

# Professional Standards Authority Business Plan 2021/22

SG/2020/128



## Business Plan 2021/2022

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## About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care 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, and work closely with the devolved administrations in Northern Ireland, Scotland and Wales.

We oversee the work of 10 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 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>1</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, which are paid for by the commissioners, to extend our understanding of regulation of a global 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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1

Professional Standards Authority (2015). *Right-touch regulation revised*. Available at [www.professionalstandards.org.uk/what-we-do/improving-regulation/right-touch-regulation](http://www.professionalstandards.org.uk/what-we-do/improving-regulation/right-touch-regulation)

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## Foreword by Chief Executive

This business plan covers the sixth financial year in which the Professional Standards Authority will be funded by the regulators, accredited registers and others who pay for services from us.

The Authority has four sources of income. The largest element comes from the regulators we oversee. How this part of our funds is determined is set out in our fee regulations and is subject to decision by the Privy Council and Secretary of State for Education. The second source of income is fees paid by occupational registers for accreditation. The third source is payment from the Department of Health and Social Care in England or other UK governments for policy advice and the fourth payment for commissions for advice or reviews from governments or regulators in other countries. On the expenditure side we are committed to avoiding cross-subsidy between these four areas of work and I draw attention to our business principles which are on page 10 of this Business Plan.

The Board of the Authority and the executive team aim to ensure that the funding arrangements work effectively for the Authority and our stakeholders, that our processes are transparent, that we seek efficiencies and that we remain focused on our responsibilities as set out in our legislation. Our right-touch performance review process aims to reduce the burden of oversight on well-performing regulators and in quarter 4 of 2021/22 we plan to introduce more streamlined processes for performance reviews.

In addition to performance reviews, our consideration of final fitness to practise determinations is a significant element of our cost to the regulators. Our costs, like those of the regulators are primarily driven by volume. This business plan predicts 3,000 cases to be reviewed by us in 2021/22. We remain committed to further improving the effectiveness and efficiency of our key processes. We will continue to develop the Accredited Registers programme. We have 26 registers accredited, representing over 100,000 professionals. We completed a strategic review of the programme in 2020/21 and will be implementing changes in 2021/22 to enhance its effectiveness, efficiency and financial stability.

We are working with the Department of Health and Social Care in England and the other UK governments to shape the reform of professional regulation and to continue improve regulatory policy. We may accept a small number of other commissions but do not intend to expand this area of our work this year.



Alan Clamp, Chief Executive

# 1. Introduction

- 1.1 This document sets out the business plan of the Professional Standards Authority for Health and Social Care (the Authority) for the period 1 April 2021 to 31 March 2022.
- 1.2 The Authority operates as an independent body with statutory duties. It is accountable to Parliament.
- 1.3 The Authority is funded through:
  - Fees collected from the regulatory bodies that it oversees, which fund the costs of its regulatory and standards functions
  - Income arising from the accreditation of voluntary registers. This activity aims to be on a cost-recovery basis in the long term, but currently requires some continuing government funding
  - Income for advice and investigations that are specifically commissioned by the Secretary of State and/or the Devolved Administrations. These commissions, now Section 223 of the 2012 Act has commenced, are funded by fees set by the Authority
  - Income from other activities, for example, fees from the provision of advice and advisory services to governments, regulatory bodies and other similar organisations in the UK and abroad.
- 1.4 The Authority is required by the Health and Social Care Act 2012 to consult with the regulatory bodies advising them of its proposed budget requirement. The consultation in relation to the fees for 2021/22 was sent to the regulatory bodies in September 2020. This corporate business plan, which was prepared in parallel with the consultation document, accordingly incorporates the relevant details from the consultation document along with details pertinent to the other work streams and the finances relating to them.
- 1.5 The Authority's accounts, which have been segmented to reflect the four work streams set out above, are subject to scrutiny by the National Audit Office. Our Annual Report and Accounts are laid before the UK Parliament and the parliaments and assemblies in Scotland, Wales and Northern Ireland.
- 1.6 The Authority has a board of eight: seven non-executive members and the Chief Executive. One non-executive member is appointed from each of Scotland, Wales and Northern Ireland.



## 2. Strategic plan 2020-23

- 2.1 The independence and expertise of the Authority put us in a unique position to respond to regulatory challenges in health and social care. These challenges include:
- the professional regulation response to the Covid-19 emergency and learning from this to improve regulation in the future;
  - working with the UK governments to shape the reform of professional regulation;
  - improving collaboration between regulators to better protect the public, taking into account the recommendations from the Paterson Inquiry and Cumberlege Review;
  - planning for the regulatory challenges brought by technological changes;
  - working with regulators and academic partners to undertake research to improve regulation;
  - ensuring that regulation provides appropriate protection for the most vulnerable;
  - assessing the risks of different health systems and regulatory approaches in the four countries of the UK;
  - addressing workforce issues in health and social care.
- 2.2 This strategy reflects our contribution to meeting these challenges. Effective regulation leads to safer practice.

### Vision

- 2.3 Safe care through high standards of conduct and competence in health and social care professionals.

### Mission

- 2.4 To protect patients, service users and the public by improving the regulation and registration of health and social care professionals.

### Strategic aim 1

- 2.5 To protect the public by delivering highly effective oversight of regulation and registration.
- To deliver our statutory duties, targeting our resources where there is greatest risk to the public.
  - To be transparent in our decision-making and reporting, recognising those who are committed to achieving high standards and being rigorous, clear and fair when reporting non-compliance with our standards.
  - To support high standards in health and social care regulation and registration through the effective use of information, data and intelligence.
  - To lead the development of more effective regulation through research, commissioned work, policy advice and the use of our right-touch assurance model; and by shaping regulatory reform.

2.6 In 2020-22 we will:

- Deliver robust and fair performance reviews of the statutory regulators; use our Section 29 powers to review the outcomes of fitness to practise panels; manage the Accredited Register programme; and report our findings to Parliament.
- Complete a strategic review of the accredited registers programme and commence a review of our performance review processes to ensure they are proportionate and effective and provide opportunities for thematic reviews.
- Contribute to improvements in regulation through research, policy advice and further development of our right-touch assurance model, including a consideration of the role of regulation in social care
- Monitor the professional regulation response to the Covid-19 emergency; provide advice and guidance to regulators on changes associated with the response to the emergency; and conduct a review of the response during 2020/21

**Strategic aim 2**

2.7 To ensure an effective and coherent approach to protecting the public from harm by promoting and facilitating cooperation and collaboration between regulators.

- To maintain strong relationships with statutory regulators, organisation with accredited registers and other stakeholders to improve standards in professional practice.
- To work collaboratively with professional and system regulators in health and social care to better protect the public.
- To ensure that the accredited registers programme and other forms of assurance in health and social care complement statutory regulation to provide a coherent approach to safe care.
- To extend collaboration beyond professional and system regulators to include employers, representative bodies, patients and the public.

2.8 In 2020-22 we will:

- Deliver our new stakeholder engagement strategy and use this to share knowledge, learning and good practice and to influence regulatory reform.
- Promote the interests of users of healthcare, social care and social work in the work of regulators and accredited registers.
- Review the communication, cooperation and collaboration between professional regulators, and with system regulators, in order to bring about improvements.
- Engage with employers, representative bodies, patient groups and the public to develop a coherent approach to safe care.

**Strategic aim 3**

2.9 To ensure the Authority is well led, with a clear focus on quality improvement, effective financial management, equality and diversity, and investment in our people.

- To promote and monitor equality, diversity and inclusion within the Authority and in those we oversee.

- To maintain and improve cost-effectiveness and quality by systematically reviewing systems, processes and procedures and by working with others.
- To retain and develop our staff and to maintain a positive working culture.
- To improve expertise and support delivery through high quality learning and development.

2.10 In 2020-22 we will:

- Deliver our finance, ICT and people strategies, and complete our equality, diversity and inclusion project.
- Review our governance arrangements and further improve our assurance processes.
- Improve our effectiveness and increase our value for money.
- Provide a range of relevant and useful professional development opportunities for all staff.

### **Covid-19**

2.11 The Covid-19 pandemic had a significant impact on the work of the Authority between March and September 2020 and will continue to do so for the rest of the 2020/21 business year and beyond. The Authority has worked closely with the regulators, organisations holding accredited registers and other stakeholders to support the response of the health and care sector to the pandemic.

2.12 The likely impact of Covid-19 on the Authority in the coming year includes: ongoing risks of disruption to work activities due to staff illness and further travel/work restrictions; disruption to research work associated with reviews of the regulatory response to Covid-19; changes to timetables of performance reviews and accreditation decisions due to work pressures and/or disruptions; and possible changes in the number and type of fitness to practise decisions reviewed by the Authority due to backlogs in cases from 2020/21 and issues arising associated with the pandemic.

### **Reform of professional regulation**

2.13 The Authority has long called for reform of the outdated and piecemeal legal framework for professional regulation. The recently published Government proposals published in July 2019 were a significant milestone for this reform and the response expressed support for many of the changes proposed by the Authority. Initial areas identified for change include modernisation of fitness to practise to allow regulators to dispose of cases without formal hearings in appropriate cases, changes to regulators' governance and increased flexibility for regulators to amend rules.

2.14 The Authority has cautioned that the proposed additional flexibility for regulators must be balanced by amended oversight powers for the Authority to ensure that patients are protected, and the public can continue to have confidence in regulation. This includes; powers for the Authority to challenge case examiner decisions that appear to be insufficient to protect the public; and a role for the Authority in overseeing rule changes by regulators to avoid unjustifiable inconsistencies in approach and to make the system clearer for patients, registrants and employers and ensure overall regulatory coherence.

- 2.15 Progress on these reforms has been slow, exacerbated by the Covid-19 pandemic. In February 2021, government announced its intention to introduce a Health Bill, which includes proposals to have powers to make changes to professional regulation, including an independent review of the number of regulators; and an assessment of which occupations need to be regulated. We anticipate that the independent review will include the role of the Authority. We expect therefore to commit a significant amount of time and resources over the year ahead engaging with Government and stakeholders on the reform proposals and building our evidence base to ensure that public protection remains at the heart of a reformed system for professional regulation.

### **Monitoring performance**

- 2.16 The Authority will monitor its performance against its business objectives and strategic plan using a range of quantitative and qualitative indicators. Performance monitoring will be reported at each Board meeting.

### **Organisational values**

- 2.17 Our values describe how we work with colleagues and external stakeholders. We strive to promote, develop and demonstrate these values in everything we do. A positive culture leads to better performance and better outcomes for patients and the public.
- 2.18 Our values are:
- Integrity – we will be open, honest and trust each other.
  - Transparency – we will be clear about our performance and the reasons for our decisions with all stakeholders.
  - Respect – we will treat each other, and those we work with outside the organisation, with respect at all times.
  - Fairness – we will strive to be fair in all our decision-making.
  - Teamwork – we will work in partnership to deliver better outcomes for patients and the public.

## 3. Business principles

- 3.1 The Authority started operating with four work streams in 2012 and has, in the intervening period, increased the rigour of separation between them. We nevertheless recognise that our stakeholders will be looking for transparency with regards to how we operate.
- 3.2 We set out below the principles that we work to:
- Regulatory and standards setting work: All fees from the regulatory bodies are applied solely to our statutory functions of regulatory oversight and improvement as set out in our legislation. Any surplus or deficit generated against our budget as approved by the Privy Council and Secretary of State for Education will be used in the calculation of the following year's fee
  - Accredited Registers: All fees for accreditation or renewal from occupational registers are applied solely to provide and develop the accredited registers programme. Any surplus generated will be retained for the benefit of the programme
  - Commissions from Government(s): The pricing of commissions and consultancy contracts will cover all costs associated with the work. Any surplus arising will be deployed at the Board's discretion to support our organisational objectives in the public interest
  - Advice to other organisations: The pricing of commissions and consultancy contracts will cover all costs associated with the work. Any surplus arising will be deployed at the Board's discretion to support our organisational objectives in the public interest.
- 3.3 Surpluses will be applied according to these principles after the requirements of our reserves policy have been met.
- 3.4 To ensure transparency we will:
- Publish our annual accounts and fully disclose our audited financial statements
  - Show clearly our income and expenditure in relation to each of the Authority's four functions
  - Publish an auditor's statement setting out our compliance with these business principles.
- 3.5 In conjunction with these principles our Board has established a reserves policy.
- 3.6 The Authority has agreed to hold reserves of three months' total operating costs (currently £1.244 million), within which it draws a distinction between:
- A restricted element associated with regulatory and standards work
  - An unrestricted element associated with all the Authority's work.
- 3.7 The level and make-up of our reserves will be reported through our Annual Report.
- 3.8 Should there be a need to draw upon the restricted element of the reserves we will report this to the regulatory bodies at an appropriate point.
- 3.9 Our annual accounts for 2019/20 can be found at:

<https://www.professionalstandards.org.uk/publications/detail/professional-standards-authority-annual-report-and-accounts-2019-20>

- 3.10 In 2021 as part of our internal audit work programme, our internal auditors, Mazars undertook a review of our operations looking at how we complied with our business principles and reserves policy. The review identified no actions that merited attention for the Authority.

## 4. Regulatory oversight and standard setting – what our work entails

4.1 The Authority has been established to:

- promote the interest of patients and other members of the public in relation to the performance of the regulatory bodies
- promote best practice in the performance of professional regulation functions
- formulate principles of good regulation and encourage regulatory bodies to conform
- promote cooperation between regulatory bodies.

4.2 The work we undertake to fulfil our overall purpose and duties to which the Professional Standards Authority for Health and Social Care (Fees) Regulations 2015 apply has not changed in the last 12 months and is:

- Reviewing cases under Section 29 of our legislation and referring cases to the relevant Courts if we consider a decision about a practitioner's fitness to practise is not sufficient to protect the public or should not have been made
- Investigating and reporting on the performance of each regulatory body
- Examining and reporting on how the performance of functions undertaken by the regulators compare
- Making recommendations to a regulatory body to change the way it performs its functions
- Providing advice to the regulatory bodies in relation to their statutory functions; based on research and our work to improve and develop standards
- Assisting the Privy Council and Secretary of State for Education with their appointments functions in relation to the regulatory bodies
- Seeking the views of members of the public and bodies which appear to represent the interests of service users on matters relevant to our functions
- Providing the views and opinions of the Authority about regulatory matters to others, developing, gathering and synthesising evidence in support of that, and responding to those consulting on such issues
- Organising meetings and other events to facilitate debate, discussion, cooperation and improvement and participating in seminars and conferences in the UK and elsewhere
- Undertaking anything we believe to be necessary or expedient for the performance of our functions
- Reporting on any matter as requested by the UK Government, the Northern Ireland Assembly Government, the Welsh Assembly Government or the Scottish Government
- Supporting the Health Select Committee as and when required to develop its relationship with the Authority. Facilitating it in drawing on our performance review reports in preparing for accountability hearings and when examining the case for

inviting professional regulators under the Authority's remit to appear before the Committee and submit evidence

- Undertaking the accounting, reporting, planning and legislative requirements necessary for the running of the Authority
- Publishing information about the Authority and the exercise of its functions.



## 5. Regulatory oversight and standard setting – our work in 2021/22

### **Corporate Services**

- 5.1 The team works to ensure that the Authority is an independent, effective, value for money organisation. It supports the Board and executive in maintaining the functionality and smooth operation of the organisation.

### **Work for 2021/22**

- 5.2 The focus for the team during 2021/22 will be to continue to support the general operation of the Authority while looking to identify further improvements and efficiencies.

### **Business as usual**

- 5.3 The team provides what is commonly referred to as corporate services, including finance, human resources (HR), information and communications technology (ICT), information security, information governance, risk management, audit, facilities, health and safety, business continuity, procurement and office administration.

### **Developments**

- 5.4 During 2019/20 we developed strategies for our HR, ICT and finance functions. In 2021/22 we will be implementing Year 2 of these strategies, as well as delivering our annual service development plans for all areas of corporate services.

### **Scrutiny and Quality**

- 5.5 The Scrutiny and Quality Directorate undertakes the work that has the greatest direct interface with the regulatory bodies. During 2021/22 we will continue to undertake the work necessary for the Authority to fulfil its statutory duties.

### **Fitness to practise**

- 5.6 The Authority has a statutory power to challenge decisions made by the regulators' fitness to practise (FTP) panels by way of an appeal to the High Court.
- 5.7 The Authority's power to lodge an appeal is subject to strict statutory time-limits. Our process for reviewing all final FTP panel decisions therefore must ensure that we can conduct sufficiently detailed reviews of cases and, where necessary, arrive at formal decisions to lodge an appeal, within the statutory time limit.
- 5.8 Under the process, each case where there may be a risk to public protection is subject to an initial review. Cases in which there are concerns that the decision may not be sufficient to protect the public are then referred for a detailed case review by a legally qualified member of the team. If concerns remain after the review, the case is referred to a Section 29 case meeting<sup>2</sup> to consider whether the Authority should refer the case to Court. The Authority has a team of seven people examining the cases. In 2020/21

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<sup>2</sup> Our power to review regulators' final fitness to practise decisions derives from Section 29 of the NHS Reform and Health Care Professions Act 2002 (as amended).

they considered 2,016 cases. Our Scrutiny Committee continues to assure that our decisions are robust.

- 5.9 The Authority adopts a risk-based approach to these cases and does not look at cases where there are highly unlikely to be concerns (such as erasures and further suspensions). This typically, reduces the cases we need to consider by around 30%. Of the remainder, in most cases, it is clear on the face of the decision that there are no concerns and these are closed after a single review, with a proportion second-checked. We identify concerns in around 150 cases and look at these in detail, with around 50 typically considered at case meetings and between 15 and 20 referred to the courts each year. The bulk of these referrals are accepted by regulators as being insufficient to protect the public and we work with them to achieve settlement agreements which avoid the costs of court hearings. A recent audit of the work found that the process gave strong reassurance about its effectiveness and efficiency.
- 5.10 The workload in 2020/21 showed a significant reduction on that of 2019/20, due to the pandemic causing delays in hearings. We expect to see an increase in cases in 2021/22 as business as usual returns and backlogs are addressed. We will continue to monitor the position.
- 5.11 The Authority looked at Social Work England (SWE)'s accepted disposals in 2020/21 in order to understand and research the implications of the new regime. We will publish a report on this work early in 2021/22.
- 5.12 We consider that it is prudent to estimate that the caseload will be around 3,000 cases in 2021/22.

### *Legal advice*

- 5.13 At a case meeting, we have an external lawyer present to act as Legal Advisor to the decision-makers. In 2016/17 we amended our practice so that this advice is now generally provided by counsel instructed on a direct access basis. Exceptions will apply where the case is particularly complex or where an appeal will be heard in Scotland or Northern Ireland. This has reduced the cost of case meetings.
- 5.14 Where we decide to refer a case to Court, we instruct external lawyers after the case meeting to oversee the preparation of the Grounds of Appeal and to lodge the appeal on the Authority's behalf. The Authority benefits from being able to access solicitors under the NHS Resolution scheme and from the rates negotiated under that scheme. This continues to be good value for money compared with the open market. The Authority works closely with firms to ensure that costs in individual cases are kept under close review.
- 5.15 Where the Authority is successful in its appeals, it seeks to recover the bulk of the costs of individual cases taken under its Section 29 powers from the relevant regulator and, where fair, practical and appropriate, the registrant. In most cases, this is achieved through agreement. In two cases recently the regulator has argued successfully that it should not pay the Authority's costs. While the courts made it clear that those decisions were based on the special circumstances of those cases, it is possible that regulators will seek to use those cases to avoid paying our costs themselves. The inevitable impact of this will be that we will need to include the costs that we do not recover in the fees we charge all the regulators. At present, we do not consider that we need to make provision for this in our 2021/22 budget, but this may be necessary in future years if the trend continues.

- 5.16 Our provision for legal costs takes into account our estimates of the caseload as stated above.

### *Performance review*

- 5.17 The 2021 performance review cycle commenced in January 2021. In 2020 and in the context of the Covid-19 pandemic we have taken an approach to the performance review which has recognised the challenges faced by regulators and which has concentrated on the key areas affecting public protection.
- 5.18 As in the years since 2016, the 2021 performance review process is bringing together information and data from the regulators, third parties, our audits when appropriate, final fitness to practise decisions and appeals and our assessments against the Standards of Good Regulation into individual reports about each regulator. Each regulator continues to have a member of the performance review team assigned as a liaison, and the performance review reports are published after their completion throughout the 2021 cycle. We will continue to ensure that the data we collect to help inform our reviews is proportionate.
- 5.19 We are currently looking at the approach we take to our performance review process to ensure that it utilises our resources as effectively as possible, focuses on and addresses the appropriate issues and is proportionate. We will be reviewing potential options for the approach we take and then developing operational processes around any changes we make to the approach. We will also be looking at our processes more widely to make quality improvements. We expect any changes to the overall approach and processes to come into effect in time for the 2022 cycle.

### *Complaints and concerns*

- 5.20 We continue to work to inform the public about what we can and cannot do with respect to concerns or complaints they have about the regulatory bodies. Each year we receive correspondence about the regulators directly from members of the public.
- 5.21 On our website we have a 'share your experience' button, to make it easier for people to share their experiences of regulators with us. This information will be considered when we undertake the performance reviews. We make it clear that we have a very limited role and remit, especially in relation to complaints about registrants.
- 5.22 We will continue our practice of sending certain concerns raised with us to the relevant regulator and asking for its comments. We then share the regulator's comments and our thoughts on those comments with the individual who raised the concern with us.
- 5.23 We noted an increase in the number of concerns that we have received in 2020/21. It is not clear whether this indicates a trend. We expect that a proportion of these concerns will remain resource-intensive, due to the nature of the concerns raised and the steps we take to address them. We do not anticipate a need for further resources to deal with them in 2021/22.

### *Supporting the quality of appointments to regulators' councils*

- 5.24 We will continue to assist the Privy Council and Secretary of State for Education in the exercise of their appointment powers in respect of the councils of the regulatory bodies. The numbers of appointments generally fluctuate in each year, but we do not anticipate that the workload will change significantly.

## Standards and Policy

- 5.25 The work of the Standards and Policy directorate ensures that the Authority meets its legislative responsibilities to promote the health, safety and wellbeing of patients, service users and the public; to promote good practice in regulation and to promote cooperation between regulators. It enables us to fulfil our statutory obligation to provide advice to the Secretary of State for Health and Social Care, the Secretary of State for Education and Ministers in Scotland, Northern Ireland and Wales as required.
- 5.26 The policy team keeps the regulators and others informed about the latest research on regulatory matters and works with academics to ensure that research assisting the development of regulation is undertaken. The knowledge and information held by the team enables the Authority to look to the development of its own regulatory processes and standards. It underpins our approach to the development of best practice and improvements in regulation. It also enables the Authority to comment on how it believes future legislation should be drafted and to comment on proposals and consultations put forward by government and others.
- 5.27 The policy team is responsible for maintaining a strategic, forward-looking view of the regulation of people who work in health and social care in the general context of health and care services. We maintain an overview of the work of the 10 professional regulators we oversee. We build the knowledge and evidence base we use to inform our views. We formulate and articulate the principles which underlie our approach to our work. We do this so that the Authority is able to provide assurance and advice to Parliament, the Health Committee and others; and to ensure that the work of the regulators now and in the future, is carried out as effectively as it can be, without unnecessary regulatory burdens, to the benefit of the health, safety and well-being of the public.
- 5.28 The team also leads on external relations and communications, including our website and events. During 2020/21, in response to the Covid-19 pandemic we switched to holding our events online. During the second part of 2021/22 we hope to resume our usual events programme.

## Work for 2021/22

- 5.29 The team will advise on any proposed new legislation and changes to legislation following the government's announcement of its intention to implement reform of professional regulation. It will monitor and analyse the impact of the proposals on the protection of the public and on the effectiveness of the regulators and the Authority. We will also monitor the impact and learning arising from the Covid-19 pandemic on the health and care regulatory sector
- 5.30 The team will prepare the evidence the Authority provides to the Parliamentary Health Committee.
- 5.31 We anticipate that the team will consider about 30 consultations and requests for briefings.
- 5.32 We will encourage sharing and developing knowledge about regulation and its effects and to stimulate debate by organising and hosting conferences and seminars, and by continuing to facilitate the growing network of academics interested in regulation.
- 5.33 We will seek the public's views on our work and that of the regulators we oversee by carrying out consumer-focused research into issues that arise during the year. Consumer focus work, which is commissioned from specialist companies, is

undertaken in order to assess the impact of the regulators' work to protect the public and to increase confidence in the professions and regulation. This work helps us to fulfil our statutory responsibilities to inform and consult.

- 5.34 We will continue to develop and publish our thinking on professional regulation, registration and risk, to stimulate discussion and debate, especially in relation to the ideas we set out in our policy papers *Right-touch reform* and *Right-touch assurance*. We will continue to explore the effects of regulation and other influences on personal behaviour, seeking to identify what works well and why. We anticipate that our work in monitoring Covid-19-related risks may give rise to particular areas of research interest and that we are likely to conduct a follow on Covid learning study, examining the effects of restoration and recovery phase of the pandemic on the health and care regulatory sector.
- 5.35 We will publish the reports of both work we undertake ourselves and work we commission from others. We will also encourage others with research interests to use the data we hold on past fitness to practise cases.
- 5.36 We will learn from others and continue to share our own regulatory knowledge and expertise, raising the profile of professional regulation in the UK by speaking at and attending conferences and events in the UK and internationally, horizon-scanning, submitting papers to relevant journals and through analysis of published sources.
- 5.37 We will ensure that the Authority engages effectively in each of the four countries of the UK so that our work takes proper account, where relevant, of the diverging health and care systems in England, Scotland, Northern Ireland and Wales and developments in Europe. We will also input to their developments where they are relevant to our role. We will extend our engagement with key stakeholders to ensure we are properly sighted of issues and opportunities.
- 5.38 We will monitor parliamentary affairs and respond to parliamentary questions as required. We will continue to advise the Health Committee when requested.
- 5.39 We will respond to media and other enquires and proactively promote the work of the Authority through our website and publications.
- 5.40 We will hold our programme of events as usual. We hope to do so using physical venues, but should the situation regarding the pandemic not improve will again hold events online.

## 6. Budget for regulatory and standards setting work

### Staff costs

- 6.1 Within the 2021/22 budget we have allowed for:
  - A 5% vacancy rate
  - No 'cost of living' pay increase for staff and Board members in 2021/22
  - The relevant progression increments for some staff within salary bands
  - A small increase in the overall pay budget for the Board to recognise the additional work for the Chair of our new Finance Committee

- Inflation at 1.5% on non-staff costs.

6.2 The actual staff salary costs may be reduced by income from commissions. No provision for income from commissions has been made in predicting staff costs for 2021/22.

### Human resources

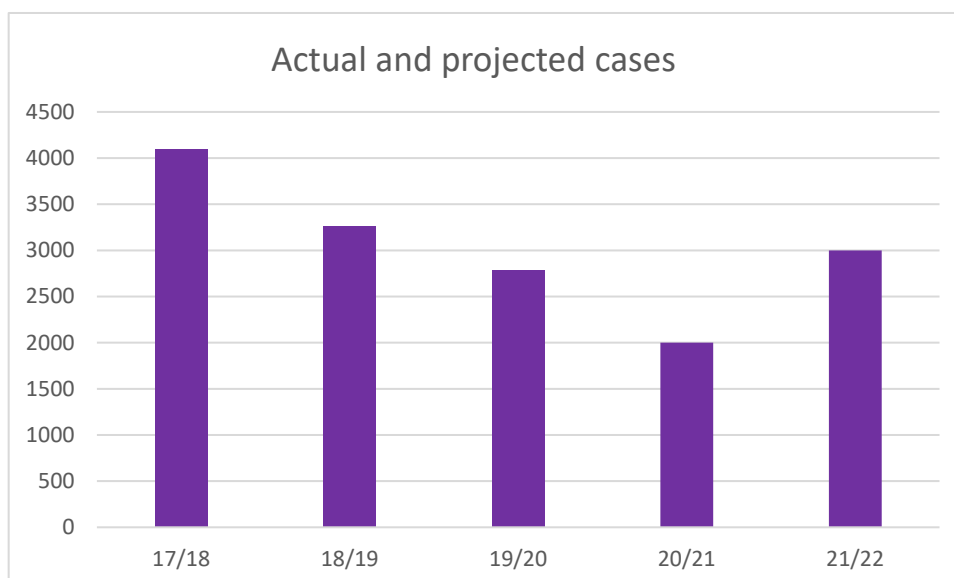
6.3 The staffing establishment as budgeted for is:

Posts	2021/22	2020/21
Chief executive	1	1
Directors	3	3
Assistant directors	2	2
Heads of functions	4	4
Managers	6	6
Technical specialists	4	4
Officers and advisers	17	17
Administrators	3	3
<b>Total</b>	<b>40</b>	<b>40</b>

6.4 These 40 posts equate to 38.6 full-time equivalents.

### Fitness to practise cases

6.5 We are currently projecting a caseload of around 3,000 in 2021/22. We reduced the number of people in the Section 29 team in 2018/19 and do not consider that we will require any further change in staffing numbers.



### Section 29 legal costs

6.6 Expenditure on legal advice and representation in relation to our Section 29 role scrutinising fitness to practise cases is a significant cost to the Authority.<sup>3</sup> It is difficult to estimate. The volume of work can only be estimated (and only if the regulators can themselves estimate reasonably accurately), and while the Authority can recover a

<sup>3</sup> Our power to review regulators' final fitness to practise decisions derives from Section 29 of the NHS Reform and Health Professions Act 2002 (as amended).



proportion of its legal costs, this element (if an appeal is successful) cannot be accurately predicted. In addition, the recoveries are not normally agreed or paid immediately after the case is decided, and it can be some months before the Authority receives them.

- 6.7 There is also the prospect of the Authority being required to pay the costs incurred by other parties should a case be lost.
- 6.8 The methodologies for dealing with Section 29 costs and recoveries are set out in detail in the notes to our annual accounts.
- 6.9 For 2021/22 we have included a recovery rate of 25% of the total expenditure<sup>4</sup>. We have decided to take the average of the last three years as an appropriate figure, recognising that there will be fluctuations and that this appears to be an appropriate way of estimating the likely exposure.
- 6.10 The change takes account of the risk of the Authority having to meet the costs of other parties and the changes to the way in which we undertake our legal work.

### **Accommodation**

- 6.11 The Authority is a tenant of the National Audit Office and has a Memorandum of Occupation in place through to 31 October 2022. The Authority currently sublets some of its accommodation to one other body:
- The Independent Reconfiguration Panel (IRP) has an annual lease currently through to April 2022.

### **Capital**

- 6.12 The capital provision is for expenditure on assets other than computer software.

### **Investment income**

- 6.13 The budget for 2021/22 includes an estimate for income received in respect of the monies received in the previous year and held on deposit as well as money held as reserves.

### **Corporation Tax**

- 6.14 The Authority is required to pay corporation tax in respect of any interest that is earned.
- 6.15 The fees received from the regulators as determined by the Privy Council and Secretary of State for Education are outside the scope of corporation tax.

### **Reserves**

- 6.16 The Authority acknowledged in its first consultation on fees in 2015/16 that it was likely to need to build up a financial reserve in order to manage the financial risks it may face.
- 6.17 The timing of the determination of the fees is not fully within the control of the Authority and should there be a delay in the receipt of the fee income the Authority will face

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<sup>4</sup> This percentage relates to the total expenditure as opposed to the 'recoverable' expenditure, for which we always aim for 75% recovery.

cash-flow problems and could have difficulty in meeting its expenditure requirements and statutory duties.

- 6.18 The cash-flow issues are linked to the receipt of the fee income. If the consultation process is not concluded by the Privy Council and Secretary of State for Education in time for the determination to be made by the beginning of March, then the Authority will face the prospect of having no income at the start of the financial year.
- 6.19 The Authority may also have to address financial shortfalls arising during the fiscal year. The budget for any given year has to be estimated prior to the commencement of the consultation exercise, which being lengthy has to commence early in the preceding year, thus there could be occasions when the Authority has to address unexpected expenditure during the year after the fee has been determined – for example costs arising from an increase in its workload, the need to undertake an investigation or changes to legislation.
- 6.20 While the Authority has the power to consult on an additional fee during the year, the time that this would take makes it an impractical means of addressing such issues. Seeking additional fees also means that the regulatory bodies would be asked to provide funding that they had not budgeted for, resulting in pressure on their own budgets.
- 6.21 To accommodate unexpected expenditure peaks and cash-flow deficiencies, and to reduce the prospect of needing to seek additional fees, in 2016 the Board agreed that the Authority should keep an agreed level of financial reserves, sufficient to ensure that its statutory functions can continue to operate.
- 6.22 Having reserves that can be called upon will also eliminate the need to pay arrangement fees and interest on any monies borrowed.
- 6.23 The Authority has agreed to hold reserves of three months' total operating costs (currently £1.244 million), within which it draws a distinction between:
- A restricted element associated with regulatory and standards work
  - An unrestricted element associated with all the Authority's work.
- 6.24 The level and make-up of our reserves will be reported through our Annual Report.
- 6.25 Any money taken from reserves during the year will need to be replaced in the following year(s).
- 6.26 Should there be a need to draw upon the restricted element of the reserves we will report this to the regulatory bodies at an appropriate point.

### **Current reserves position**

- 6.27 The Authority continues to have a focus on value for money in all its functions. In 2019/20 we made efficiency and effectiveness improvements such as: increasing digitisation of corporate services; saving costs at contract renewal points; reducing expenditure on events venues; implementing the new Section 29 database; and making further process improvements
- 6.28 During 2019/20 our focus on efficiencies generated a surplus for regulatory and standard settings work that increased our restricted reserves position by £0.052 million.



6.29 In 2020/21 we continued to focus on cost savings and process improvements; and will be reviewing our pension arrangements. Any underspend from the 2020/21 budget will be used to reduce the total fee income needed for 2022/23.

6.30 The reserves position as at the end of 2019/20 was as follows:

	<b>Unrestricted Element</b> All work (Regulatory and standards setting / Accredited Registers / Commissions from Government(s) / Advice to other organisations)	<b>Restricted Element</b> (Regulatory and standards setting work)	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>Balance as at 31 March 2019</b>	718	1,464*	2,182
<b>Changes in reserves in the year ended 31 March 2019</b>			
Regulatory and Standards setting work		52	52
Accredited registers	(190)		(190)
Commissions from Government(s)	39		39
Advice to other organisations	50		50
<b>Other accounting adjustments</b>			
<b>Balance as at 31 March 2019</b>	<b>617</b>	<b>1,516*</b>	<b>2,133</b>

\*This relates to both cash and non-cash elements. This figure includes non-current assets reserves of £250k in restricted reserves meaning that restricted reserves position was £1,266k cash.

### End of year over/under spends

- 6.31 Our reserves policy states that we will hold three months' total operating costs (currently £1.244 million) in cash and explains that we will keep building the cash reserves until we hit a two-thirds (restricted) / one-third (unrestricted) target.
- 6.32 At the end of 2019/20 our restricted reserve was £1,233 million cash, and so having achieved the target of £0.829 million for the restricted reserve we could potentially return a maximum of £0.437 million to the regulatory bodies - £0.228 million was returned to the regulators during 2020/21 (in the form of a discount on fees).
- 6.33 We are pleased that through efficiencies made we were able to fund our necessary work and return a modest amount to the regulatory bodies in the fees consultation for the third time.
- 6.34 We agreed to retain none of our excess restricted reserves and return £0.209 million to the regulators in 2021/22 and 2022/23. In order to smooth any fee increases this will be returned at 50% (£104.5K) in 2021/22 and the same again in 2022/23.
- 6.35 The unrestricted reserves may be used to develop regulatory practice directly related to our work with the regulators and registers, including:

- Research projects
  - Specific events
- 6.36 Due to the timing of the fee consultation occurring mid-way through the financial year we have had to project any likely over or underspend that will be available for reserves or other purposes.
- 6.37 We are currently predicting an underspend on Section 29 legal costs in 2020/21 due to the reduced number of fitness to practise cases reviewed during the year.
- 6.38 Any underspend from the 2020/21 budget may be used to further reduce the total fee income needed for 2022/23.

### **Accounting policies and depreciation**

- 6.39 Details regarding our accounting policies and how we address depreciation can be found in the notes to our annual accounts for 2019/20:

<https://www.professionalstandards.org.uk/publications/detail/professional-standards-authority-annual-report-and-accounts-2019-20>

## Budgetary requirements 2021/22

	2021/22 £'000	2020/21 £'000
<b>Total funding requirement</b>		
Net operating expenditure (excluding depreciation for assets purchased during the year and database amortisation)	4,415	4,294
Capital expenditure	100	100
Reserves	-	-
<b>Total funding requirement</b>	<b>4,515</b>	<b>4,394</b>
Underspend transferred from previous year	-	-
<b>Total funding requested</b>	<b>4,515</b>	<b>4,394</b>

## Expenditure breakdown

	2021/22 £'000	2020/21 £'000
<b>Net operating expenditure requirement</b>		
<b>Expenditure</b>		
Staff costs	3,046	3,013
Other administrative costs	1,635	1,670
<b>Income</b>		
Operating income	(161)	(199)
<b>Other</b>		
Refund to regulatory bodies	(105)	(228)
<b>Net operating expenditure*</b>	<b>4,415</b>	<b>4,294</b>

\*Net operating expenditure relates to core regulatory oversight and improvement activity and *excludes* any costs associated with; accreditation of registers of health professionals; commissions and investigations requested by the Department of Health and Social Care or other statutory bodies; and commissions from/consultancy to regulated bodies and other bodies.

	2021/22 £'000	2020/21 £'000
<b>Capital expenditure requirement</b>		
Information technology	90	90
Fixtures and fittings	10	10
<b>Capital expenditure</b>	<b>100</b>	<b>100</b>

### Administrative costs

	2021/22 £'000	2020/21 £'000
Members' remuneration	93	89
Legal and professional fees	519	528
Premises and fixed plant	591	590
Training and recruitment	125 <sup>5</sup>	163
Communications and conferences	132	128
Establishment expenses	73	72
External audit fee	23	22
Other costs	79	78
Depreciation	0	0
<b>Total administrative costs</b>	<b>1,635</b>	<b>1,670</b>

### Operating Income

	2021/22 £'000	2020/21 £'000
Section 29 cost recoveries	87	87
Sub-tenancy income	62	62
Other operating income	12	12
<b>Total operating Income</b>	<b>161</b>	<b>161</b>

## Key performance indicators

Area of work	Key performance indicators
Finance	To pay undisputed invoices: 60% in five days 100% in 10 days Budgeted income / expenditure variance less than 5% (excluding Section 29 that is outside our control) Payment error rate less than 3% Late purchase order rate less than 10%
HR	Staff sickness no more than 2% Staff turnover to be less than 15% Average recruitment process less than 12 weeks Vacancy rate no more than 5%
ICT	85% of helpdesk calls to be closed within one day System unavailability below 10 hours
Information security	No incidents reported to the Information Commissioner's Office
Information requests (FOI / SAR / EIR)	All (100%) Subject Access Requests dealt with within statutory deadlines All (100%) Freedom of Information Act requests dealt with within statutory deadlines
Audit – external	Unqualified opinion received for accounts
Audit – internal	100% of planned reviews completed within that financial year
Complaints	100% of complaints acknowledged in five days Response to all complaints to be completed within 28 days
Health and safety	No reported incidents causing harm
Section 29 decisions	100% of relevant decisions considered within statutory deadline
Performance Reviews	2021/22 initial assessments completed on time 2021/22 performance reviews published within three months of initial indicative timescale
Public concerns about Regulatory bodies	100% of concerns acknowledged within five working days

## 7. Accredited Registers

### Background

- 7.1 The Accredited Registers programme sets standards for registers of health and care practitioners not regulated by law. The Authority works to strengthen the quality of care and patient safety by setting standards for the registers and accrediting those that meet them. Register holders are required to have proportionate methods in place for the removal of practitioners from their register.
- 7.2 The accreditation programme is in its ninth year. The programme now includes 26 registers with over 100,000 registrants. In 2020/21 we carried out a strategic review of the programme. While the intention had been that the accreditation programme would be undertaken on a full cost-recovery basis, it has been difficult to achieve to date for several reasons, and financial support has been provided by the Department for Health and Social Care. In addition, the programme has not become as widely known as it needs to be to support employer and patient choice effectively. We undertook a strategic review to determine if the programme could become financially sustainable and achieve better recognition and use, particularly by the NHS. At the start of the 2021/22 business year we now have a financial model that is expected to cover the costs of the programme and have been undertaking further work to improve effectiveness and to raise awareness, particularly among employers.

### Financial separation from our standards and regulatory function

- 7.3 The income and expenditure for the work associated with the accreditation of registers is accounted for separately from the oversight of statutory regulators and other income streams. The programme operates on a cost recovery basis underpinned by a contingency subvention from the Department of Health and Social Care, to be used in year if necessary.
- 7.4 The Accredited Registers programme financial information is maintained as a separate segment of the corporate accounts. This includes income and expenditure records as well as the annual budget, including the staffing costs of the Accreditation team, the recharged costs of Authority personnel involved in the decision-making processes, the cost of other support staff and other costs such as travel, communications and legal advice.
- 7.5 In order to avoid cross-charging across the different work streams, full recharging of all costs is in place. Where the costs are directly attributable to the Accreditation team, these are individually budgeted for. This includes, for example, the staff time of the team, the costs of publications and marketing. Where the programme draws upon corporate resources including back office staff and general corporate expenditure such as the production of the annual report, this is recharged at the rate of 10 per cent. This figure being the proportion of staff in relation to the staffing establishment and therefore represents the proportion that the accreditation programme makes to corporate expenditure such as accommodation, the Annual Report, Board expenditure and corporate functions such as ICT.

- 7.6 The staff employed to work on the accreditation programme are employees working solely on this specific area of the corporate business.
- Work to be done in 2021/22**
- 7.7 During the year, we will implement the changes agreed by the Board including a new fee model, revised accreditation process and three yearly renewal cycle.
- 7.8 We will continue to receive and review feedback from the public about their interaction with Accredited Registers.
- 7.9 We will continue to explore opportunities to promote the programme.
- 7.10 We will hold a conference for Accredited Registers to share learning and promote good practice and will hold meetings with organisations interested in applying for accreditation.
- 7.11 We will undertake research to determine the perceptions of the programme by the public and other stakeholders to allow us to better target our communications work.
- 7.12 We will continue to raise awareness of the gaps in the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, as well as the Rehabilitation of Offenders Act 1974 and the exceptions order. Currently, the Accredited Registers are not able to access information about spent convictions and barred status of applicants or registrants, which results in a public protection risk.
- 7.13 As part of our communications strategy, we will continue to work with key stakeholders to raise awareness of the programme. We will engage with relevant health and care organisations to allow them to obtain maximum benefit from our assurance of the wider workforce.

#### Income and expenditure

	2020/21 Budget £'000	2021/22 Budget £'000	2022/23 Budget £'000
<b>Income</b>			
New applications	0	0	0
Renewals*	270	541	561
Other Income (eg additional fees, clusters)	0		0
<b>Total</b>	<b>270</b>	<b>541</b>	<b>561</b>
<b>Expenditure</b>			
Pay costs	306	321	338
Non pay costs	215	220	223
<b>Total</b>	<b>521</b>	<b>541</b>	<b>561</b>
<b>Total deficit</b>	<b>(251)</b>	<b>0</b>	<b>0</b>
<b>DHSC funding</b>	<b>162*</b>	<b>-</b>	<b>-</b>
<b>Net surplus/(deficit)</b>	<b>(89)</b>	<b>0</b>	<b>0</b>

## 8. Commissions from Government(s)

### Background

- 8.1 The Secretary of State for Health, Secretary of State for Education, as well as the Health Ministers in the Devolved Administrations may ask the Authority to provide them with advice on matters related to the regulation of health professionals. They may also ask the Authority to undertake investigations and report on the findings.
- 8.2 Section 26A(2A) of the National Health Service Reform and Health Care Professions Act 2002 (as amended by the 2012 Health and Social Care Act) states that this work, which must be undertaken, will be subject to a fee determined by the Authority. This is to ensure that work undertaken at the request of the government(s) is not funded from the funding received from the regulators. This section of the legislation was enacted in January 2016.<sup>6</sup>

### Work to be done in the year

- 8.3 In order to support our ability to deliver relevant advice we will pursue active engagement and dialogue with policy and research leads across the UK administrations and other key stakeholders.
- 8.4 It is for the Department of Health and Social Care and devolved administrations to determine what budget provision they will need to make for 2021/2022 in order to meet the cost of any advice or investigations that they may request the Authority to undertake.

### Income and expenditure

- 8.5 The overriding principle is that all costs incurred by the Authority must be met by the fees charged.
- 8.6 We have developed rate cards in order to be able to charge out the cost of staff time including overheads.
- 8.7 While we are not running a commercial consultancy business and will not be seeking to make a set profit on each project we do intend to generate an annual surplus overall that can be used to further the Authority's work. Surplus monies may also be used to offset the costs of responding to public tenders, ensuring that this work stream is self-funded.
- 8.8 Overall the income and expenditure for this work should be cost neutral or raise a surplus. Accordingly, no budget provision is made for this work.

### Financial separation from our regulatory function

- 8.9 We will estimate and account for staff time spent on specific commissions to be able to estimate the fee to be charged and should the staff time utilised be from the core complement, without related back-filling, we will identify the cost of this time and recharge it.

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<sup>6</sup> Health and Social Care Act 2012 (Commencement No.10) Order 2016.



## 9. Advice to other organisations

### Background

- 9.1 Our original legislation enabled us to provide advice to others and charge for it, albeit there was no explicit reference to this work. The Health and Social Care Act 2012 explicitly permits the Authority to provide advice or auditing services to regulatory bodies or organisations that have functions corresponding to a regulatory body.
- 9.2 The cost of advice, which is specialist and tailored to the client, varies depending on what is requested and the time required. The Authority may also bid for relevant work through a public tender process.
- 9.3 The reputation of the Authority in the provision of advice on regulation and regulatory matters continues to grow and we increasingly get requests from other organisations. To date this has all been based on word of mouth and personal recommendations. We have not actively marketed our services.
- 9.4 When looking at what work we can undertake we are mindful of both the need to manage our resources as well as the potential benefit to the Authority and the linkage to our statutory functions in the United Kingdom. We are conscious that this work gives us the opportunity to learn and to promote UK expertise.
- 9.5 Contracts will be entered into as opportunities arise.

### Income and Expenditure

- 9.6 The fees for the work to be undertaken are negotiated with each individual client before the work commences or are determined as part of a formal competitive tendering process.
- 9.7 The fees cover:
  - Staff costs – the costs to the Authority of the staff involved (including all overhead costs) and where necessary the cost of the backfilling of their posts
  - Indirect staff costs such as travel and subsistence
  - Where relevant the cost of externally commissioned research and advice
  - Consultation events, meetings and workshops
  - Legal advice if required.
- 9.8 We aim to generate a small surplus from this work stream.

## 10. Corporate budget requirement

- 10.1 The corporate budget brings together all four of the Authority's income streams:
- Regulatory and standards setting work – to be paid for through fees raised from the Regulatory bodies
  - Accredited Registers – to be self-funding from 2021/22
  - Commissions from Government(s) – to be paid for by the commissioning body
  - Advice to other organisations – to be earned through fees.
- 10.2 Our requirement for the regulatory and standards setting work stream for 2021/22 is £4,620,000, which is £121,000 (4.9 per cent) more than for 2020/21.
- 10.3 The main factors behind this increase relates to contractual increments for some staff, a small increase in the overall pay budget for the Board to recognise the additional work for the Chair of our new Finance Committee , and 1.5% on all non-staff costs
- 10.4 Prudent financial management and a focus on efficiencies enabled the Authority to complete 2019/20 with a favourable reserves position. We propose to return £105,000 from our excess restricted reserves to the regulatory bodies in the 2021/22 fees, which reduces the absolute terms percentage increase from 4.9 to 2.7 per cent for this year. This represents a cost of approximately £2.72<sup>7</sup> per registrant across the 10 statutory regulators.

### Assumptions

- 10.5 In determining our requirements for 2021/22 the following assumptions have been made:
- That based on the recovery costs averaged over the last three years, the Authority will recover 25 per cent of its total expenditure on legal advice related to Section 29 cases
  - That the total cost of legal action will remain at the same level as present
  - That the staff vacancy rate will be such that we can operate on 95 per cent of the total pay bill
  - That no legislative changes that amend the duties of the Authority to an extent that will impact on our costs, will be introduced during the year
  - That the number of fitness to practise cases is estimated to be 3,000 cases
  - The Authority will not receive any funds from commissioned work.

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<sup>7</sup> Based upon the 2021/22 budget and registrant numbers as at 1 January 2021.

## Total Corporate Funding requirement for 2021/22

	Revenue £'000	Capital £'000	Totals £'000
Core business fees regulators	4,415	100	4,515
Accredited Registers Subvention from DHSC*	0	-	0
<b>Totals</b>	<b>4,415</b>	<b>100</b>	<b>4,515</b>

Capital expenditure requirement	2020/21 £'000	2019/20 £'000
Information technology	90	90
Fixtures and fittings	10	10
<b>Capital expenditure</b>	<b>100</b>	<b>100</b>

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