

## May Board meeting Wednesday, 15 May 2024



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### Executive report

#### 1. Summary

- 1.1 In addition to our statutory duties, the key priorities for the organisation at this point in time are: (1) the website development project; (2) developing our guidance on implementing regulatory reform; (3) parliamentary engagement on our manifesto for change (making care safer for all); (4) the PSA Annual Report and Accounts 2023/24; and (5) actions to address the Professional Standards Authority commitments in Safer care for all.

#### 2. Recommendations

- 2.1 The Board is asked to note the Executive report and to ask any questions of the Chief Executive and Directors.

#### 3. CEO stakeholder engagement

- Between the March 2024 and May 2024 Board meetings, the Chief Executive attended a number of stakeholder engagement events, including the following.
- A meeting of the Chief Executives of the statutory regulators.
- Attending council meetings at the NMC, GDC and GOsC.
- Meetings (together with the Chair) with the CEOs and Chairs of the NMC, GDC and SWE.
- Presenting an award at the 'Our Health Heroes' event.
- The quarterly information-sharing meeting with the DHSC and officials from the devolved administrations.
- An interview (recorded on video) with the Patient Safety Commissioner for England.
- A presentation on Right Touch Regulation to the Education Workforce Council in Cymru/Wales.
- A meeting with the Chair and Executive Manager of the Medical Practitioners Tribunal Service.
- Attending the CEO Personality Event at the King's Fund.
- Attending the first meeting of the Alemi case oversight group (to learn lessons for professional regulation).
- Looking forward, the Chief Executive will attend further stakeholder engagement events before the next Board meeting, including the following.

- Meetings of the regulator Chief Executives Steering Group and the Health and Social Care Regulators Forum.
- A meeting with the Interim Parliamentary and Health Service Ombudsman.
- Attending the council meeting of the GOC.
- With the PSA Chair, joint CEO-Chair meetings with the GOsC and GMC.
- A meeting with the DfE sponsorship team of SWE.
- The quarterly information-sharing meeting with the DHSC and officials from the devolved administrations.
- A Centre for Science and Policy event on public sector leadership.

#### **4. Summary of risks**

- 4.1 We have assessed the top three known risks facing the Authority as: (1) the backlogs of fitness to practise cases in some regulators; (2) the lack of clarity about the use of Disclosure and Barring Service (DBS) and other criminal record checks by regulators and Registers; and (3) the challenges of implementing significant regulatory reform and the associated risks to regulatory effectiveness and public protection.

#### **5. Projects**

- 5.1 The high-level summary for project activity is attached in Annexe A.
- 5.2 We will also shortly begin the Standards Review project. The purpose of the review is to consider whether the Standards of Good Regulation, for the statutory regulators, and the Standards for Accredited Registers are fit for purpose and adequately assist us to review and assess regulator and Accredited Register performance and in doing so, protect the public. We have decided to align these reviews, and the project will be delivered by the Accreditation, Performance Review, and Policy teams. The Executive Leadership Team will consider proposals in greater detail in May, after which we will report on progress to the Board through the project dashboard.

#### **6. Regulation and Accreditation**

##### ***Performance review***

##### ***Reporting***

- 6.1 We have published three reports since the last Board meeting. The General Optical Council met all of the Standards of Good Regulation. The Report was published on 5 March 2024.
- 6.2 The Pharmaceutical Society of Northern Ireland (PSNI) did not meet three Standards this year. As outlined in the key findings of the Report, which was published on 28 March 2024, the PSNI did not meet Standard 4 because of the PSNI's inability to provide timely and accurate information to us. These issues raise serious questions about the confidence we and the PSNI's Council can have on the PSNI's reporting and ability to address our concerns. The PSNI did

not meet Standard 10 because there have been a few registration errors on the PSNI's register during the review period. The PSNI did not have robust processes and controls in place throughout the review period to ensure the accuracy of the register and the PSNI has not yet taken action to reduce the risk of similar errors occurring in the future. The PSNI did not meet Standard 15 because it is taking too long to deal with fitness to practise cases and the number of open older cases has increased. The PSNI was not able to provide us with sufficient explanation of the reasons behind the delays on cases closed by the Statutory Committee during the review period and the actions it took to minimise delays.

- 6.3 Social Work England met all of the Standards except Standard 15, as we found that that it is taking too long to process fitness to practise cases. The Report was published on 28 March 2024.

#### *Performance Review Cycle 2024-2027*

- 6.4 We have recently concluded the first of the three-year cycles of performance reviews under the new approach introduced in 2021/22. We have conducted one full periodic review and two monitoring reviews for the HCPC and GOsC. The reports for these regulators are scheduled to be published by the end of June. All other regulators are in the final year of the first cycle.
- 6.5 The next cycle of reviews will follow the same pattern, meaning that we will conduct two periodic reviews in 2024/25, four in 2025/26 and four in 2026/27.

### **Section 29**

- 6.6 The table below sets out the key statistics for the last financial year, compared to the previous financial year. The number of decisions received from regulators increased only slightly. We lodged 30 appeals in 2023/24, 12 more appeals than the 18 appeals lodged in 2022/23. Although decisions appealed are only 1.3% of decisions received, we will be reviewing appealed cases for themes and any reason for the increased number of appeals when they are concluded.

	<b>1 April 2023 – 31 March 2024</b>	<b>Same period 2022/23</b>
Decisions received by the PSA	2385	2335
Detailed Case Reviews (DCRs) completed	85	80
Statutory deadline decisions	21 <sup>1</sup>	2
Case meetings held:		
• Sufficient	5	4
	0	0

<sup>1</sup> Including four which were subsequently considered at case meetings and decisions taken to confirm the appeals

<ul style="list-style-type: none"> <li>• Insufficient but no appeal</li> <li>• Insufficient and appeal</li> </ul>	13 <sup>2</sup>	16
Appeals lodged	30 <sup>3</sup>	18 <sup>4</sup>
Learning points sent	155	140

- 6.7 Three appeals have been lodged since the previous Board meeting (NMC/Yates, NMC/Maqsood and NMC/Ainsworth). Three appeals have been settled by agreement (HCPC/Woodruff, NMC/Parry and NMC/Nelmes), and settlements are being explored in several other cases. All other Section 29 litigation is progressing. Two decisions have been handed down by the courts since the last Board meeting and one appeal was upheld (NMC/Offier) and one dismissed (GPhC/Ali).
- 6.8 The appeal and detailed case review workload continues to be very high for the Section 29 team, which continues to impact the team’s ability to progress work outside of business as usual.

### Appointments

- 6.9 Since the last update to the Board, we have provided the Privy Council with advice concerning a single appointments process. This concerned the NMC’s recommendation of two candidates for appointment to its Council. We were able to advise the Privy Council that it could have confidence in this process.
- 6.10 There are currently four ongoing processes that the PSA has considered advance notices for. Three of these will complete within the next two months.

### Accredited Registers

#### *Operational delivery*

- 6.11 As at the end of March, two KPIs were missed. We achieved 88% against our target of ‘95% of Conditions are reviewed within two months of when they were due.’ This represents 67 out of 76 Conditions. As reported previously, and the target has been missed since October 2023 due to a combination of evidence submitted late by some ARs, and not having the capacity to deal with the increased number of Conditions issued over the past year. However, performance continues to increase each month, and we now expect it to be back on track by July 2024.
- 6.12 We also missed our target that ‘95% of targeted reviews are completed within three months of the date initiated’, achieving 75%. This was due to missing the deadline for one of the four Targeted Reviews that fell within the past year, for the British Association of Counselling and Psychotherapy (BACP). This was due to the need to gather additional evidence from external stakeholders.

<sup>2</sup> Including one decision to become a party to a GMC appeal under Section 40B.

<sup>3</sup> Including 17 statutory deadline decisions to refer where no case meetings were held

<sup>4</sup> Including two statutory deadline decisions to refer where no case meetings were held.

### *Accreditation decisions*

- 6.13 Since the last meeting, Standard One assessments have been completed for, and have been met by, the International Federation of Aromatherapists and the British Psychoanalytic Council. There are two remaining Standard One assessments for current ARs to be completed: the Register of Clinical Technologists, and the National Counselling and Psychotherapy Society. These are in progress.
- 6.14 Now that the team is fully resourced, assessments of ARs against the new Standard 9, on Equality, Diversity and Inclusion (EDI) have restarted and remain on track to complete by the end of July 2024.
- 6.15 In March, we received a new application from the Interpersonal Psychotherapy UK Network. Registers can apply for assessment against Standard One to check eligibility before a full application.

## **7. Standards and Policy**

### **Policy and research**

#### *Safer care for all*

- 7.1 Solutions Research have completed the qualitative consumer research we contracted with them to undertake, and we have received the final report of the findings.
- 7.2 The research explored the perspective of a broad range of participants (the public, users of health and social care services and health and care professionals) on the potential benefits of the development of a common code of conduct for health and care professionals.
- 7.3 Our next step is to analyse the findings to inform this year's broader scoping review on the benefits or otherwise of a common code of conduct for health and care professionals. This scoping review falls under several of the Safer care for all themes including workforce, and inequalities. A number of the findings in the report, which will be published in the summer, may also have broader applicability to our work.

#### *Consultation responses*

- 7.4 Since the last board meeting, we have responded to:
- The Health and Social Care Committee's call for evidence on NHS leadership
  - The Scottish Government Consultation on outlawing conversion practices
  - The Welsh Government Consultation on mandatory licensing of special procedures in Wales: draft regulations and statutory guidance
  - The GPhC's consultation on draft Standards for Chief Pharmacists
  - The GOC's consultation on Consultation on revised Standards of Practice for Optometrists and Dispensing Opticians, Standards for Optical Students and Standards for Optical Businesses

#### *Regulatory reform consultations*

- 7.5 The consultation on our two draft guidance documents; 'Guidance on the use of Accepted Outcomes in Fitness to Practise' and 'Guidance on Rulemaking' has

now closed. These two documents have been developed to help reformed regulators with their new powers and accord with the powers and processes set out in the Anaesthesia Associates and Physician Associates Order (AAPAO) 2024.

- 7.6 The consultation on the draft guidance ran from 22 January until 15 February. During that time the Policy and Communications teams worked to reach out to, and engage with, stakeholders in a variety of ways. This included developing 'explainer animations' on both pieces of guidance and holding two roundtable events; one for patient groups and one for professional and representative bodies. As a result of this engagement, we received over 150 responses to the consultation. These responses are currently being analysed and we will use the feedback received to further refine the guidance documents before they are finalised for publication. Final versions of the guidance will be published in the summer.

### *Legislative reform*

- 7.7 Now that the AAPAO has become law, we are focusing our attention on the General Medical Council's consultation on the Rules that it will use to implement it. It is a large consultation, with some direct impacts on the PSA's powers and scrutiny of the GMC's regulation of AAs and PAs, as well as wider implications for the rollout of the model to other professions, and for our reform guidance (see above).
- 7.8 We will shortly begin work to review and consider any changes required to our performance review and s.29 processes resulting from the AAPAO, based on our amended legislation, and the proposed implementation plans in the GMC consultation. This will fall to the Regulation and Accreditation Directorate to lead, with support from the Policy Team.
- 7.9 It is still not known what the next steps will be for legislative reform, but it seems unlikely any significant developments will occur before the UK General Election.

### *Stakeholder engagement*

- 7.10 The set-up of the new Stakeholder Relationship Management system is coming along well though some processes are taking longer than anticipated as we work to ensure that they are robust. The platform has been configured to suit our specifications, our contacts have been migrated across and the new database is available within a testing environment. Members of the working group are currently testing the system to see whether they can undertake some of the tasks and functions we would need. This part of the project has been extended as we have found some snags which have then needed to be addressed by the supplier. Following completion of testing, we will be scheduling dates for staff training. As part of the training, we will be reminding staff to refresh their understanding of our information management and data protection policies and procedures and ensure they apply these to the SRM.
- 7.11 Distribution of our manifesto has led to us receiving some positive acknowledgements, questions and requests for further engagement from a range of stakeholders including parliamentarians. With our new Parliamentary Engagement Officer role now filled, we have added capacity to follow-up and build stronger relationships where there is interest in our work. We will also be proactively seeking meetings with influential MPs and advisers over the coming months. In addition, we will be looking at the contacts we have had from

parliamentarians recently (often in relation to an issue raised by a constituent) and using this to inform the shaping of our engagement approach going forward. We will be taking advantage of the opportunities that arise to deepen understanding of our role and expertise among this audience group.

### Conferences and events

- 7.12 We spoke at a session on health inequalities and patient safety at the Northern Ireland Public Services Ombudsman's conference 'Patient Safety - Public Trust: A decade of inquiries – what is the learning?'. We focused on the work on inequalities in Safer Care for All and barriers to complaints, and the conference also provided an opportunity to highlight our recommendation for there to be greater oversight of inquiry recommendations.
- 7.13 We held our seventh annual seminar on regulatory developments and the Welsh context on 19 March. The theme for this year's event was 'the role of professional regulation in retaining and building the health and care workforce' and key issues that were considered on the day included:
- How can we ensure new and international registrants get the right support and what more can regulators do?
  - How can we build on work to develop compassionate leadership to develop more compassionate regulation?
  - How can regulation better support innovation and new ways of working?
- 7.14 The seminar was held online and almost 100 participants from across Wales and beyond attended. The event was opened by a keynote address from Eluned Morgan, MS, Minister for Health and Social Services. It featured a range of engaging and insightful speakers from organisations including Health Education and Improvement Wales, Social Care Wales, the Welsh Government, BAPIO Wales and Welsh Health Boards. Feedback from the event has been extremely positive, with all attendees who completed our post-event survey saying that the event met or exceeded their expectations.

### Communications

#### *Website*

- 7.15 Progress on the website project has been steady. We are currently in the first phase of the project which is the scoping phase. This phase involves a series of seven workshops with staff to help shape our requirements and inform the second phase of the project which is the design and build phase. By the time of the Board meeting, we will have held two of the scoping workshops. The Project Board has met twice to provide direction, assess risks and check on progress. The working group which consists of team representatives has also met and will continue to do so regularly. We have begun recruitment for the part-time temporary Project Manager role and hope to have them in place in May. This will provide additional capacity and consistency to keep the project moving at a good pace.

#### *Accredited Registers campaign*

- 7.16 Our survey to AR practitioners to get their views on the programme, which will shape both operations and communications, received over 5,700 responses. We are still completing the final report.

- 7.17 We also have a survey prepared which will be shared shortly to get consumers' views on the programme. These surveys are both to support our AR campaign which is aimed at encouraging more practitioners to display the quality mark and more consumers to look out for it when purchasing healthcare services.
- 7.18 We have used initial survey insights to develop the creative content of phase 1 of the campaign which is aimed at practitioners. These concepts will soon be going through internal approvals ahead of being shared via Registers and directly with practitioners on social media and through advertising.

## 8. Intelligence and Insight

### *Research*

- 8.1 We have issued letters of support for funding for external research projects as follows:
- For a funding bid to NIHR for work led by Professor Rosalind Searle (Glasgow) and Professor Roberta Fida (Aston) to help health organisations to develop and implement more inclusive working environments. If the bid is successful we will be invited to join the project's steering group
  - We have given a letter to support to a team at Bristol University, who are applying for follow-on funding to advance a pilot study (currently underway) on professional ethical guidance for Artificial Intelligence use by healthcare professionals. If successful, the PSA will contribute to this work through the steering group for the project
- 8.2 We are hosting a workshop with researchers from Southampton University on 17 May. They will present recent research on the promotion of healthy behaviours/lifestyle changes by health and care professionals. The research was done in the context of acupuncturists, but the purpose of the session will be to discuss how the findings might apply both to those in other AR professions, and to some statutorily regulated groups, and will be an opportunity to discuss risks, challenges and opportunities of providing such advice in addition to providing the care which is the primary purpose of interaction with the patient.
- 8.3 We have met with a researcher at the early stages of scoping work on the impact of fitness to practise investigations on health and care professionals and have been invited to comment on the proposed scope of the research.
- 8.4 We have begun discussions with possible research partners and the Cross Regulatory Research Group about the next research conference in November – date to be confirmed with research partner once secured.

### *Commissions and projects*

#### *Commissioned performance review*

- 8.5 We are at an advanced stage of discussions with a UK professional regulator outside health to undertake an independent performance review of their equivalent of a fitness to practise function, a review of the efficiency of that function, and a review of their legislation against the principles of right-touch regulation. Once the agreement is signed we will commence immediately and will complete by the end of Q3. The work can be completed within existing resources, however the income will provide the option to backfill, should that be



necessary due to changes in capacity or other demands. As per the commissioning process the 'commissioning pro-forma' has been completed and signed off by ELT in readiness for signing the agreement. The work will be managed as a project and reported as such on commencement.

#### *Sexual misconduct project*

- 8.6 We have been in contact with all regulators we oversee and accredited registers seeking a contact for work on sexual misconduct in 2024-25; and to seek views on a draft terms of reference. We are currently developing the methodology for this work which will be managed as a project and reported as such once initiated.

## **9. Corporate Services**

### **IT**

- 9.1 A Stakeholder Relationship Management (SRM) test system has been created and is being thoroughly tested by the ICT team as well as the SRM working group.
- 9.2 Laptop refresh is in progress across the organisation where much older laptops that were purchased during the lockdown in 2020 are being replaced.

### **Finance**

- 9.3 The Finance Report is on the main agenda.

### **People**

- 9.4 Dami Olatuyi left his role as Accreditation Officer on 31 March 2024.
- 9.5 Sofia D'Arienzo joined us as an Accreditation Officer from 19 March 2024.
- 9.6 Max Sesay joined us as an Accreditation Officer from 19 March 2024.
- 9.7 Meenakshi Arora has transitioned from a fixed term Accreditation Officer to a permanent position.
- 9.8 Samantha Ma joined us as Policy Officer from 11 April 2024.
- 9.9 Archie Herrick, Policy Officer, will be leaving us as on 17 May 2024.
- 9.10 Nick Simkins has been appointed as ARC Chair from 1 July.
- 9.11 Amrit Kaur's fixed term position as Scrutiny Officer has been extended to 12 months.
- 9.12 Melanie Venables has been appointed Director of Policy and Communications from 1 July 2024.
- 9.13 A Parliamentary Engagement Officer has been appointed, and the candidate will start on 13 May 2024.
- 9.14 Nirosha Thilagarajan joined us for six months on 29 April 2024 as a Lawyer.
- 9.15 A suitable Policy Manager (maternity leave cover) has been identified and has accepted the role. The contract will be issued shortly with a proposed start date of 27 May 2024.
- 9.16 The Head of Accreditation role advert closed on 6 May 2024.
- 9.17 The Scrutiny Officer interviews on 17 March 2024 were unsuccessful. Further discussions are ongoing about how to proceed.
- 9.18 Three agencies have been contacted for the Website Project Manager with the view to have CVs by 1 May 2024.

**Governance**

- 9.19 The internal audit cycle for 2023-24 is complete with the final audit on Business Principles receiving substantial assurance.
- 9.20 The Governance and Assurance Frameworks have been reviewed by the ARC and will come to the next Board meeting.

**EDI**

- 9.21 A report on the 2023-2024 EDI action plan, draft 2024-2025 action plan and the findings from the PSA self-assessment against Performance Review Standard 3 are contained in the full paper submitted to the Board business planning workshop.

## KPIs up to 31 March 2024

*Our performance against our KPIs is set out below:*

Area of work	Key performance indicators	Performance to date in 2023/24
<b>Finance</b>	To pay undisputed invoices: <ul style="list-style-type: none"> <li>100% in 10 days</li> </ul>	97%
	Budgeted income / expenditure variance less than 5% (excluding Section 29 that is outside our control)	4.10% [3,283/3,423]*
	Payment error rate less than 3%	0%
	Late purchase order rate less than 10%	6% [20/305]
<b>HR</b>	Staff sickness no more than 2%	2.3% [255.5/11,018] <sup>5</sup>
	Staff turnover to be less than 15%	11.1% [5/45]
	Average recruitment process less than 12 weeks	9.5 weeks
	Vacancy rate no more than 5%	4.5%
<b>ICT</b>	85% of helpdesk calls to be closed within 1 day	100% [280/280]
	System unavailability below 10 hours	0
<b>Information security</b>	No incidents reported to the Information Commissioner's Office	0
<b>Information requests (FOI / SAR / EIR)</b>	All (100%) Subject Access Requests dealt with within statutory deadlines	100% [2/2]
	All (100%) Freedom of Information Act requests dealt with within statutory deadlines	100% [22/22]

<sup>5</sup> This includes 2 periods of long-term sick.

<b>Complaints</b>	100% of complaints acknowledged in five days Response to all complaints to be completed within 28 days	100% [3/3] 100% [3/3]
<b>Health and safety</b>	No reported incidents causing harm	0
<b>Section 29 decisions</b>	Number of cases received [compared with last year] Number of Case Meetings held [compared with last year] Appeals lodged [compared with last year] 100% of relevant decisions considered within statutory deadline [compared with last year]	2385 [2335] 18 [20] 30 [18] 100% <sup>6</sup> [100%]
<b>Performance Reviews</b>	100% of 2023 performance reviews published <u>within 3 months</u> of end of review period	100% (10/10)
<b>Public concerns about Regulatory bodies</b>	100% of concerns acknowledged within five working days since 1 April 2024	97% (28/29) <sup>7</sup>
<b>Accredited Registers – current processes</b>	90% of Registers have a full assessment within three years of the previous assessment. 90% of decisions about the annual check within one year of the previous assessment. 95% of Conditions are reviewed within two months of when they were due. 95% of targeted reviews are completed within three months of the date initiated.	97% (28/29) 93% (27/29) 86% <sup>8</sup> (66/77) 75% <sup>9</sup> (3/4)

<sup>6</sup> One case was a GMC appeal in which our statutory deadline becomes irrelevant.

<sup>7</sup> One missed in April by 10 days. Missed in Inbox.

<sup>8</sup> Due to increase in number of Conditions and issued and late submission by some Registers, more detail provided in main report.

<sup>9</sup> Due to the need to gather more information from the BACP and other stakeholders, more detail provided in main report.

	90% of decisions are made on new applications for accreditation within two months of all information received.	100% (4/4)
<b>Website usage</b>	<p>Year-to-date data on website usage from April 2023-Mar 2024 with same period last year (April 2022-Mar 2023) in brackets<sup>10</sup></p> <ul style="list-style-type: none"> <li>• Total page views across the website</li> <li>• Check a Practitioner landing page and practitioner specific pages</li> <li>• Accredited Registers home page and related Accredited Registers pages</li> </ul>	<p>623,572 (491,084)</p> <p>191,281 (154,120)</p> <p>107,867 (76,608)</p>

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<sup>10</sup>The higher than expected increase in views YoY between 2022/23 and 2023/24 is explained as follows:  
a) Google introduced a new Analytics platform in Dec 2022 which measures data differently to before and b) in July 2023, we detected a bug in our cookie software which had been requesting consent from users who had previously provided consent leading to a negative impact on page views pre-July 2023. Once resolved, this has caused an additional increase in reported views.