

Annual review of performance 2017/18

General Medical Council



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.

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

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

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.¹ We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

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

¹ *Right-touch regulation revised* (October 2015). Available at www.professionalstandards.org.uk/policy-and-research/right-touch-regulation.

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About the General Medical Council

The General Medical Council (the GMC) regulates doctors in the United Kingdom. Its work includes:

- Setting standards for the education and training of doctors and assuring the quality of education and training provided
- Setting and maintaining standards of conduct, performance, and ethics for doctors
- Maintaining a register of qualified professionals. Only those registered with a licence to practise can practise medicine in the UK
- Requiring doctors to keep their skills up to date through revalidation
- Taking action to restrict or remove from practice registrants who are not considered to be fit to practise.

As at 30 September 2018, the GMC was responsible for a register of 298,011 doctors. Its annual retention fee for registrants is £390. The fee for registration without a licence to practise is £140. Discounted fees apply to newly qualified doctors for their first five years, and to doctors whose income falls below a specified threshold.



At a glance

Annual review of performance

Regulator reviewed: **General Medical Council**

Standards of good regulation

Core functions

Met

Guidance and Standards

4/4

Education and Training

4/4

Registration

6/6

Fitness to Practise

10/10

1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the GMC.² More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- It tells everyone how well the regulators are doing
 - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

The Standards of Good Regulation

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

² These are the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland.

- months. We use this to decide the type of performance review we should carry out.
- 1.7 When considering information relating to the regulator's timeliness, we consider carefully the data we see, and what it tells us about the regulator's performance over time. In addition to taking a judgement on the data itself, we look at:
- any trends that we can identify suggesting whether performance is improving or deteriorating
 - how the performance compares with other regulators, bearing in mind the different environments and caseloads affecting the work of those regulators
 - the regulator's own key performance indicators or service standards which they set for themselves.
- 1.8 We will recommend that additional review of their performance is unnecessary if:
- we identify no significant changes to the regulator's practices, processes or policies during the performance review period; and
 - none of the information available to us indicates any concerns about the regulator's performance that we wish to explore in more detail.
- 1.9 We will recommend that we ask the regulator for more information if:
- there have been one or more significant changes to a regulator's practices, processes or policies during the performance review period (but none of the information we have indicates any concerns or raises any queries about the regulator's performance that we wish to explore in more detail) or;
 - we consider that the information we have indicates a concern about the regulator's performance in relation to one or more Standards.
- 1.10 This targeted review will allow us to assess the reasons for the change(s) or concern(s) and the expected or actual impact of the change(s) or concern(s) before we finalise our performance review report.
- 1.11 We have written a guide to our performance review process, which can be found on our website www.professionalstandards.org.uk

2. What we found – our judgement

2.1 During September 2018, we carried out an initial review of the GMC's performance from 1 September 2017 to 31 August 2018. Our review included an analysis of the following:

- Council papers, including performance reports, committee reports and consultations
- Policy and guidance documents
- Reports published by the GMC
- Statistical performance dataset
- Third party feedback
- Register check
- Information available to us through our review of final fitness to practise decisions under the Section 29 process.³

2.2 As a result of our assessment, we decided to carry out a targeted review of Standards 1, 3, 5, 6, 7 and 8 of the Standards of Good Regulation for Fitness to Practise.

2.3 We obtained further information from the GMC relating to these Standards. We also carried out an audit of some fitness to practise cases. As a result of a detailed consideration of this further information and our audit findings, we decided that the GMC had met all of the Standards for Fitness to Practise. The reasons for this are set out in the following sections of the report.

Summary of the GMC's performance

2.4 For 2017/18 we have concluded that the GMC:

- Met all of the *Standards of Good Regulation* for Guidance and Standards
- Met all of the *Standards of Good Regulation* for Education and Training
- Met all of the *Standards of Good Regulation* for Registration
- Met all of the *Standards of Good Regulation* for Fitness to Practise.

2.5 The GMC has maintained its performance against our Standards since last year. We have also seen that the GMC has taken action in response to a government-commissioned review into gross negligence manslaughter in healthcare. We discuss the review, and the GMC's response, in more detail at paragraphs 6.39 to 6.49 below.

³ Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer it to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

3. Guidance and Standards

- 3.1 The GMC has met all of the *Standards of Good Regulation* for Guidance and Standards during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 3.2 We have not seen any evidence that the GMC's standards of competence and conduct are out of date. We are satisfied that this Standard is met.

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

- 3.3 The GMC has continued this year to issue guidance for registrants about specific issues. It updated its guidance on confidentiality to reflect the General Data Protection Regulation (GDPR) when this came into effect in May 2018.

- 3.4 In December 2017, the GMC worked with the British Medical Association (BMA) and the Royal College of Physicians (RCP) to issue interim guidance for doctors about withdrawing clinically assisted nutrition and hydration (CANH) following sudden onset brain injury. This followed legal developments which meant that it was no longer necessary to refer all such cases to court for a decision. The GMC updated the interim guidance following a judgment by the Supreme Court in July 2018. In December 2018, after our review period, the GMC published updated in-depth guidance to supersede the interim guidance. We are satisfied that this Standard is met.

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

- 3.5 We noted at paragraph 3.4 above that the GMC collaborated with relevant stakeholder organisations (the BMA and the RCP) to update guidance about withdrawing CANH.
- 3.6 We noted in last year's report that the GMC had been working with a group of stakeholders to review its guidance on consent. It launched a public consultation on the draft revised guidance in late 2018.
- 3.7 In February 2018, the GMC's Council discussed and approved a new approach to consultations. As part of the new approach, the GMC will identify and engage with key stakeholders earlier in the process. The views of these key stakeholders will then inform the development of the proposals for consultation. The report to the GMC's Council also said that the GMC

intended to increase and improve its engagement with patients and the public.

- 3.8 It is important that the GMC has an appropriate process in place to ensure that relevant stakeholders, including patients and the public, have meaningful input into the development and revision of its guidance and standards. We will monitor the introduction of its new approach to consultation and engagement. For this review period, we are satisfied that this Standard is met.

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

- 3.9 The GMC publishes its guidance and standards on its website. The website was updated in April 2018. The GMC said that it took action to ensure that its redesigned website is easily accessible. It commissioned the Shaw Trust⁴ to review the website, and made changes in light of the review. The GMC uses readability software to help ensure that the content of the website is easy to understand. There is a facility for website users to contact the GMC to ask for information in other formats. We are satisfied that this Standard is met.

4. Education and Training

- 4.1 The GMC has met all of the *Standards of Good Regulation* for Education and Training during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 4.2 The GMC published in June 2018 an updated version of *Outcomes for graduates*,⁵ which sets out the knowledge and skills required by all graduates from UK medical schools. This followed a programme of engagement with key stakeholders. The revised outcomes are set out under three headings which emphasise links to the GMC's standards for registrants: professional values and behaviours; professional skills; and professional knowledge.
- 4.3 Based on the responses to its consultation about updating *Outcomes for graduates*, the GMC sought further input into a review of the list of practical

⁴ A charity specialising in employability for disabled people, which offers an accessibility service 'to support organisations to create an accessible environment for their staff and customers'.

⁵ www.gmc-uk.org/education/standards-guidance-and-curricula/standards-and-outcomes/outcomes-for-graduates.

procedures included in the previous version. The list set out 32 diagnostic, therapeutic or general procedures which medical graduates have to be able to perform safely and effectively. The GMC arranged a review group to revise the list of practical procedures in *Outcomes for graduates* and a similar list in its *Outcomes for provisionally registered doctors with a licence to practise*.⁶ It said that the aim of the review 'is to ensure that our expectations of practical skills are aligned across medical education and the first two years of doctors' training'. The revised list was published in April 2019, after our review period.

- 4.4 The GMC published supplementary guidance for medical schools about the revised *Outcomes for graduates*. This guidance specifies the guidance for GMC registrants with which graduates should be familiar. The GMC also published information about how the updated *Outcomes for graduates* map to the generic professional capabilities framework (the publication of which we noted in our last report). We are satisfied that this Standard is met.

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

- 4.5 This Standard was met last year. There is no evidence of significant changes to the way the GMC quality assures education programmes during this review period. Medical schools have until summer 2020 to ensure that their curriculum meets the new *Outcomes for graduates*. It was appropriate for the GMC to allow time for the transition.
- 4.6 Published inspection reports of medical schools show that the GMC took account of students' and trainees' views. We have seen evidence during this review period of the GMC taking action to ensure that medical education programmes take account of the views of patients and the public. We are satisfied that this Standard is met.

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

- 4.7 This Standard was met last year. We noted that the GMC has a process in place to take action in relation to concerns identified about doctors' training environments. It calls this process enhanced monitoring.
- 4.8 The GMC publishes information about enhanced monitoring on its website, including a list of training providers subject to enhanced monitoring, with details of the area(s) of concern and the measures in place.⁷ The published information shows that during this review period the GMC took action in relation to concerns identified about training programmes, including:
- imposing conditions on one training provider;

⁶ www.gmc-uk.org/-/media/documents/outcomes-for-provisionally-registered-doctors-jul15_pdf-61407158.pdf.

⁷ www.gmc-uk.org/education/reports-and-reviews/enhanced-monitoring.

- visiting trusts and obtaining information from them as part of enhanced monitoring; and
- initiating enhanced monitoring of training providers in response to concerns identified about them.

- 4.9 The GMC confirmed that it has undertaken work to review its enhanced monitoring process. This followed internal audit reports in 2016 and 2017, which made a number of recommendations, including for a strategic review of the regulatory purpose of enhanced monitoring. The GMC explained that it has developed guidance to help its stakeholders understand enhanced monitoring, and has developed formal processes for making decisions about using its regulatory powers in relation to training programmes.
- 4.10 We have seen that the GMC continues to take action through its enhanced monitoring process when it identifies concerns about training programmes. We also note that it has measures in place to review and develop the enhanced monitoring process. Accordingly, we are satisfied that this Standard is met.

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

- 4.11 The GMC continues to publish information about approved training programmes. It publishes inspection reports and annual returns from each approved medical school. It also publishes additional guidance for training providers and those wishing to seek approval for new courses. As noted above, information is available about training programmes subject to enhanced monitoring.
- 4.12 The GMC also publishes information about responses to its national training surveys.⁸ This includes data about trainers' and trainees' views of a range of aspects of training courses, which can be presented by course, region or other filters. We are satisfied that this Standard is met.

5. Registration

- 5.1 The GMC has met all of the *Standards of Good Regulation* for Registration during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.

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

- 5.2 We have seen no evidence that, during this review period, the GMC has added to its register anyone who has not met its registration requirements.
- 5.3 We note that the GMC carried out an internal audit review of UK registration applications in February 2018. This demonstrates that the GMC has

⁸ www.gmc-uk.org/education/how-we-quality-assure/national-training-surveys.

measures in place to assure the quality of its registration decisions and processes.

- 5.4 We noted in last year's report that the GMC planned to introduce a primary source verification (PSV) scheme to verify international graduates' medical qualifications. It introduced the PSV scheme in June 2018.
- 5.5 In late 2018, details were published about an individual who had been convicted of a fraud committed while working as a psychiatrist when she was not qualified to be a doctor. She had gained registration with the GMC in 1995 by forging a medical qualification from New Zealand.⁹
- 5.6 This was an extremely serious incident, and the GMC has acknowledged that it did not take adequate steps at the time to check the application. In response, it carried out checks on other registrants whose applications were dealt with under the same process, to make sure that no other similar incidents had occurred.
- 5.7 The information now available about this incident does not change our view about the GMC's current performance against this Standard. The fraudulent registration took place over 20 years ago, and the GMC's processes and relevant legislation have both changed since then.¹⁰ We agree that it is appropriate for the GMC to carry out a review to make sure that no other applications were wrongly approved under the process that was in place at the time. We will consider the outcome of this review in next year's report. We are satisfied that this Standard is met.

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

- 5.8 This Standard was met last year. In our assessment this year, we looked at performance data from the GMC and other information about its registration processes.

Application processing data

- 5.9 The GMC sends us regular statistical information about its handling of registration applications. As the following table shows, the median time taken for the GMC to process applications for registration decreased this year. This continued a trend for quicker processing times, on average, over recent years.

⁹ At that time, there was a process in place which allowed doctors from some Commonwealth countries, including New Zealand, to apply for GMC registration on the basis of their overseas qualification, without further checks on their knowledge and skills. Under the GMC's current processes, such doctors would have to demonstrate their knowledge of English and pass written and practical tests of their clinical knowledge in order to apply for registration with a licence to practise.

¹⁰ As discussed in footnote 11, and including the introduction of the PSV scheme discussed above, which provides an independent means of verifying overseas qualifications.

Median time (days) to process registration applications	2014/15	2015/16	2016/17	2017/18
UK graduates	1	1	1	1
EU/EEA graduates	33	31	31	27
Non-EU/EEA graduates	21	19	17	15

5.10 We also noted that the GMC had received more applications this year than last year: 15,216 as against 14,221. This was a 7 per cent increase in total, due in particular to an increase in the number of applications from international non-EU/EEA graduates. The fact that the GMC processed applications more quickly despite receiving more applications indicates that it is handling registration applications efficiently.

5.11 The GMC also sends us data about its handling of registration appeals. We noted that the number of registration appeals received and upheld in 2017/18 was consistent with recent years. The numbers of appeals are small,¹¹ and do not give us cause for concern about the effectiveness of the GMC's handling of registration applications.

Medical licensing assessment (MLA)

5.12 The MLA is the GMC's proposed assessment for all applicants for registration with a licence to practise. The purpose of the MLA would be to require all applicants to demonstrate that they can meet a common threshold for safe practice. In last year's report, we noted the progress the GMC was making in developing the MLA.

5.13 In December 2017, the GMC's Council agreed a set of proposals to continue with this work, following a public consultation earlier last year. The proposals made some amendments to the GMC's original plan, based on feedback from the consultation. Overall, stakeholders' responses were in favour of the MLA in principle, but they raised questions including whether the timescale originally proposed by the GMC was too ambitious.

5.14 According to the revised proposals, the GMC intends to introduce a common first-stage written test for all candidates, whether from the UK or overseas, by 2022. It also intends to strengthen its oversight of practical clinical testing at UK medical schools, in order to provide evidence that all candidates are reaching a common threshold based on the GMC's standards. We will continue to monitor the GMC's work to develop the MLA.

Registration process changes

5.15 We noted at paragraph 5.4 above that the GMC has introduced a PSV scheme. The GMC told us that before introducing the scheme it carried out an equality analysis to ensure that the scheme did not present an unfair barrier to applicants. It also conducted a pilot scheme with a local charity that

¹¹ Over the last three years, the number of registration appeals received by the GMC has remained less than a quarter of one per cent of the total number of applications received.

works with refugee doctors. Findings from the pilot influenced the development of registration processes and policies.

- 5.16 The GMC also told us about other changes it made to its registration processes during the period under review. From February 2018, the GMC has accepted the Occupational English Test as a means of demonstrating an international applicant's knowledge of English.¹² The GMC said it aimed to increase flexibility for doctors wishing to work in the UK, while maintaining the requirement for a high standard of English. It is reasonable for the GMC to accept a variety of ways of demonstrating competence in English if it is satisfied that they are appropriately robust.
- 5.17 The GMC also updated its policy about how it deals with applications from international graduates who have a break in practice or an irregular pattern of practice. It published updated guidance for applicants on its website.

Conclusion against this Standard

- 5.18 The evidence we have seen indicates that the GMC continues to process applications for registration efficiently. It has kept its registration processes under review, and continues to develop its proposals for the MLA. Accordingly, we are satisfied that this Standard is met.

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

- 5.19 Our assessment looked at the information the GMC publishes in its online register.

Register check

- 5.20 We checked a sample of entries on the GMC's online register, to make sure that information about restrictions on registrants' practice was easy to access. Our check found no errors or omissions.

Credentialing

- 5.21 In last year's report, we noted that the GMC was continuing its work to develop a model for credentialing.¹³ It planned a number of pilots, including working with the Royal College of Surgeons, which has an accreditation scheme for cosmetic surgery.
- 5.22 We have seen that the GMC has made further progress in developing its credentialing model. An update to the GMC's Council in December 2017 said that the pilot scheme was on target for completion in spring 2019. Shortly after our assessment, the GMC published a draft credentialing framework for

¹² Previously the only test accepted by the GMC was the academic version of the International English Language Testing System. Now candidates can demonstrate knowledge of English with acceptable scores in either IELTS or OET.

¹³ The GMC explains that credentials 'will provide recognition and training opportunities in particular areas of practice. These will be optional components within specialty training or substantial areas existing outside training. Like postgraduate curricula, they will describe the expected outcomes and capabilities doctors must demonstrate as they become experts in the field'.

engagement. The GMC aims to launch its credentialing framework in summer 2019, subject to final approval from its Council. Following the publication of the framework, the GMC will work with key partners to explore the development of a small number of GMC-regulated credentials. It proposes that doctors' entries on the online register will display any GMC-regulated credentials they have gained.

Publication of fitness to practise sanctions

- 5.23 In February 2018, the GMC published an updated version of its publication and disclosure policy in fitness to practise. Under the revised policy, warnings will be published for two years. Warnings issued under the previous version of the policy will continue to be published for five years.
- 5.24 The revised policy confirms that historical sanctions and warnings will continue to be disclosed indefinitely to current employers on request. It also says that the GMC will disclose information about a doctor's fitness to practise where it decides under its legal powers that it is in the public interest to do so.
- 5.25 In September 2017, the GMC changed its online register so that entries include more detail where undertakings have been agreed with a registrant.¹⁴ In these cases, the registrant's entry on the register now includes a link to a summary of the concerns which led to undertakings being agreed, and an explanation of why the GMC considered undertakings an appropriate outcome.
- 5.26 The GMC has also added a 'Recent GMC decisions' page to its website, which publishes case examiner decisions to give warnings or agree undertakings together in one place, so that they are easier for members of the public to find.

Conclusion against this Standard

- 5.27 We have seen that the GMC continues to make information available about registrants, including about any restrictions on their practice. During the current review period, the GMC has taken steps to make it easier for people to find information about registrants. We will continue to monitor the development and implementation of the GMC's credentialing model in our next review. We are satisfied that this Standard is met.

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

- 5.28 This Standard was met last year. The GMC's online register is prominently displayed on its updated website. The GMC continues to publish guidance for employers about the checks they must carry out before employing or contracting with a doctor. It also provides contact details so that employers

¹⁴ The GMC describes undertakings as 'an agreement between us and a doctor about the doctor's practice. They may place requirements or restrictions on a doctor's practice, or may be a commitment by a doctor to have supervision or retraining'.

can seek further information if necessary. We are satisfied that the Standard continues to be met.

Standard 5: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner

- 5.29 This Standard was omitted from the published version of our report last year. We confirm that the Standard was met in 2016/17.
- 5.30 During this review period, the GMC introduced a policy framework to set out its approach to investigating allegations of unregistered practice. The policy framework and associated procedure came into effect at the end of 2017.
- 5.31 The GMC has published information for the public about unregistered medical practice, including details about how to report concerns about unregistered medical practice. We are satisfied that the Standard is met.

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

- 5.32 The GMC has a system of revalidation designed to ensure that doctors remain fit to practise. Doctors with a licence to practise are required to take part in an annual appraisal, and to complete revalidation every five years. In last year's report, we noted that the GMC had published *Taking Revalidation Forward*, an independent review of revalidation. In July 2017, it published an action plan in response to *Taking Revalidation Forward*. During this review period, the GMC has been working on the action plan.
- 5.33 We have seen from the GMC's reports to its Council that it completed the programme of work arising from *Taking Revalidation Forward* in September 2018, just after the end of our review period. We have also seen that it published a revised clinical governance handbook for organisations in November 2018.
- 5.34 We note that the GMC decided to work separately on one of the projects which was originally part of the action plan. One of the recommendations from *Taking Revalidation Forward* was that the GMC should work with others to improve how patient feedback is collected and used in revalidation. The GMC planned to establish an advisory group of relevant stakeholders to help it develop proposals for changes to the revalidation requirements for patient feedback. The GMC has told us that it now plans to run a public consultation in 2019 on the proposals.
- 5.35 In May 2018, a report on the impact of revalidation (commissioned by the GMC and produced by a collaboration of health and education organisations) was published. The report found that the revalidation process has been widely implemented, and has led to an increase in doctors taking part in an annual appraisal process. The report emphasised the importance of effective appraisal in ensuring revalidation has the desired impact, and highlighted the need for improvements in how feedback from patients is used in revalidation.

The GMC told us that it has taken the findings of the report into account in its programme of work on revalidation.

- 5.36 The GMC also told us that it has been developing an approach to collecting information about recommendations to defer revalidation. It plans to implement this from March 2019, to help it understand the factors contributing to recommendations to defer, and whether particular cohorts of doctors are more likely than others to have their revalidation deferred. The revalidation impact report included a recommendation for further work in this area.
- 5.37 We note that the GMC is continuing to take action to review and develop its revalidation process. We will monitor its work in this area. We are satisfied that this Standard is met.

6. Fitness to Practise

- 6.1 As we set out in Section 2, we considered that more information was required in relation to the GMC's performance against Standards 1, 3, 5, 6, 7 and 8, so we carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review we concluded that all these Standards were met and therefore the GMC has met all of the *Standards of Good Regulation* for Fitness to Practise in 2017/18.

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

- 6.2 We decided to carry out a targeted review of this Standard. We had looked at the GMC's performance against this Standard last year in relation to provisional enquiries.
- 6.3 When the GMC receives an allegation that a doctor's fitness to practise is impaired, it must carry out an investigation. The GMC's fitness to practise process allows it to carry out enquiries to help it decide whether information it has received amounts to an allegation of impaired fitness to practise; if not, the case can be closed without an investigation. The GMC describes these enquiries at the initial, triage stage of the process as provisional enquiries.
- 6.4 In our last review we considered the available information about the provisional enquiry process. We noted that the use of provisional enquiries meant that the GMC investigated fewer cases, because many cases which would otherwise have been subject to a full investigation were closed following provisional enquiries. We recognised that this might be appropriate, as long as the GMC had measures in place to ensure that it obtained enough information through provisional enquiries to make reasonable decisions about whether cases required investigation. The Standard was met last year because we were satisfied that the GMC had relevant processes in place.

- 6.5 This year, we sought further information from the GMC and carried out an audit, so that we could understand how the provisional enquiry process is working in practice.

Provisional enquiry performance and processes

- 6.6 We asked the GMC for more information about its use of provisional enquiries since our last report. The data the GMC provided showed that the number of cases dealt with as provisional enquiries remained consistent with the previous year: 596 provisional enquiries were opened in 2017, as against 616 in 2016. Similarly, the outcomes of provisional enquiries remained broadly consistent with previous years. According to the GMC's published data, 28 per cent of provisional enquiries between 2014-2016 resulted in a full investigation; in 2017, the proportion was 32 per cent.
- 6.7 The GMC explained that it has carried out internal quality assurance audits, including decisions at triage and provisional enquiries, during this review period. The results of these audits (in December 2017 and May 2018)¹⁵ found high levels of compliance with the relevant processes, and that all the decisions audited were appropriate.
- 6.8 The GMC also said that it has continued to review and develop the provisional enquiry process. This included producing new guidance for staff and introducing new ways to monitor the progression and outcome of provisional enquiries. The GMC has been running a pilot scheme to broaden the use of provisional enquiries to cases about a single clinical incident (SCI). The SCI pilot allows the GMC to take into account evidence of a doctor's remediation as part of the provisional enquiry.
- 6.9 The GMC's Executive Board considered a report about the SCI pilot scheme in November 2017. The report made recommendations to develop the pilot, and the GMC told us that it has continued to work on the pilot since then. The GMC told us that it was considering the scope for further pilot schemes in relation to provisional enquiries, though it would be reluctant to launch another pilot scheme in the same area until the SCI pilot is complete, to minimise the associated risk.

Our audit findings

- 6.10 We carried out an audit of closed fitness to practise cases. We reviewed 40 cases which were dealt with as provisional enquiries, and a further 24 cases which were closed at triage without a provisional enquiry. Therefore we reviewed 64 triage decisions in total.
- 6.11 We did not have concerns about the decision to carry out a provisional enquiry in any of the cases we reviewed. In the provisional enquiry cases we reviewed:
- the rationale for carrying out a provisional enquiry was consistent with the relevant GMC guidance

¹⁵ There was a further audit in October 2018, after the end of our review period.

- the further information sought by the GMC was consistent with the reasons given for carrying out a provisional enquiry
- the GMC obtained enough information through the provisional enquiry to make a reasonable decision
- the GMC applied the appropriate test in making decisions about the outcome of provisional enquiries: that is, whether the information received amounted to an allegation of impaired fitness to practise.

6.12 Overall, we considered that the outcomes of provisional enquiries were reasonable and appropriate. Of the 40 provisional enquiry cases reviewed, we had significant concern about the outcome of only one. We are satisfied that this was an isolated, case-specific issue which does not give us concerns about the provisional enquiry process.

6.13 Similarly, most of the triage cases we reviewed were handled appropriately. We had concerns about the GMC's decision to close four of the triage cases we reviewed, because we considered that it had not obtained enough information to make a reasonable decision. We did not think it was possible to say from the evidence available whether the outcome of these cases was appropriate. We shared our findings with the GMC. The GMC engaged with our findings: it said it would take further action to review cases where appropriate, and it gave us further information about action it had already taken in relation to other cases.

6.14 The concerns we identified about triage decisions are relevant to this Standard, though they do not relate to provisional enquiries. It is important that regulators' triage processes do not make it difficult for people to raise concerns about registrants' fitness to practise.

6.15 We are satisfied that the issues we found on our audit do not suggest that the GMC's triage processes amount to a barrier to people raising concerns. We had concerns about only a small proportion (four out of 64) of the triage decisions we reviewed; between these cases, which all came from different types of referrer, there were no significant common factors in our findings which might indicate a wider problem. Overall, there was nothing to suggest that the GMC's processes contributed to the concerns we found.

Conclusion against this Standard

6.16 The information we received from the GMC did not give us any cause for concern about how it is using provisional enquiries. We are satisfied that the GMC has measures in place to monitor and develop this process, including measures to assure the quality of decisions.

6.17 The evidence we gathered in our audit did not indicate that the GMC's use of provisional enquiries makes it harder for people to raise concerns about the fitness to practise of GMC registrants. Therefore we are satisfied that this Standard is met.

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

- 6.18 We have seen evidence that the GMC has continued to share information with other regulators during the period under review. We also understand that in January 2018 it produced new guidance for staff to help identify information that should be shared with social services or the police.
- 6.19 In July 2018, the GMC and eight other organisations, including other professional and system regulators, published a joint protocol setting out how they share information about emerging concerns in England.¹⁶ We are satisfied that this Standard is met.

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

- 6.20 We carried out a targeted review of this Standard. We considered that the GMC's provisional enquiry process, discussed in relation to Standard 1 for Fitness to Practise, was relevant to this Standard as well. This is because cases dealt with as provisional enquiries would otherwise have been subject to a full investigation and referred to the GMC's case examiners to decide whether there was a case to answer.

Data about case to answer decisions

- 6.21 We reported last year that the introduction of provisional enquiries had led to reductions in the number of decisions made by the GMC's case examiners and the proportion of those cases where the case examiners found no case to answer. Both those outcomes are expected consequences of the provisional enquiries process, which aims to identify at an early stage those cases which do not require a full investigation.
- 6.22 The data we obtained from the GMC showed that the trends we reported on last year have continued. There was a further reduction in the number of decisions by the case examiners or investigating committee,¹⁷ from 2,265 in 2016/17 to 1,855 in 2017/18. But while the number of cases considered by the case examiners reduced, the number of cases referred for a hearing did not. Hence the proportion of cases where the case examiners found no case to answer continued to decline.
- 6.23 The GMC confirmed that the number of cases referred for a final hearing in 2016/17 was 284; in 2017/18, it was 371. The GMC explained that, in addition to a degree of natural variation in case outcomes, there were some identifiable factors which had contributed to this increase.

¹⁶ www.cqc.org.uk/sites/default/files/20181112_emerging-concerns-protocol.pdf.

¹⁷ Case to answer decisions are routinely made by the case examiners; in some circumstances, such as where the case examiners are unable to agree on the appropriate outcome, a case will be referred to the investigating committee to decide whether there is a case to answer.

- Since 2016/17 the GMC had acquired the power to refer a registrant for a hearing if they materially impaired the GMC's ability to investigate a concern by failing to comply with a request for investigation or a direction to undergo an assessment
- A large number of cases about a single registrant were referred for a hearing in the first quarter of 2017/18
- The GMC changed its guidance for case examiners in September 2017, reducing their discretion about whether to refer cases about violence or dishonesty for a hearing. It said that this had led to an increase in referrals.

6.24 The GMC told us that it did not expect the increase in referrals for hearings to lead to a backlog at the later stages of the process. It has measures in place to monitor the progress of cases which have been referred for a hearing.

Our audit findings

6.25 As explained at paragraphs 6.11 and 6.12 above, we did not have significant concerns about the outcomes of provisional enquiries. We were satisfied from our audit that the GMC was applying the appropriate test in making decisions about provisional enquiries. We saw no evidence that the provisional enquiry process was leading to cases being closed without an investigation when they should have proceeded to a decision by the case examiners.

6.26 Although the focus of our audit was on the provisional enquiry process, we reviewed a number of cases which had proceeded to a full investigation following a provisional enquiry. We did not identify significant concerns about the case examiners' decisions in these cases.

Conclusion against this Standard

6.27 The available data about case to answer decisions remains consistent with what we would expect in light of the GMC's use of provisional enquiries. We are satisfied that the GMC is monitoring its caseload at the case to answer stage and beyond. Our audit findings did not give us cause for concern. In particular, we saw no evidence that provisional enquiries were impinging on the case examiners' role to make decisions about whether there is a case to answer. We are satisfied that this Standard is met.

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

6.28 The GMC met this Standard last year, despite an increase in the time it took to make decisions about interim orders. As the following table shows, the GMC's performance against this measure improved this year.

Median time (weeks) to make interim order decisions:	2014/15	2015/16	2016/17	2017/18
From receipt of complaint ¹⁸	9.9	7.6	10	8.4
From receipt of information indicating the need for an interim order	2.7	2.3	2.3	2.3

6.29 We also noted that the number of applications to the High Court to extend interim orders had reduced again, continuing the positive trend we noted last year. Furthermore, there were no cases in 2017/18 where the court declined to grant an extension to an interim order.

Applications to extend interim orders	2014/15	2015/16	2016/17	2017/18
Applications made	415	356	287	225
Applications refused	4	2	2	0

6.30 We were satisfied from the available information that this Standard remains met. However, we sought some further information from the GMC following our audit, because we wanted to understand its approach to risk assessment in more detail.

6.31 The GMC told us that risk assessment is designed into its fitness to practise processes. It said that it takes risk into account in every decision, and that every new piece of information triggers a risk assessment and consideration of whether action is necessary in response. This might be to prioritise the case, seek advice from a senior colleague or consider a formal referral for an interim order decision. The GMC explained that much of this activity takes place outside its case management system.

6.32 The GMC has a National Investigation Team (NIT), a separate ‘case stream’ for those cases it identifies as the most serious or high profile. Cases can be directed to the NIT at any point. There is also a facility to flag cases for ongoing monitoring by the GMC’s Legal Team.

6.33 Our audit focused on provisional enquiries, which are intended to help the GMC decide whether information received amounts to an allegation of impaired fitness to practise. Hence they are not intended for use in cases the GMC identifies on receipt as likely to be particularly serious: in those cases, it will usually be immediately apparent that the information received is an allegation of impaired fitness to practise. Therefore it was not surprising that we did not see much evidence of the impact of the GMC’s case streaming in the cases we reviewed. We did, however, see evidence of regular management oversight of individual cases, and some other means by which the GMC manages risks associated with cases, such as its SCI group, which provides oversight and advice about the handling of SCI cases (see paragraph 6.8 above).

¹⁸ In discussing the GMC’s performance against this measure in last year’s report, we referred to this measure in days rather than weeks. That was an error.

- 6.34 We saw no cases in our audit where we considered that the GMC should have considered an interim order but failed to do so. We saw cases where the GMC considered appropriately whether to seek an interim order. Overall, the evidence we saw in the cases we reviewed indicated that the GMC was referring serious cases for interim orders where appropriate.
- 6.35 Risk assessment is not only about deciding whether an interim order is necessary. Even where an interim order may not be necessary, it is important to assess the risks associated with a case so that any other necessary actions can be taken in a timely manner. We consider that risk assessments should be documented, to promote a consistent approach and to provide assurance that the relevant issues have been considered.
- 6.36 The GMC has explained why the material we reviewed in the course of our audit did not include separately-documented risk assessments within the case management system. The GMC considers that each decision made about how to progress a case is, in effect, a risk assessment, because the relevant risk factors will inform the decision and, as noted above, it has a range of approaches based on the risk identified. In addition, some risk assessment activity will have been documented outside of the case management system to which we had access for our audit.
- 6.37 We recognise that regulators will use different processes to assess risk. What is crucial is that a robust process exists for the regulator to determine how it ensures that serious cases are prioritised and, where appropriate, referred for consideration of an interim order, to ensure that the public is protected. We have noted the evidence from our audit and the further information the GMC provided. We are satisfied that this Standard is met.

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

- 6.38 We carried out a targeted review of this Standard. We wanted to understand how the GMC ensured that its fitness to practise process is fair and proportionate, particularly in light of an independent review which took place during the review period.

The Williams Review

- 6.39 The Government commissioned a review, led by Professor Sir Norman Williams, to look at a number of issues in relation to gross negligence manslaughter and professional regulation. This followed a high-profile case where a doctor was suspended by the Medical Practitioners Tribunal Service (MPTS)¹⁹ after being convicted of gross negligence manslaughter. The GMC appealed against the decision not to erase the doctor from the register;²⁰ its appeal was successful, and the doctor was erased. However, the doctor

¹⁹ The MPTS runs fitness to practise hearings about doctors. It is operationally independent from the GMC, though it is a statutory committee of the GMC and accountable to the GMC's Council and Parliament.

²⁰ The GMC is the only one of the regulators the Authority oversees to have its own power of appeal against final fitness to practise decisions. As footnote 4 above explains, we have legal powers to appeal against final fitness to practise decisions if we consider they are insufficient to protect the public.

successfully appealed against this decision, and the suspension was reinstated.

- 6.40 The report of the Williams Review was published in June 2018.²¹ One of its recommendations was that the GMC should no longer have its own power of appeal against decisions of the MPTS. The Williams Review did not criticise the GMC's use of its power of appeal, but noted that 'the decision to give the GMC an appeal right has had significant unwelcome and unintended consequences', which included undermining doctors' trust in the GMC.
- 6.41 The Williams Review recommended that, while waiting for the law to be changed to remove its power of appeal, the GMC should review its process for deciding whether to appeal, 'so that it is transparent and understood by all parties and involves a group or panel decision, as opposed to lying solely with the Registrar'.

The GMC's review of its power of appeal

- 6.42 We sought further information from the GMC about what it had done to review its process for deciding whether to appeal. The GMC confirmed that it took legal advice, which confirmed that while it still had the power to appeal MPTS decisions it was obliged to consider using that power in pursuit of its statutory duty to protect the public. Therefore the GMC could not simply decide not to appeal any more cases in the period until the law is changed to remove its power of appeal.
- 6.43 The GMC has reviewed and changed its process for deciding whether to appeal. It has introduced a decision-making panel, as recommended by the Williams Review. The panel consists of the Registrar and two other members of the GMC's Executive Board. We understand that the panel's decisions will be published. This is consistent with the Authority's approach, and we agree that it is appropriate, to promote the transparency of decision-making.
- 6.44 In April 2019, after our review period, the GMC published updated guidance about the process.²² The guidance sets out how the GMC reviews cases to identify which ones require consideration by the panel to decide whether to appeal. The process includes obtaining external legal advice. The guidance also explains the matters to which the GMC's panel will have regard in deciding whether to appeal.
- 6.45 As discussed at paragraph 6.92 below, we continue to have liaison arrangements in place with the GMC so that we each share information appropriately about decisions to exercise our respective rights of appeal.

Other relevant matters

- 6.46 As well as its recommendation about the GMC's power of appeal, the Williams Review made several other recommendations which were relevant

²¹ Available at: www.gov.uk/government/publications/williams-review-into-gross-negligence-manslaughter-in-healthcare.

²² Available at: www.gmc-uk.org/-/media/documents/dc8221-guidance-for-decision-makers---s40a-appeals_pdf-64121775.pdf.

to the GMC. The GMC has been working with other organisations to address these matters.

- 6.47 The Williams Review recommended that the Royal Colleges and professional regulators should review guidance on how healthcare practitioners carry out reflection, and amend this guidance if necessary. The GMC worked with the Academy of Medical Royal Colleges, the Conference of Postgraduate Medical Deans and the Medical Schools Council to produce guidance for doctors and medical students on reflective practice.²³
- 6.48 The Williams Review recommended that professional regulators should ensure fitness to practise panellists have received appropriate equality and diversity training. The GMC's *Equality, diversity and inclusion strategy 2018-20*,²⁴ which it published in April 2018, confirms that it has provided training for staff and MPTS panellists on making fair decisions.
- 6.49 The GMC is also carrying out a wider programme of work to promote fairness in its fitness to practise processes. This includes analysing data in relation to the representation of certain groups within the fitness to practise process and the factors that influence progression through the process. The GMC told us that it is working to align its internal audit capability with its work on fairness, and that it is commissioning an independent external audit on the fairness of its fitness to practise process.
- 6.50 In April 2018, the GMC launched a research project, run by two external academics, to understand the reasons for the pattern of complaints it receives from employers and healthcare providers. The GMC is aware that doctors with some characteristics, including those who obtained their primary medical qualification outside the UK and those from black and minority ethnic backgrounds, are statistically overrepresented at all stages of its fitness to practise process. Previous research carried out in 2014 found no evidence of bias in the GMC's processes.²⁵ The research project launched in April 2018 is intended to help the GMC understand the causes for the pattern of complaints it receives from employers and healthcare providers. The GMC wants to understand what constitutes good practice in decision-making about making referrals to the GMC, and 'to work more closely with clinical leaders to properly develop supportive, open and fair workplaces'.

Conclusion against this Standard

- 6.51 We note that the GMC has now reviewed its process for deciding whether to appeal against decisions of the MPTS, as recommended by the Williams Review. It has introduced a decision-making panel, and has published guidance about the new process. We understand that panel decisions will be published. We consider that the action the GMC has taken is consistent with the objective of improving the transparency of its appeal process while the relevant changes in the law are awaited.

²³ Available at: www.gmc-uk.org/-/media/education/downloads/guidance/the-reflective-practioner-guidance.pdf.

²⁴ Available at: www.gmc-uk.org/-/media/documents/edi-strategy-2018-20_pdf-74456445.pdf.

²⁵ Available at: www.gmc-uk.org/-/media/about/review-of-gmc-decision-making-in-fitness-to-practise-procedures.pdf?la=en&hash=C8B5E48CACB63B0D772B445C8FE33564798D880A.

6.52 We note that the GMC continues with a wide-ranging programme of work to understand the diversity of its registrants and to address the other recommendations of the Williams Review. We are satisfied that this Standard is met.

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

6.53 We carried out a targeted review of this Standard. We wanted more information about the GMC’s performance in relation to timeliness in fitness to practise cases.

The dataset

6.54 The GMC provides regular statistical information about its handling of fitness to practise cases, including about how long they take. The information we receive includes the median time taken to reach key decision points:

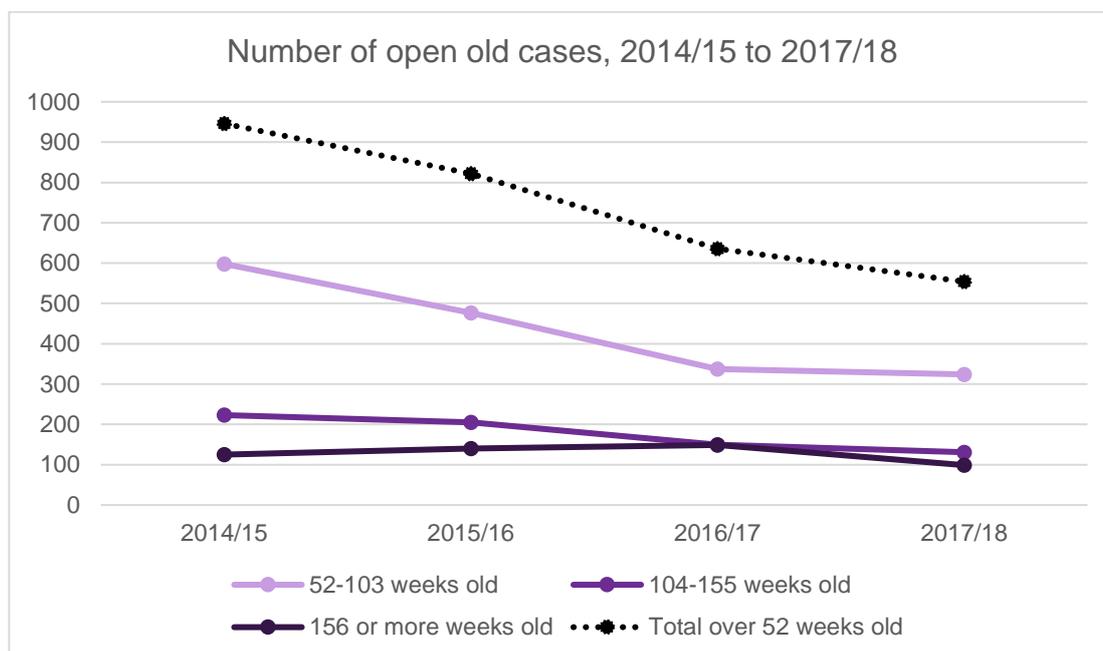
- from the receipt of a complaint to the decision by the case examiners (or investigating committee);²⁶
- from the case examiners’ decision to the final hearing decision;
- and from the end-to-end time from receipt to the final hearing decision.

6.55 Last year, we had some concern about the GMC’s performance against the timeliness measures in the dataset, which appeared to be deteriorating. However, we accepted the GMC’s explanations about this and decided the Standard was met. As the following table shows, the GMC’s performance against all three annual medians improved in 2017/18:

Median time (weeks) from:	2014/15	2015/16	2016/17	2017/18
Receipt to final IC/CE decision	35	36	37	29
IC/CE to final hearing	30	29	36	27
Receipt to final hearing	93	100	107	104

6.56 The improvement in the dataset medians this year is consistent with what the GMC told us last year it expected to happen. The GMC has also continued to reduce the number of open old cases, as shown in the following graph:

²⁶ See footnote 19 above.



6.57 We noted that the number of cases more than three years old reduced significantly since last year, from 149 to 99. The GMC explained that a large number of old cases relating to a single registrant were closed when that registrant was erased from the register in 2017. Overall, the GMC has reduced the total number of open cases more than a year old by over 40 per cent since the end of 2014/15.

6.58 The GMC's performance as measured by the dataset this year shows a significant improvement in relation to the key measures of timeliness.

The GMC's investigation process

6.59 Last year, the GMC told us that a range of factors can affect how long it takes to progress fitness to practise cases. Cases handled by the NIT (see paragraph 6.32 above) have different targets, because more work is done prior to the case examiner decision in these cases to prepare for a final hearing. The GMC said that this meant that the mix of cases handled by the NIT or the Regional Investigation Team (RIT) would affect the overall performance at different stages of the process.

6.60 As part of our targeted review this year, we obtained further information from the GMC. This showed that on average it took longer to reach a case examiner decision in NIT cases than RIT cases. The time from the case examiner decision to the final hearing was slightly shorter for NIT cases than for RIT cases. This was consistent with the GMC's explanation about the different processes in place. We have not drawn any conclusions about the impact of the NIT and RIT processes on the timeliness of the GMC's casework. We are satisfied from the information we have received that the GMC has processes in place to promote the timely resolution of fitness to practise cases.

6.61 The GMC told us that it monitors its fitness to practise caseload to ensure that cases are dealt with in a timely way. Any cases where the investigation

has not been completed within nine months will be escalated so that a timescale for completion can be identified, supported by further regular monitoring.

- 6.62 The GMC also keeps its processes under review. This year, it created a dedicated team which deals with the majority of cases relating solely to health matters. It also introduced changes to how it uses its powers to obtain information for the purposes of its investigations. It said that these changes helped it to progress cases more effectively.

Provisional enquiries and timeliness

- 6.63 We obtained further information from the GMC about how long it took to complete provisional enquiries. The median time from receipt of a complaint to the completion of a provisional enquiry in 2017/18 was around 14 weeks. This is about half as long as the median time from receipt of a complaint to the completion of an investigation.
- 6.64 As explained above, provisional enquiries are a way for the GMC to establish whether it needs to investigate a case. The cases which are subject to provisional enquiries would otherwise have been investigated. Where a case is closed following the provisional enquiry, the time saving is significant.
- 6.65 Where a case is passed for investigation following a provisional enquiry, there is an impact on how long it takes to reach a decision. The GMC said it is difficult to quantify this impact, as some of the information obtained in the provisional enquiry would otherwise have had to be obtained in the investigation. However, it said that it has taken action to ensure that cases passed for investigation following a provisional enquiry are dealt with as quickly as possible. The GMC said that these measures had resulted in an increase this year in the proportion of provisional enquiry cases completed within its target timeframe. It also noted that in most cases the provisional enquiry process provides a quicker resolution, because the majority of provisional enquiries do not result in an investigation.
- 6.66 When we looked at provisional enquiries in our audit, we considered whether they were dealt with in a timely way. We found some instances of apparently avoidable delays in the cases we audited, but most of these were relatively short, and we saw nothing to indicate that the provisional enquiry process itself was causing delays.

Conclusion against this Standard

- 6.67 The GMC's performance as measured by the dataset has improved since last year. The other information it has provided demonstrates that it has measures in place to promote the timely resolution of fitness to practise cases. We note that the provisional enquiry process appears to be contributing to this. We are satisfied that this Standard is met.

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

6.68 We carried out a targeted review of this Standard. We wanted to know more about the GMC's progress on the work it told us about last year to improve the support available for witnesses.

6.69 We also received some concerns from members of the public about how the GMC communicated with them. Some of the correspondence we saw gave us concerns that the GMC did not always express itself in a way which addressed clearly the concerns of the patient, and sometimes used arguments which could appear circular. We noted that these were cases where there had been significant previous correspondence. We therefore looked carefully in our audit at how the GMC communicated with people about fitness to practise cases at the stages that we examined.

Witness support

6.70 Last year, the GMC told us that it was working on a project to enhance the experience of witnesses in fitness to practise cases. As part of our review this year, we asked the GMC about its progress on this work.

6.71 The GMC said that it had completed the first phase of its witness experience review. The review included a survey to get input from witnesses. The work the GMC delivered as part of the review included:

- reviewing all its processes and procedures relating to witnesses, and making changes to promote consistency and good customer service
- introducing a clearer escalation process where the GMC cannot contact or engage with a witness
- introducing named points of contact for witnesses
- introducing a new witness needs assessment, to help the GMC identify and accommodate witnesses' preferences about how it communicates with them
- engaging with the MPTS about witnesses' experience of hearings, and developing a new witness waiting room.

6.72 The GMC told us that it has been working on phase two of the witness experience review. As well as reviewing the work from phase one, this will involve reviewing the information it publishes for witnesses and implementing an online survey for all witnesses to complete. The GMC has been working with the NMC to develop a joint approach of providing a single consistent witness support service for all GMC and NMC complainants and witnesses.

6.73 It is appropriate for the GMC to keep its witness support arrangements under review. We welcome the joint initiative between the GMC and NMC to review their witness support service.

Our audit findings

- 6.74 We looked at the standard of customer service in all the cases we reviewed on our audit. We noted that correspondence with complainants and others was generally prompt and courteous. Patients were routinely signposted to the GMC's Patient Liaison Service for support, and we saw numerous instances where patients had taken up this offer. We also saw that registrants were informed of the available support mechanisms. We saw examples of accurate, helpful explanations, and, for the most part, where template documents were used these were of a reasonable standard and were adapted appropriately.
- 6.75 In the cases we reviewed, we identified some instances of inconsistencies and/or poor communication about the scope of the provisional enquiry or investigation. These issues were not serious enough to give rise to concerns about the GMC's customer service at this stage. Moreover, the GMC told us that it had already changed its process to address this matter. In the cases we reviewed the GMC decided on a case-by-case basis which elements of the referral should be included in the provisional enquiry. Under the new process, when the GMC carries out a provisional enquiry it routinely looks at all the matters raised in the referral. Therefore, the scope of the provisional enquiry should reflect the referral, and there should no longer be a risk of poor communication about which matters are being considered in the provisional enquiry.
- 6.76 Overall, we did not have significant concerns about the standard of customer service in the cases we reviewed. We will, however, continue to monitor the concerns that we receive so that we can keep the GMC's correspondence in all cases under review.

Other relevant matters

- 6.77 The GMC continues to commission a regular external review of its corporate complaints function. In November 2017, its Council received a report from the external consultants. The findings of the report were very positive.
- 6.78 We received positive feedback from stakeholder organisations about the action the GMC has taken to support registrants who are subject to fitness to practise cases.

Conclusion against this Standard

- 6.79 We note that the GMC has completed the work it told us last year it would undertake in relation to support for witnesses. It continues to work to identify other ways to improve the support available, including by working jointly with the NMC. We welcome this joint initiative, and we will continue to monitor the outcomes of this work in our next review.
- 6.80 Our audit findings did not give us significant concerns about how the GMC communicates with people about fitness to practise cases and we did not consider that the other concerns that were raised with us were sufficiently indicative of a problem to call into question the GMC's performance against this Standard this year. We are satisfied that this Standard is met.

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

6.81 We carried out a targeted review of this Standard. We considered that the GMC's review of its power of appeal was relevant to this Standard. We also had the opportunity through our audit to look at the GMC's decision-making at the initial stages of the fitness to practise process.

GMC appeals

6.82 As noted above, the GMC has reviewed its power of appeal, as recommended by the Williams Review. It has introduced a panel process and published guidance about how decisions will be made. We have not yet seen the impact of these changes, though we consider that they are consistent with the objective of improving the transparency of the process.

6.83 We continue to review all final MPTS decisions so that we can consider whether to exercise our power of appeal.²⁷ We also receive notification from the GMC when it is considering using its power of appeal. Our policy continues to be that it will only join in GMC appeals where it feels that it can make an important contribution to the process or where matters of law relevant to the Authority's own jurisdiction are raised.

6.84 In the year covered by our assessment,²⁸ we did not lodge any appeals against MPTS decisions. We joined as a party to two appeals lodged by the GMC. Of these, one was upheld and the other was settled by consent. Both appeals resulted in more serious sanctions being imposed to protect the public.

6.85 We wrote to the GMC and the MPTS to share learning points identified from the cases we reviewed. The GMC and the MPTS engaged with points we raised with them. We have also seen that the GMC has kept its guidance for decision-makers under review. It made minor updates to its sanctions guidance in February 2018, and issued updated guidance for case examiners and the investigating committee in August 2018.

6.86 The GMC told us that it has processes in place to assure the quality of fitness to practise decisions. Its regular audit schedule includes decisions at triage, provisional enquiry and case examiners; in the period of this review, it has also audited case examiner decisions about whether to grant voluntary erasure to registrants with live fitness to practise concerns. The GMC told us that the outcomes of its audits showed high standards of decision-making and compliance with procedures.

Our audit findings

6.87 As explained at paragraphs 6.10 to 6.15 and 6.25 to 6.26 above, we did not have significant concerns about the GMC's decision-making based on our audit. We did not identify any cases where we determined that the outcome

²⁷ See footnote 4 above.

²⁸ Our assessment looked at data for the year from July 2017 to June 2018, that is, the 12 months immediately following on from the data we took into account last year.

was not sufficient to protect the public. Although we identified shortcomings in a small number of cases, we did not think that these indicated wider issues. We found that the way the GMC carried out provisional enquiries was consistent with its guidance, and that it applied the appropriate test in making decisions about provisional enquiries.

- 6.88 Our audit focused on provisional enquiries. It was not the objective of our audit to come to an overall view about the GMC's triage or case examiner decisions. We reviewed 24 cases closed at triage without a provisional enquiry, and 13 cases which proceeded to a decision by the case examiners following a provisional enquiry. These samples were relatively small, especially in comparison with the overall numbers of cases dealt with by the GMC during this period.
- 6.89 As explained above, the concerns we had about four triage cases did not, in our view, indicate a wider problem with the GMC's decision-making at this stage of the process. We did not identify significant concerns about case examiner decisions in the cases we reviewed. We saw evidence of measures to assure the quality of decision-making at the early stages of the fitness to practise process.

Conclusion against this Standard

- 6.90 We have seen that the GMC has reviewed its process for deciding whether to appeal against MPTS decisions, as recommended by the Williams Review. It has kept its processes and guidance under review, including responding to learning points we have raised through our Section 29 work.
- 6.91 Our audit did not identify significant concerns about decision-making at the early stages of the fitness to practise process, and we saw evidence of measures to promote quality and consistency in decision-making. We are satisfied that this Standard is met.

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

- 6.92 This Standard was met last year. In our 2017/18 annual report,²⁹ we explained that in June 2017 we had agreed with the GMC a protocol for the timely exchange of information in relation to the GMC's consideration of whether to exercise its right of appeal. We have not experienced any problems during this review period in using this protocol.
- 6.93 As we explained at paragraphs 5.25 and 5.26 above, the GMC has made changes to its website to make it easier to find information about case examiner decisions to issue warnings or agree undertakings with a registrant. Overall, we are satisfied that this Standard is met.

²⁹ www.professionalstandards.org.uk/docs/default-source/publications/annual-reports/professional-standards-authority-annual-report-accounts-2017-18.pdf?sfvrsn=10257220_8.

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

- 6.94 This Standard was met last year. The GMC has not reported any breaches to the Information Commissioner's Office during this review period. It continues to hold the relevant ISO certification.³⁰
- 6.95 We have also seen that the GMC took action in response to the introduction of the General Data Protection Regulation (GDPR). It updated its guidance for registrants, made changes to how it requests personal information to comply with GDPR, and communicated with key stakeholders about these changes. We are satisfied that this Standard is met.

³⁰ ISO 27001 is an internationally-recognised information security certification.

Professional Standards Authority for Health and Social Care

157-197 Buckingham Palace Road
London SW1W 9SP

Telephone: **020 7389 8030**

Fax: **020 7389 8040**

Email: info@professionalstandards.org.uk

Web: www.professionalstandards.org.uk

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