator's requirements are registered**

- 5.2 This Standard was met in 2014/15, but we said in that performance review report that the GCC would be at risk of not meeting this Standard in the future if further examples of incorrect registration of individuals were to emerge. Our concern resulted from our 2014 audit<sup>11</sup> identifying one case where there was no evidence to show that the registrations team had been made aware by the fitness to practise team of allegations that an individual had been practising while unregistered. The registrations team had consequently re-registered that individual, without considering the allegation that they had been practising illegally.
- 5.3 As part of the targeted review, we requested the findings of the GCC's internal registration audit which took place in January and February 2016.
- 5.4 The audit, conducted for the GCC's Audit Committee by a member of the committee, examined four areas of the registration process, two of which were relevant to this Standard: that assessment criteria are correctly applied; and that decisions are made in a consistent manner. The audit considered a sample of 30 cases and concluded that processes were correctly followed with evidence of consistency of decision-making and of criteria being correctly applied. The audit found that the GCC's registration manual provided a clear and comprehensive guide for processing applications. The audit made no recommendations for the GCC to consider.
- 5.5 We reviewed the audit's conclusions as part of the targeted review and found no reasons to doubt its conclusions. The audit looked at appropriate areas and its methodology appears sound. We are, therefore, satisfied that the GCC registration processes have been correctly applied and we have a level of assurance that the GCC has not added anyone to its register that has not met the registration requirements.

### **Standard 2: The registration process, including the management of appeals, is fair, based on the regulator's standards, efficient, transparent, secure, and continuously improving**

- 5.6 In our 2014/15 performance review report, we recommended that the GCC continued to monitor compliance with its internal registration processes

<sup>11</sup> We periodically audit the initial stages of a regulator's fitness to practise process. In February 2015 we reported on the GCC and our findings can be viewed at: [www.professionalstandards.org.uk/docs/default-source/publications/performance-reviews/gcc-ftp-audit-report-2014.pdf](http://www.professionalstandards.org.uk/docs/default-source/publications/performance-reviews/gcc-ftp-audit-report-2014.pdf)



following an internal audit in 2014 of 20 cases which identified two instances of registration applications being improperly documented.

- 5.7 We carried out a targeted review of this Standard to establish if improvements had been implemented. The GCC provided us with its internal registration audit findings, as described above.
- 5.8 The most recent registration audit was conducted in January and February 2016 of registration decisions taken in 2015. We have referred to this audit under Standard 1 above and its conclusion that processes were being correctly followed.
- 5.9 The audit provides assurance that the GCC is monitoring registration processes. We will continue to monitor the GCC's work in this area.
- 5.10 We also had concerns regarding the registration status of a practitioner identified in a case considered under our Section 29 process.<sup>12</sup> In this case, the GCC was unclear about a practitioner's registered status at the time of the allegations against him, notwithstanding that the GCC had provided a witness statement which stated that the registrant was registered as non-practising.<sup>13</sup> However, at the PCC hearing, it was stated by the GCC that the witness statement was actually partially incorrect and that the registrant was removed completely from the register and had not been registered as non-practising. The GCC subsequently confirmed that the registrant was restored to the register on 11 March 2015 and was unable to confirm whether the registrant had ever been registered as non-practising.
- 5.11 Further information was subsequently obtained from the GCC. It maintained that the error in this case was a single error but that precautionary measures had been implemented to prevent a repeat. These included the GCC's Fitness to Practise team checking the register to check that hearing papers are an accurate reflection of the registration status of the individual.
- 5.12 The registration status of a practitioner subject to fitness to practise proceedings should be known to the regulator, and the issues set out above are a cause for concern, notwithstanding that they relate to a single case. We are satisfied from the information provided to us, however, that the GCC has taken appropriate steps to prevent this confusion from reoccurring.

### Test of competence

- 5.13 In our 2013/14 performance review report, we noted that the GCC was in the process of reviewing its *Test of Competence* (TOC)<sup>14</sup> and that it was working on developing mutual recognition systems with other chiropractic regulators

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<sup>12</sup> 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 \(as amended\)](#).

<sup>13</sup> The GCC offers a reduced fee for those registrants not intending to practise as chiropractors within the UK for an entire registration year (1 January to 31 December).

<sup>14</sup> This is the test which chiropractors from outside the UK, who do not hold a qualification that is recognised by the GCC, must pass to show that they meet the GCC's requirements.

across the world. In our 2014 report, we noted that the GCC had completed its review of the TOC and had introduced a simpler assessment. This involved a review of the applicant's paper-based information (including qualifications, continuing professional development and fitness to practise records – where relevant) as well as an interview focused on the differences between UK practice and that of their country of origin.

- 5.14 In May 2015, we had noted concerns expressed by the Alliance of UK Chiropractors (AUKC, representative of over 1,000 registrants)<sup>15</sup> in a letter to the GCC about the revised TOC. The AUKC expressed no confidence in the TOC based on its view that the procedure was prejudicial and flawed.
- 5.15 In response, the GCC stated to its Council that the systems of other regulators had been reviewed prior to revising the TOC and that it was a proportionate and fair assessment. The Council was also advised that there would be an internal review of the TOC after one year and an external review after three years.
- 5.16 In November 2015, the GCC met with the AUKC along with other chiropractic professional associations. The GCC told us that the matters raised by the AUKC were addressed.
- 5.17 We asked the GCC about any review that had been undertaken into the concerns that the AUKC had raised about the fairness and efficiency of this aspect of the GCC's registration processes.
- 5.18 The GCC told us that in February 2016 the GCC's TOC External Examiner had drafted a paper for the Education Committee setting out his views about the effectiveness of the operation of the TOC over the period January 2015 to January 2016.
- 5.19 The External Examiner's responsibilities in the process had been to oversee all aspects of the quality assurance process, appraise assessors and monitor the process. During 2015, there were 24 individuals who between them sat the assessment 26 times (18 passed, four failed and two provided insufficient evidence).
- 5.20 The External Examiner stated that candidates were required to demonstrate that they could practise safely, competently and in accordance with the Code, and that this meant the standard to pass the TOC was high. They said that assessment panel members had received appropriate training and were well prepared. With regard to the administrative difficulties candidates had faced, the External Examiner said that this was usually down to the unfamiliarity of the TOC information and concluded that the TOC had been operated effectively.
- 5.21 We have been reassured by the findings of the External Examiner that the TOC is conducted to a high standard. The GCC has conducted an internal review of the TOC process and will continue to evaluate it on an annual basis. We will continue to monitor this area in future performance reviews.

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<sup>15</sup> According to its website, the AUKC is an affiliation of the professional organisations dedicated to the protection, unity and strengthening of the chiropractic profession in the UK.



### Registration appeals

- 5.22 As part of our analysis of the GCC this year, we noted that it had established a Registration Appeals Committee. We also noted that there were no appeals of registration decisions during 2015/16. We decided that a targeted review was required to verify that there were robust and appropriate processes in place in relation to what we thought to be a change to the GCC's processes.
- 5.23 The GCC said that its Registration Appeals Committee was established in 2000 but has not received any appeals since 2009. It told us that there is no operational guidance or governance documentation to support the Appeals Committee. The only information available is contained in the GCC's Rules, other than a published document explaining the legislation. It has, however, produced *Appeals against the decision of the registrar* guidance for applicants and this can be found in the registration section of its website. It has also produced, for its staff, an internal procedure for appeals which explains the steps to be taken should an appeal be received.
- 5.24 Although the GCC has received no registration decision appeals since 2009, we have now seen, and are satisfied with, the GCC guidance provided for applicants and the information for staff to manage appeal requests.
- 5.25 We will continue to monitor performance and developments in the areas under this Standard.

### Standard 3: Through the regulator's registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions of their practice

- 5.26 As part of our performance review, we conducted a check of a sample of the entries on the GCC's register and did not identify any errors or inaccuracies.

### Standard 4: Employers are aware of the importance of checking a health professional's registration. Patients, service users and members of the public can find and check a health professional's registration

- 5.27 The registration search function is clearly visible on the front page of the GCC website and can be found easily through online searches.

### Standard 5: 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

- 5.28 The GCC's website states that the title of 'chiropractor' is protected by law and that it is a criminal offence for anyone to describe himself or herself as a chiropractor without being registered with the GCC. The GCC has processes in place to deal with concerns about illegal practice and misuse of protected titles. Based on the information we have seen, we have not identified any matters to suggest that this Standard is not met.

**Standard 6: Through the regulator’s continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise**

- 5.29 The GCC’s continuing professional development (CPD) year begins on 1 September and ends on the 31 August. During the CPD year, each registrant must complete at least 30 hours of learning. Half of the 30 hours (15 hours) must include ‘learning with others’. This means that there must have been some direct and immediate interaction between the registrant and other people (these could be colleagues, peers or those whose role is to facilitate learning and development) as part of the learning activity. The remaining 15 hours may include further learning with others, or solitary learning, such as reading or conducting research. Every year registrants must send the GCC a summary of their CPD activities to show that they have completed the required 30 hours.
- 5.30 In our last performance review, the GCC told us that it was developing its CPD programme. Development groups of chiropractors were set to meet regularly with the GCC and work on the development of CPD guidance for the current scheme, and to develop the elements of a new CPD scheme that will assure the continuing fitness to practise of chiropractors. According to the GCC website, the future CPD scheme will be based on the following principles:
- an annual cycle which requires 30 hours of learning of which at least 15 hours is learning with others
  - the use of learning cycles as the basis for planning, undertaking and reflecting on learning
  - the removal of the requirement for the learning to be categorised as ‘improving patient care’ or ‘developing the profession’
  - the introduction of requirements to take place across a three-year cycle which would count against the requirements for that cycle (90 hours in total) of:
    - an objective activity (for example, a case based discussion, peer observation and feedback, patient feedback or clinical audit)
    - a CPD activity in an area identified by the GCC as of importance to the profession as a whole. This might change over time (for example, from persistent issues in fitness to practise cases or where, for example, new legislation has been introduced)
    - a peer discussion to demonstrate engagement with learning and development and reflective practice.
- 5.31 In July 2015 the GCC’s Education Committee received a presentation from the Royal College of Chiropractors (the RCC)<sup>16</sup> about how it intended to change its CPD programme and how it would work with the GCC in relation

<sup>16</sup> The Royal College of Chiropractors (RCC) is a professional membership body. It promotes and supports high standards of education, practice and research, enabling chiropractors to provide, and to be recognised for providing, high quality care for patients.

to the development of its continuing fitness to practise scheme. The same month, the GCC published guidance on how it checks individual registrants' CPD returns against the CPD requirements and how audits were carried out.

- 5.32 The GCC's revised CPD guidance for 2015/16 included more information on the different stages of the learning cycle, with examples of those learning cycles which had been completed by registrants and accepted by the GCC. More recently, the GCC has published CPD guidance for 2016/17 and has worked with the RCC to pilot an external quality assurance process of CPD activity.
- 5.33 The Education Committee's report to the GCC Council of June 2016 contained a timetable up to and including the anticipated implementation of the new CPD scheme in 2019. Pilots of new aspects of the scheme are planned to take place during 2017, with volunteers from the development groups set to act as early adopters. Consultation on the new scheme is scheduled for June to September 2017. We will continue to monitor progress in this area over time.

## 6. Fitness to Practise

- 6.1 As we set out in Section 2, we identified concerns about the GCC's performance against Standards 1, 4, 5, 6, 7, 8 and 10, and carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant Standards below.
- 6.2 The GCC has met nine of the *Standards of Good Regulation* for Fitness to Practise in 2015/16. Examples of how it has demonstrated this are indicated below each individual Standard. Standard 7 has not been met in this performance review.

### **Standard 1: Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant**

- 6.3 The conclusion from our 2014/15 performance review report was that this Standard was at risk of not being met in the future. This was because our 2014 audit of the GCC's fitness to practise process had identified several cases which were inappropriately considered by the Investigating Committee (IC) as fitness to practise matters.
- 6.4 The 2014 audit identified ten cases which essentially concerned business disputes of a type and level of seriousness which we considered would not generally be treated by other regulators as raising fitness to practise issues, whether or not complaints about them had been made. In response to our audit feedback, the GCC implemented changes to its process, so complaints about business disputes would be considered on a case-by-case basis and progressed to the IC only where there was a public protection issue. Complaints that solely concerned business disputes would not be taken forward.

- 6.5 Our 2014 audit also identified three cases where the GCC had failed to ensure there were no unnecessary tasks or hurdles for complainants when initially making their complaint.
- 6.6 We decided to seek further information from the GCC about the outcomes of its improvement work in this area before a decision could be reached about whether the Standard was met.
- 6.7 The GCC told us that there has been a reduction in the number of complaints being processed.
- 6.8 Its Fitness to Practise Report 2015 shows that during 2015 the GCC had not investigated any complaints relating to 'business/employment issues', 'clinical facilities/premises' or 'other' compared with eight complaint investigations across these three categories in 2014.
- 6.9 The GCC said that it had improved the process for making a complaint by enhancing its online complaint form with increased information about the complaints process. Fitness to practise staff had been advised on working with complainants who might have additional requirements and to make any reasonable adjustments. The GCC said there had been no repeat of the email communication problems identified in the last performance review. Our 2016 audit of 24 fitness to practise cases handled by the GCC and closed during the period 1 April 2015 to 30 July 2016 (see paragraph 2.3) did not find any repeat of those issues.
- 6.10 We are pleased that the GCC took steps to help remedy the shortcomings we had identified, and have decided that this Standard is met. We will continue to monitor performance over time.

**Standard 2: Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks**

- 6.11 This Standard was met during 2014/15 and there have been no significant changes to the way in which the GCC shares information with employers, system and other regulators.

**Standard 3: Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation**

- 6.12 We concluded that this Standard was met during 2014/15. The GCC has not changed its processes in this area and we have identified no concerns in the GCC's performance during 2015/16.
- 6.13 The review of cases we have carried out, whilst identifying some shortcomings in the explanations provided for decisions made by the IC, found no inappropriate decisions (see Standard 8 below). We are therefore of the view that this Standard remains met.

**Standard 4: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel**

- 6.14 The GCC did not meet this Standard in our previous two performance reviews. Our last audit in 2014 identified: three of 75 cases where decisions not to apply for an interim suspension order (ISO)<sup>17</sup> were not appropriate; six of 75 cases where there was no record of a risk assessment; 48 of 75 cases where there were no records of the reasons for concluding that it was not necessary to apply for interim orders; and 54 of 75 cases where the initial risk assessment was not reviewed during the lifetime of the case.
- 6.15 In response to our audit findings, the GCC said that it had changed its processes so that fitness to practise lawyers now reviewed caseworkers' initial case plans and risk assessment decisions. However, we said in our 2014/15 performance review report that we could draw only limited assurance from this change of process. This was because our 2014 audit had identified frequent non-compliance with internal processes, including processes in relation to risk assessments. We concluded by stating that we wanted to see evidence of effective monitoring of compliance with the new processes and improved outcomes resulting from them before we could conclude that this Standard was met in future.
- 6.16 This year, we carried out a targeted review to examine whether improvements had been made to the risk assessment process and quality of interim order decisions.
- 6.17 The GCC told us that it had reviewed its procedures for risk assessment and applications for an ISO. The GCC revised its case plans so that they incorporate an amended version of the criteria to assist in deciding whether or not to apply for an ISO. This implements external legal advice the GCC sought and received. Both the caseworker and fitness to practise lawyer are prompted in the case plan to give clear consideration to the ISO criteria (which is attached to the case plan) in carrying out the risk assessment. Written consideration of whether an application for an ISO is required separately by both the caseworker and fitness to practise lawyer.
- 6.18 We were informed that Chairs of the IC<sup>18</sup> now complete forms when they make the initial decision on whether an interim suspension hearing should be held, which includes consideration given to the same risk assessment criteria the fitness to practise team used, to ensure consistency. Staff are prompted

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<sup>17</sup> In certain situations, the GCC will refer a registrant to an Investigating Committee for an interim suspension hearing to consider if an interim suspension order should be imposed against a chiropractor's registration whilst allegations faced by a chiropractor remain unresolved. An ISO restricts a registrant's ability to practise while their case is being investigated.

<sup>18</sup> The GCC's Fitness to Practise Procedure Manual (the manual), which details the GCC's overall fitness to practise process, states that caseworkers must inform the Chair of the IC if they receive a complaint which they think contains information to suggest that the public might be at risk of harm and that consideration should be given for an ISO. The Chair is then required to complete an ISO checklist when making the decision as to whether an interim suspension hearing should be held.

to monitor risk throughout the process at regular review stages and the relevant risk assessment criteria are included in the GCC's manual.

- 6.19 The GCC provided us with its own external audit reports.<sup>19</sup> The February 2016 report found that risk assessments were being conducted and reviewed routinely, and that the decision-making prompts were completed. However, it did note that case plans were not always updated after the initial stage, and that in a small number of cases, the Chair of the IC's decision not to refer for consideration of an interim order did not include detailed or sufficient reasoning.

### **Our audit findings**

- 6.20 In our audit of fitness to practise cases we reviewed three cases which were closed without referral to the IC, 18 cases that had been concluded by the IC and three cases that had been referred by the IC to the PCC.<sup>20</sup> Of the cases concluded by the IC:

- In two cases, there was a delay in completing a risk assessment from receipt of the complaint
- In one case, a risk assessment was completed and the decision made not to refer to the Chair of the IC, but full reasons were not given
- In one case, the GCC delayed consideration of whether an application for an interim suspension order should be made until a witness had been contacted. However, the contacting of the witness did not change the nature of the allegations or the risk that the registrant might pose, so we considered that the GCC could have progressed to interim order consideration, without waiting for contact to be established with the witness.

- 6.21 In two of the three PCC cases, there was a failure to update the risk assessment throughout the lifetime of the case.

- 6.22 Our audit findings, as well as the external audit report, indicate that there have been improvements in the GCC's risk assessment and decision-making. Although we identified some concerns regarding compliance with risk assessment processes, we did not identify any risks to public protection as a result.

### **Timeliness**

- 6.23 In 2015/16, the median time taken from receipt of complaint to ISO decision was six weeks, an increase from three weeks in 2014/15. By the second quarter of 2016/17, this had decreased to five weeks. There was also a slight increase in the time taken from the decision that there is information indicating the need for an interim order, from three weeks in 2014/5 to four

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<sup>19</sup> These audits were conducted by an external law firm. The auditor was asked to review a selection of case files looked at by the GCC in the initial stages of its fitness to practise process. As part of this performance review, the GCC sent us external audit reports from February 2015, June 2015, September 2015 and February 2016.

<sup>20</sup> All references to the targeted audit we carried refer to the same 24 cases. We audited all of the cases falling within the categories we selected, rather than auditing a sample.



weeks in 2015/16. By the end of the second quarter 2016/17, this remained at four weeks. We note that the relatively small number of cases dealt with by the GCC means that this data is likely to fluctuate. However, we will continue to monitor the GCC's timeliness in this area.

- 6.24 Given the changes made by the GCC since the last performance review, and the audit evidence obtained, the information we have seen indicates that performance under this Standard has improved and therefore this Standard is now met.

#### **Standard 5: The fitness to practise process is transparent, fair, and proportionate and focused on public protection**

- 6.25 This Standard was not met in our last performance review due to the findings of our 2014 audit. We had found widespread non-compliance with the GCC's fitness to practise processes which we concluded had the potential to undermine public confidence in the GCC's handling of fitness to practise investigations.
- 6.26 This year, we deemed it necessary to carry out a targeted review against this Standard. Through our Section 29 process, we identified two cases of significant concern. The first case was one in which the PCC found that there had been an abuse of process and stayed (closed) proceedings. We thought that the record of the determination did not demonstrate that the fitness to practise panel considered whether the public was adequately protected by disposing of the case in this way.
- 6.27 The second case involved a practitioner who was registered as non-practising. The GCC received notification that the practitioner had been practising as a chiropractor without valid indemnity insurance and current registration. We appealed the six-month suspension to the High Court, which instructed the GCC to include a charge of dishonesty at the remitted (new, re-heard) hearing. The GCC failed to do this and we fed back learning points expressing concern that the GCC had acted in a way that undermined the directions of the High Court.
- 6.28 In its response, the GCC said it had conducted a review which concluded that errors of judgment had been made in this case, but these were not systemic. Nevertheless, the GCC informed us that they had implemented changes to its processes so that its Head of Fitness to Practise would be consulted on any decision to offer no evidence at a hearing as well as on any changes to allegations formulated by the IC and decisions not to proceed with particulars of allegations.
- 6.29 The GCC provided us with its own external audit reports. However, we considered it necessary to conduct our own audit.

#### **Our audit findings**

- 6.30 We examined performance against this Standard in our audit of 24 fitness to practise cases.
- 6.31 Of the 18 cases considered by the IC, we identified concerns in one case relating to failure to obtain relevant information during the investigation. We

also found that there was a general lack of clarity as to when cases would be referred for expert clinical advice,<sup>21</sup> and we asked the GCC to detail the procedure they follow when deciding whether a case should be referred for expert advice. The GCC told us that consideration is given to the nature of the complaint and whether the treatment received is likely to be outside the scope of the IC's knowledge and/or they would benefit from the assistance of an expert. After initially informing us in October 2016 that it had recently moved to a practice of obtaining an expert report for most complaints of a clinical nature, the GCC have now confirmed that it now obtains expert clinical advice on all relevant complaints.

- 6.32 In each of the three PCC cases we looked at, no evidence had been offered.<sup>22</sup> We had no concerns with the decisions to offer no evidence.
- 6.33 The information we have obtained indicates that the actions taken by the GCC to address concerns regarding the amending of allegations or offering of no evidence have now resulted in improved procedures and we saw broad compliance with those procedures during our audit.
- 6.34 We are pleased to note the improvements made to the GCC's investigation processes and guidance, as well as to the quality assurance of decisions to offer no evidence and amend allegations at the PCC stage. Although some concerns remain these are not sufficiently serious to result in the GCC not meeting this Standard.

**Standard 6: Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders**

- 6.35 The GCC did not meet this Standard in the 2012/13 and 2013/14 performance reviews. In the 2014/15 performance review, we concluded that the Standard was met but encouraged the GCC to continually monitor the timeliness of its case progression to ensure that the improvement was maintained.
- 6.36 In our assessment of the GCC's performance, we noted a decline in timeliness from receipt of initial complaint to the final IC decision between the third and fourth quarters of 2015/16.

<sup>21</sup> Caseworkers sometimes obtain clinical advice from an expert third party to assist with their assessment of the case, usually to comment on aspects of care and treatment from the perspective of a fellow practitioner.

<sup>22</sup> In some circumstances, the GCC offers no evidence, for example, where there is insufficient evidence to sustain a realistic prospect of proving all or part of the allegation. We decided to conduct an audit of these cases as we had concerns about potential under prosecution of cases, as detailed in paragraph 6.55.



	Quarter 3	Quarter 4	Annual 2015/16 <sup>23</sup>
Median time from receipt of initial complaint to the final Investigating Committee/Case Examiner decision	17 weeks	25 weeks	21 weeks (18 weeks in 2014/15)
Median time from receipt of initial complaint to final fitness to practise hearing	Not requested	Not requested	61 weeks (72 weeks in 2014/15)
Median time taken from final Investigating Committee decision to final Fitness to Practise Committee decision or other final disposal of the case	Not requested	Not requested	44 weeks (43 weeks in 2014/15)
Number of open cases (at the end of the quarter) which are older than: <ul style="list-style-type: none"> <li>• 52 weeks</li> <li>• 104 weeks</li> <li>• 156 weeks</li> </ul>	3 1 0	3 1 0	1 1 0

6.37 The median time taken had increased from 17 weeks to 25 weeks.<sup>24</sup> We carried out a targeted review to understand the reasons for this decline in timeliness.

6.38 We asked the GCC what its key performance indicators (KPIs) for fitness to practise were, and how these were monitored and reported to its Council. The GCC told us that three KPI's were reported to its Council: (1) 90% of final fitness to practise cases are concluded within nine months;<sup>25</sup> (2) 90% of IC cases are concluded within nine months;<sup>26</sup> and (3) 100% of interim order

<sup>23</sup> Annual refers to data between 1 April 2015 and 31 March 2016. Quarter 3 refers to data between 1 October and 31 December 2015. Quarter 4 refers to data between 1 January and 31 March 2016.

<sup>24</sup> During the first quarter of 2016/17, these figures notably improved with the median time at 20 weeks but then declined in the second quarter with a median time of 36 weeks.

<sup>25</sup> During 2015, 50 per cent of final fitness to practise cases were concluded within nine months. In January 2015, the GCC had 23 cases awaiting a PCC hearing and by December 2015 the GCC had ten cases awaiting a PCC hearing. Going forward, the GCC expected that performance against this KPI should continue to improve. During the first quarter of 2016/17, performance ranged from 75-83 per cent of final fitness to practise cases concluded within nine months.

<sup>26</sup> During 2015, performance was 95 per cent of IC cases concluded with nine months (39 cases) and five per cent (two cases) taking longer than 9 months. Performance against the KPI during the first quarter of 2016/17 was 90 per cent.

hearings within 28 days (this is 28 days from receipt of sufficient information)<sup>27</sup>.

- 6.39 There has been a significant improvement in the time taken from the receipt of an initial complaint to the final fitness to practise hearing decision. The median time in 2014/15 was 92.5 weeks but this had improved to 61 weeks in 2015/16.
- 6.40 At the end of 2014/15 there were ten cases which remained open which were older than 52 weeks (in other words were received by the GCC more than 12 months ago and had not yet been closed). This had improved a year later to three cases remaining open by the end of 2015/16 which were older than 52 weeks, with one case older than 156 weeks.
- 6.41 We have carefully considered the evidence about the GCC's performance against this Standard and are aware that for regulators with relatively small caseloads such as the GCC, fluctuation in performance can be caused by a small number of individual cases. It has demonstrated improvement by reducing the time taken from the receipt of an initial complaint to the final fitness to practise hearing decision and clearing older cases during 2015/16.
- 6.42 We consider that this improvement is sufficient to conclude that the Standard is met this year. In order to continue to meet this Standard in our next review, the GCC will need to ensure that the improvement is sustained.

**Standard 7: All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process**

- 6.43 This Standard is not met this year. The GCC did not meet this Standard in 2014/15 due to concerns identified in our 2014 audit around keeping parties updated and responding to correspondence received. However, we did note improvements such as its work on witness support and in sharing IC decisions and reasons in a timelier fashion. The GCC told us that alongside the introduction of a new case closure checklist, it was also addressing the concerns in this area by instituting regular discussions between caseworkers and their managers.
- 6.44 A targeted review was conducted to review whether the GCC's performance had improved in this area.
- 6.45 The GCC informed us that it had improved the structure of the fitness to practise team by adding a fitness to practise lawyer and an additional fitness to practise lawyer advocate to increase the levels of knowledge within the team at all stages of the fitness to practise process. The online complaints section of its website had been improved to give greater information regarding the complaints procedure, with relevant information also sent to complainants at the start of the complaint process. Internal timescales for notifying parties of relevant stages of the process, including decisions of the

<sup>27</sup> During 2015 and the first quarter of 2016/17, the GCC told us that this target was met. During 2015, only three hearings were held, within 16, 18 and 20 days respectively.

IC, had been reviewed. The GCC had also reviewed its internal timescales for notifying parties of relevant stages of the process, including decisions of the IC.

6.46 We identified concerns in our 2014 audit around the GCC's failure to inform complainants about when the IC meeting to discuss their complaint would be held, as well as not explaining to complainants why some of these meetings were then adjourned. The GCC has told us that they now notify all the parties of the IC meeting date and witnesses receive detailed explanations if their IC case meeting is adjourned.

6.47 The GCC said it continued to give additional support to vulnerable witnesses and considered at an early stage what additional measures may be required for them to participate effectively in the complaint process.

### **Our audit findings**

6.48 We examined performance against this Standard in our audit of 24 fitness to practise cases.

6.49 Of the three cases we reviewed that had been closed without referral to the IC, we found that in one case there was no contact with the complainant for four months and no information was provided to the complainant about the fitness to practise process until six months had passed since the complaint had been received. In another case, information about the fitness to practise process was not provided to the complainant until a decision had been taken to close the case.

6.50 Of the 18 cases closed by the IC, we identified customer service concerns in 12 cases. There were delays in acknowledging the complaint in two cases and, in three cases, regular updates were not provided. These included one case in which the GCC did not identify that additional support was needed for a complainant. In one case, there was a failure to identify a vulnerable complainant who required tailored correspondence. We also found three cases where information provided to parties was inaccurate.

6.51 Of the three PCC cases audited, in one case we found that there was a delay in responding to the registrant's disclosure request, and the bundle of documents that was then provided was incomplete.

6.52 Whilst we recognise that the GCC has attempted to improve its performance in this area, our audit findings identified a number of issues. Concerns remain regarding how the GCC engages with parties, ensures they are kept updated and are provided with accurate information about their case or the fitness to process. Actions such as these are an integral part of effective and efficient complaint handling. Although the GCC has implemented a number of changes, our audit indicates that these have not addressed all of the concerns previously identified under this Standard.

6.53 Given the widespread nature of the concerns identified at the audit, it is our view that the GCC has not improved sufficiently in this area to meet this Standard.

**Standard 8: All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession**

- 6.54 The GCC did not meet this Standard in our 2013/14 and 2014/15 performance reviews. In our 2014 audit report we concluded that, though the majority of the decisions taken by the IC to close cases were appropriate, we were concerned about the IC's evaluation of information and the quality of its decision-making. This was in spite of the GCC introducing measures aimed at improving the quality and consistency of IC decisions (for example, induction and refresher training for IC members).
- 6.55 Our assessment resulted in a decision to undertake a review of performance against this Standard to obtain further information about what steps the GCC had taken to improve its performance in this area. We identified concerns about potential under prosecution in two cases which we had looked at under the Section 29 process and therefore wanted to look at other cases that the GCC had discontinued to be sure that the decisions taken in each case were in the public interest.
- 6.56 The GCC informed us that the Head of Fitness to Practise was in charge of the management of the IC cases and offered advice on procedural matters to the fitness to practise staff. In 2015, it had decided to seek to improve the skill and knowledge of the Chairs for the fitness to practise panels by appointing legally qualified Chairs. The IC and PCC panel Chairs had received independent training for their respective functions in late 2015, with a particular focus on the drafting of decisions and formulating adequate reasons. The GCC said that the complete pool of IC and PCC members had also received training on matters including drafting IC determinations as well as regulatory case law updates.

**Our audit findings**

- 6.57 Of the cases closed prior to consideration by the IC, we had concerns in one case<sup>28</sup> in which the GCC's decision letter should have provided more information about why the case was not being investigated.
- 6.58 Of the cases closed by the IC, in one case, the complainant decided that they did not wish to cooperate with the GCC investigation. It would have been helpful for the IC to explain in its decision letter whether or not key facts could be proved without the assistance of the original complainant. In another case, the IC appeared to misinterpret the complaint and did not reference all parts of it.
- 6.59 Of the PCC cases, concerns were identified with the IC decision in one case in which the IC decision did not reference all of the complainant's actions relevant to the case.
- 6.60 Although some concerns with decision-making remain, they relate only to a small number of cases and none of them had implications for public protection. The cases reviewed in our targeted audit did not find decisions

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<sup>28</sup> This is the same case referred to in paragraph 6.49.

that were inappropriate, rather that a small number of decisions had not been clearly reasoned. The concerns we have identified are not sufficiently serious in nature, or widespread enough, to indicate that the GCC does not meet the Standard this year. We will continue to monitor performance in this area.

**Standard 9: All fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders**

- 6.61 Fitness to practise decisions are published on the GCC website, apart from matters relating to the registrant's health. We have seen no information to suggest that the GCC is failing to publish or communicate fitness to practise decisions and no such concerns were identified in the course of our check of a sample of entries on the register where there had been a final fitness to practise decision.

**Standard 10: Information about fitness to practise cases is securely retained**

- 6.62 We concluded that this Standard was not met in our last performance review due to the findings of our 2014 audit which had identified data breaches or a potential for a data breach to occur in 13 of 75 cases.
- 6.63 In response to the feedback from the 2014 audit, the GCC took a number of actions to improve its performance. These included re-training staff on data protection, a review of case files where we had identified (potential) breaches, a new filing system, an updated fitness to practise manual and a review of case files for data protection compliance.
- 6.64 During the period of this performance review, no data breaches have been reported to the Information Commissioner's Office and the GCC has been monitoring this area on its risk register. We therefore consider that this Standard is met.

**Professional Standards Authority for Health and Social Care**

157-197 Buckingham Palace Road  
London SW1W 9SP

Telephone: **020 7389 8030**

Fax: **020 7389 8040**

Email: [info@professionalstandards.org.uk](mailto:info@professionalstandards.org.uk)

Web: [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

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