

# Review of professional regulation and registration and Annual Report and Accounts 2015/2016



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

### **Review of professional regulation and registration and Annual Report and Accounts 2015/2016**

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# Contents

1. Foreword .....	1
2. Review of regulation and registration of health and care occupations .....	3
3. Performance report .....	35
4. Accountability report.....	52
5. Remuneration and staff report .....	64
6. Parliamentary accountability and audit report .....	72
7. Financial statements – financial position as at 31 March 2016 .....	78
8. Financial statements – comprehensive net expenditure for the year ended 31 March 2016 .....	79
9. Financial statements – cash flows for the period ended 31 March 2016.....	80
10. Financial statements – changes in taxpayer's equity for the year ended 31 March 2016 .....	81
11. Notes to the accounts .....	82

# 1. Foreword



I am very pleased to have been appointed as Chair of the Professional Standards Authority at an exciting time for the regulation of health and social care.

This last year has seen our transition to the self-funding and more independent public body established by the 2012 Health and Social Care Act and the Department of Health is planning to consult on significant reforms to health and social care professional regulation.

Since August 2015 we have been funded primarily by a fee paid by the regulators we oversee. This fee covers the cost of our statutory functions as set out in regulations. Because of the transitional arrangements we had to consult the regulators twice in the last financial year and we are grateful to them for their constructive engagement with the new arrangements.

In parallel the accredited registers programme is funded by fees paid by the holders of registers for their accreditation and annual renewal. We had recognised 19 registers by the financial year end. All obtaining accreditation have improved their performance and applied for renewal.

Other income comes from commissions from the UK governments or from regulators or governments in other countries. In

2015/2016 we had two international commissions; one from the Ontario Ministry of Health and Long-term Care and one from the College of Registered Nurses of British Columbia.

During the year we concluded a major review and consultation on how we assess and report on the performance of the regulators. We wanted to create a more proportionate but rigorous process so we could focus our attention on areas of change or concern and have more comparable data on regulatory performance.

During the year we reviewed nearly 4,000 decisions by fitness to practise committees. We appealed 14 cases to the High Court. Our appeals were settled by consent or upheld in all those cases but one. That case is subject to a further appeal by us.

Our commitment to improving regulation and building a research base has continued with a successful research conference with the Collaborating Centre for Values-Based Practice at St Catherine's College, Oxford. We published an important and widely read paper *Rethinking Regulation* and revised *Right-touch Regulation* in light of its practical applications over the last five years.

I cannot conclude without paying tribute to my predecessor as chair, Baroness Pitkeathley. Her outstanding leadership and many skills have made a huge contribution to the Authority's work over the last seven years. The delivery of the substantial programme of work recorded in this report is a tribute to our hard-working and talented staff but also to effective oversight by the Board. We are fortunate in the quality and commitment of our non-executives. I am confident that the Authority is well led by the directors and Board as we go through further challenging times.

A handwritten signature in black ink, appearing to read 'George R Jenkins', written over a light blue horizontal line.

**George R Jenkins OBE**  
Chair

# Review of regulation and registration

## 2. Review of regulation and registration of health and care occupations

- 2.1 This report describes our view of the regulation and registration of people working in health and care in the UK in 2015/16. Our observations draw on evidence from review, assessment, policy and research activities. We have also taken note of the views of people who have contacted us about the regulators and accredited registers or responded to consultations and have drawn on published sources.
- 2.2 This is the first *Review of professional regulation and registration* in this new format. It gives us the opportunity in one report, to draw out general themes arising from our oversight of the nine professional regulators and, for the first time, reflect on the performance of the accredited registers programme and the way that the registers are meeting the standards for accreditation.
- 2.3 The UK, like many countries is operating within a professional regulatory model conceived in the nineteenth century and implemented in the twentieth. This regulatory framework is struggling with the demands of contemporary healthcare.
- 2.4 The extent to which professional regulation is written into primary legislation across a large number of Acts makes reform costly and slow when it needs to be agile and to keep pace with the extensive changes taking place in health and social care. In the UK two attempts at regulatory reform have foundered in the last five years and a third is in progress. This year has seen a number of incremental changes to legislation which we think problematic and reflect the difficulties with making piecemeal changes.
- 2.5 The vast majority of healthcare professionals have internalised standards of conduct and hard won standards of competence. There are in the region of 1.5 million regulated people employed in the UK health service. Only about 4,000 a year ever reach a fitness to practise proceeding so our focus is on the small minority, who, through their moral failings and behaviours cause or are complicit with, harm or wrong-doing. Many of the regulators are now turning their attention upstream, looking for ways to prevent or reduce opportunities for harm rather than only intervening when harm has been done.

### Reviewing the regulators 2016

#### *Changes to the performance review: intentions and the new process*

- 2.6 Our main focus continues to be on protecting the public and promoting their health and wellbeing. One of the ways we ensure this is by reviewing the performance of the nine regulators every year. In May 2015, we consulted on how we conduct these performance reviews. We last reviewed our Standards of Good Regulation (and the process by which we assess regulators' performance against them) in 2010. We and the regulators considered that the process was becoming stale and that a more targeted and right-touch approach would provide greater insight and opportunities for learning. As a result we have developed a new process which we describe in more detail below.

2.7 For many years the regulators and the Authority have been in discussion about an agreed dataset which would allow more direct comparisons between regulators and would assist them in bench-marking their performance against each other. Considerable work has gone into agreeing the new, quite extensive dataset. Our intention is only to ask for data that the regulators require for their own performance monitoring. However, we recognise that some regulators are having to change their internal processes to meet the new requirements and we are grateful for their efforts and support.

2.8 We re-affirmed that the formal purpose of the performance review process should be 'to report to Parliament and the public on the performance of the health and care professional regulators in fulfilling their statutory duty to protect the public, uphold standards and maintain confidence in regulation'. Our new performance review process is intended to be more risk based and to focus time and resources on areas for improvement. We will publish separate reports on each regulator as they are completed during the year.

2.9 In January 2016, we began our reviews of the performance of the health and care regulators for the year. This will be the first cycle of reviews to be undertaken since our consultation. The main differences to our approach are outlined below.

#### *A 12-month cycle*

2.10 We want to ensure we use the most up-to-date information to reach our decisions as to whether each regulator has met the Standards. Therefore we will undertake assessments and reviews of each regulator spaced throughout each year. When our review of a regulator is completed, we will publish our report. This means that, over the course of 12 months, each regulator will be reviewed and their report published without delay.

#### *A refreshed dataset*

2.11 We have published the data that we expect the regulators to provide to us. This can be found on our website, We have also specified where we need to receive data on a quarterly basis, so that we can get a better picture of each regulator's performance over time. To enable us to measure performance of each of the regulators appropriately and consistently, we work with them to develop an agreed method by which we can count the data which matters the most.

#### *Integration of audits*

2.12 Previously we undertook separate audits of the initial stages of each regulator's fitness to practise processes based on an assessment of risk, and published these audit results separately to our performance review reports. As part of the revised process for reviewing the regulators' performance, we have included our audit process as part of the assessment decision described below. If we carry out an audit, the findings from that audit will now be included in the performance review report.

#### *Assessment and review*

2.13 We want to ensure that our performance reviews focus on the areas where we believe a regulator may be at risk of not meeting one or more of our Standards.



We gather information from a number of sources on each regulator's performance, and use this to reach a recommendation as to where we think we need to focus our review. A panel of decision-makers considers this recommendation and confirms the areas where our review will concentrate.

2.14 The recommendations as to the kind of review we may undertake are as follows:

- If we judge, based on the information we assess, that the regulator meets all of the Standards, then no further review will be undertaken. We will publish a report explaining how we have reached this view
- We may decide to undertake a review of significant changes to the way a regulator is operating, or a change has been made to its policies, processes or practice, even if all of the Standards are judged to be met. We will publish a report setting out our findings
- If we have concerns following our assessment of the evidence that one or more of the Standards are in danger of not being met, then we will undertake a targeted review of the areas of concern. This review may include an audit of the initial stages of the fitness to practise process, and also a review of aspects of the regulator's registration processes.

### *Reviewing the regulators: 2016 process*

2.15 We started the cycle of review using the revised process in January 2016. To date, five regulators have undergone the assessment process, and we are now undertaking the review of areas of concern, or drafting our report, for each of them. The remaining assessments will be undertaken by the end of 2016. We published our schedule for 2016 in February, and we anticipate that the schedule will remain the same in 2017. The schedule is as follows:

<b>Regulator</b>	<b>Review begins</b>
General Chiropractic Council	April 2016
General Dental Council	July 2016
General Medical Council	September 2016
General Optical Council	October 2016
General Osteopathic Council	March 2016
General Pharmaceutical Council	April 2016
Health and Care Professions Council	February 2016
Nursing and Midwifery Council	May 2016
Pharmaceutical Society of Northern Ireland	November 2016

- 2.16 We expect that completing each review will take between two and five months, depending on the type of review required. As a result, we are not yet able to report fully on each regulator's overall performance. However, we provide a selection of key emerging insights below.

## Summary of the key initiatives by regulators

### General Chiropractic Council

#### *Revision of code*

- 2.17 The General Chiropractic Council's Council (GCC) approved a new *Code of Practice and Standard of Proficiency* in June 2015. The Council decided that the previous Code should be amalgamated for clarity and consistency into the new Code. The GCC's legislation (Chiropractors Act, section 13 (4)) requires that the revised new Code, because it incorporates the Standard of Proficiency, must be published one year ahead of its implementation. The Code and Standards 2010 therefore remain in place until June 2016.

#### *Education*

- 2.18 The GCC had planned a review of its *Degree Recognition Criteria* but during 2014/15 paused its work on this until it had completed its review of the *Code of Practice and Standard of Proficiency*. Work on the *Degree Recognition Criteria* re-commenced in September 2015, when the new Code had been approved by the GCC's Council. The GCC is currently consulting on the draft *Education Standards* (as they will be known in the future). The current *Degree Recognition Criteria* remain in place until replaced by the new *Education Standards*.

#### *Continuing professional development*

- 2.19 The GCC has continued work on its enhanced continuing professional development (CPD) programme during 2015/16 and has issued new CPD guidance. Following open recruitment for volunteers three development groups of chiropractors have been set up in Bristol, London and online and met with the GCC three times (in October 2015, November 2015 and February 2016). The purpose of the groups is to work with the GCC on the development of CPD guidance for the current scheme and to develop the elements of a new CPD scheme that aims to assure the continuing fitness to practise of chiropractors.

#### *Governance*

- 2.20 In December 2015 the chair of the GCC resigned. An acting chair has been appointed from within the existing council. We worked with the GCC to check that governance was effective. Further decisions will be made when the current performance review is complete.

## *General Dental Council*

### *Investigation*

- 2.21 Allegations were made by a whistleblower in 2013 about the GDC's investigating committee. We investigated and reported our findings in December 2015. The GDC responded to our report by publishing an action plan in January 2016 to address the issues highlighted. We will consider how effectively the action plan has been implemented as part of our performance review later this year.
- 2.22 Our report *Investigations into the GDC's handling of a whistleblower's disclosure* highlights inadequacies in the GDC's policy and practice in response to the allegations. One of our main conclusions is that some of the Investigating Committee's practices infringed upon the appropriate separation of powers. We submitted our report to the Department of Health and the Health Committee and it was referred to in parliamentary debates in January, about proposals to update the GDC's legislative framework.

### *English language*

- 2.23 In March 2015, the Health Care and Associated Professions (Knowledge of English) Order 2015 gave the GDC powers to assess EEA applicants' knowledge of English. Whereas previously the GDC required all non-EEA applicants to pass a language test, they can now also request evidence about EEA applicants' English proficiency. This new law meant that the GDC consulted and then produced guidance on its requirements on knowledge of English and issued it in March 2016. A paper to its Council meeting in March outlined the context and stakeholders' views. As part of this process, the GDC increased the required level of English for dental nurses and dental technicians. A new ground of impairment for practising registrants of insufficient knowledge of English will come into effect later in 2016, when the GDC is able to implement changes to its Rules.

### *Education and training*

- 2.24 The GDC published its second annual review of education. The review set out findings from the GDC's programme of quality assurance of training providers in 2013/14. It noted trends in the providers' performance and makes recommendations to improve the standard of training available. It also took into account of examples of good practice demonstrated by providers and notes feedback they had provided on the quality assurance process. The review also noted the new standards for education and learning outcomes published by the GDC in June 2015. These revised standards were intended to draw clearer connections to the standards of practice, and would be the basis for the GDC's future education quality assurance activity. It currently plans to publish its third review of education in early 2017.

### *Indemnity insurance*

- 2.25 The GDC's standards already required registrants to have cover, but changes to the law have now made it a legal requirement. As a result of this change, both registrants and applicants must confirm that they have appropriate

indemnity in place. The required changes to the GDC Rules came into effect in November 2015. The GDC published information for registrants prior to the change, including frequently asked questions on the indemnity section of its website. It plans to audit a sample of declarations to check their accuracy.

- 2.26 Indemnity insurance is an important matter. All regulators require it but as we highlight below, in our view not all regulators take a failure to hold insurance sufficiently seriously.

### **General Medical Council**

#### *Registration*

- 2.27 Changes have been made to the information available on General Medical Council's (GMC) public register. The register contains details of more than 270,000 doctors, including when and where they qualified, whether they hold a licence to practise and whether they are subject to any restrictions.
- 2.28 From 18 January 2016, further information is available, including:
- Doctors in training – the register now identifies whether the doctor is in GMC-approved training programmes and the specialty in which he or she is training
  - The name of each doctor's Responsible Officer and the Designated Body which is responsible for the revalidation of their licence
  - Approved GP trainers – identifying which doctors are GMC-approved trainers of doctors undergoing GP training.

#### *Education and training*

- 2.29 On 1 January 2016 the GMC introduced a single set of standards covering both undergraduate and postgraduate medical education. It replaced *Tomorrow's Doctors* (aimed at medical students) and *The Trainee Doctor* (aimed at postgraduate doctors in training). These changes were made in response to the Francis, Berwick and Clywd Hart Reviews.<sup>1</sup>
- 2.30 The new standards *Promoting excellence: standards for medical education and training* places patient safety, quality of care, and fairness central to the training received by both medical students and doctors. The standards also cover the roles and responsibilities of organisations delivering medical education as well as the requirements for teaching, supervision and support.

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<sup>1</sup>Berwick, D. (2013) A promise to learn – a commitment to act – Improving the Safety of Patients in England. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/226703/Berwick\\_Report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226703/Berwick_Report.pdf)  
Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry  
<http://webarchive.nationalarchives.gov.uk/20150407084003/http://www.midstaffspublicinquiry.com/sites/default/files/report/Executive%20summary.pdf>  
A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture Rt. Hon Ann Clwyd MP and Prof. Tricia Hart  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255615/NHS\\_complaints\\_accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255615/NHS_complaints_accessible.pdf)

### *Fitness to practise*

- 2.31 Legislative changes to the Medical Act 1983 were implemented on 31 December 2015. The GMC now has the power to appeal against decisions made by the Medical Practitioners Tribunal Service (MPTS) to the High Court of Justice in England and Wales, the Court of Session in Scotland, the High Court of Justice of Northern Ireland, when it considers the tribunal has not adequately protected patients.
- 2.32 The changes also provide the MPTS with additional case management powers, the ability to use legally qualified chairs in some cases and to conduct review hearings on the papers where both parties agree on the desired outcome. It is the only regulator to have this right of appeal. We discuss this further at paragraph 2.67-2.71.

### *General Optical Council*

#### *Standards*

- 2.33 On 1 April 2016, the General Optical Council (GOC) introduced Standards of Practice for Optometrists and Dispensing Opticians, and separate new Standards for Optical Students. These replaced the Code of Conduct for Individual Registrants, which previously applied to both fully qualified practitioners and students. The new Standards set out 19 standards that optical professionals must meet. They relate both to registrants' behaviour and professional performance.
- 2.34 The GOC held a public consultation exercise in March, publishing their report in June 2015. The GOC's Council considered the report at its meetings in July and November, confirming the new Standards to be implemented on 1 April 2016.

#### *Fitness to practise*

- 2.35 The GOC Council has approved new Hearings and Indicative Sanctions guidance for its fitness to practise process following a public consultation.
- 2.36 The guidance is intended to be an amalgamation of all hearing procedures, indicative sanctions guidance, as well as a bank of standard conditions, for the GOC's Fitness to Practise Panels and those involved in the hearings process. For example, it includes an outline of the different types of registrants, an outline of the full process in respect of all hearings (substantive, substantive reviews, interim order / interim order reviews, restoration and registration appeal hearings) and more clarity on the process of reaching decisions, including the principles guiding the decisions and relevant case law. The changes are also designed to take account of legal and regulatory changes and the GOC's new Standards of Practice.

#### *Whistleblowing*

- 2.37 The GOC's Council agreed a new policy on *Raising Concerns with the GOC (Whistleblowing)*. It sets out the steps that registrants or others working in the sector should take if they believe that patient safety or care is being compromised by colleagues or the organisations in which they work or study. The policy aimed to help registrants to comply with the *Standards of Practice for*

*Optometrists and Dispensing Opticians*, which place a duty on registrants to protect and safeguard patients, colleagues and others from harm.

#### *Education and training*

- 2.38 On 6 May 2016 the GOC announced in its 2016/17 Business Plan that it will be conducting a review of education in the optical sector. The Education Strategic Review aims to ensure that qualifications leading to GOC registration will prepare optometrists and dispensing opticians for the roles they will carry out in the future, as technological change and enhanced services reshape the delivery of optical services. The review will consider the standards of competence that students must meet and how they are assessed.

#### *General Osteopathic Council*

##### *Continuing professional development*

- 2.39 The General Osteopathic Council (GOsC) has continued to develop its continuing professional development (CPD) scheme. It conducted a public consultation on its proposed scheme, resulting in the publication of draft guidelines and training materials for registrants. The scheme will be introduced in November 2016 for those registrants wishing to adopt the new process early, while it will be rolled out for all registrants on as yet undecided date in 2017.

##### *Witness guidance*

- 2.40 The GOsC has sought to provide greater support to witnesses involved in its fitness to practise proceedings by developing a guidance leaflet. The GOsC took into account feedback from Victim Support. The leaflet outlines the range of support put in place by the GOsC before, during and after a witness has given evidence. The leaflet aims to help witnesses know what to expect during a fitness to practise hearing and was made available in April 2016.

##### *Fitness to practise*

- 2.41 The GOsC produced guidance on drafting determinations for its fitness to practise committees, to help ensure consistency and clarity in explaining decision-making. After a consultation exercise, the guidance was agreed by the GOsC Council for use in February 2016. The guidance is intended to maintain the GOsC's commitment to quality improvement and follow best practice similar to that followed by other regulators who already have similar guidance. It is also considered to be a living document, which means it can be amended in light of feedback and learning points we give.

#### *General Pharmaceutical Council*

##### *Registration*

- 2.42 As part of the forthcoming changes to the pre-registration examination process for 2016, the General Pharmaceutical Council (GPhC) started to recruit standard setters in May 2015. Standard setters are practising pharmacists tasked with evaluating questions devised by the board of assessors for use in the pre-registration assessment examinations. Standard setters are expected to



ensure that questions are patient-focused, of the right standard, and relevant to practice before they are used in an assessment.

### *Standards*

- 2.43 In April 2015, the GPhC launched a national conversation on patient-centred professionalism in pharmacy. The discussion paper was used to inform the GPhC review of its *Standards of Conduct, Ethics and Performance* which they began consulting on in April 2016.

### *Education and training*

- 2.44 In June 2015, the GPhC used the publication of its discussion paper '*Tomorrow's pharmacy team; future standards for the initial education and training of pharmacists, pharmacy technicians and pharmacy support staff*' to start a national debate on how the education and training of the pharmacy team might need to change to better address challenges in the sector. The first survey of pre-registration pharmacy technician training launched in October 2015. The GPhC national conference on education and training held in November 2015 and its roundtable event held in February 2016, which explored some of the specific challenges in pre-registration pharmacist training in England are expected to inform discussions on the changes needed in the sector. The GPhC's Council received an update on this area of work at its meeting in April 2016.

### *Strategic direction*

- 2.45 In December 2015, the GPhC published an independent report into how pharmacy professionals might be able to contribute to the general health and wellbeing of care home residents receiving medication. The report, which was commissioned by the GPhC to inform wider discussions about the future of pharmacy and the potential roles to be undertaken by pharmacy professionals, was referenced at the Council's meeting in February 2016.

## ***Health and Care Professions Council***

### *Standards*

- 2.46 The Health and Care Professions Council (HCPC) published revised Standards of Conduct, Performance and Ethics on 26 January 2016. This document includes a standard requiring registrants to be open and honest when things go wrong, placing a duty on them to report concerns and to support service users and family carers in raising concerns about their care or treatment (we discuss the duty of candour further at paragraphs 2.76-2.85).
- 2.47 The HCPC concluded a review of guidance for people with disabilities who want to become health and care professionals. The review included commissioning research, stakeholder engagement and a public consultation. HCPC published its revised guidance *Health, disability and becoming a health and care professional* in September 2015.
- 2.48 The HCPC made changes to its standard of acceptance for complaints, designed to ensure that only those complaints that do relate to fitness to

practise are accepted for investigation. It produced a factsheet for potential complainants explaining the standard of acceptance.

#### *Working in partnership*

- 2.49 The HCPC signed a memorandum of understanding and information sharing agreement with NHS Protect to enable them to work together to tackle fraud, corruption and theft in the NHS.

#### *Education and training*

- 2.50 The HCPC carried out a review of social work education in England for the first three years of it being responsible for approving qualifying social work education programmes. It became the regulator of social workers in England in 2012. HCPC published its report in January 2016.
- 2.51 That month, the Secretary of State for Education announced that the regulation of social workers was to be removed from the HCPC and given to a new body, with other additional roles, to be created by the government. This change comes only four years after social work regulation was transferred to the HCPC from the General Social Care Council by the previous government. This announcement produced, in our view, unwarranted criticisms of the HCPC's performance and we put on record again our assessment that we have found it to be an effective and efficient regulator.

#### *Nursing and Midwifery Council*

##### *Strategic direction*

- 2.52 The Nursing and Midwifery Council (NMC) approved its new strategy for 2015-2020 at its Council meeting on 25 March 2015. The strategy states the NMC aims to achieve 'dynamic regulation', an approach defined as innovative, forward-looking and able to adapt to changes in healthcare and the demands on nurses and midwives. The report set out four strategic development priorities to enable the NMC to deliver its overarching purpose to protect the public with greater effectiveness and impact. These are:
- Effective regulation
  - Use of intelligence
  - Collaboration and communication
  - An effective organisation.

##### *Fitness to practise*

- 2.53 The NMC introduced case examiners in March 2015. Case examiners consider whether there is a real prospect of a fitness to practise allegation being proved in a hearing. In the past, this role was performed by a panel of the Investigating Committee.
- 2.54 Case examiners meet in private. Two case examiners, one registrant and one lay person, consider each case. If they find there is a case to answer, case examiners may refer the case to a hearing by the NMC's Conduct and Competence Committee or the Health Committee. The case examiners can



also request that the case should be considered for an interim order application hearing.

- 2.55 Where case examiners cannot reach a decision, the matter will be referred to a panel of the Investigating Committee for decision. Case examiners do not deal with allegations of fraudulent or incorrect entries onto the register. Allegations of this type are considered by the Investigating Committee.

### *English language*

- 2.56 The NMC introduced new requirements relating to English language competence for EEA trained nurses and midwives, and a new ground of impairment for fitness to practise cases related to lack of language competence. The policy came into effect on 1 January 2016.

### *Revalidation*

- 2.57 The NMC introduced a system of revalidation for all registered nurses and midwives. The first group of nurses and midwives completed the revalidation process in April 2016. It is planned that all registrants will have revalidated within the next three years.
- 2.58 Registrants must meet a number of requirements to revalidate. These include minimum numbers of practice hours and hours of continuing professional development activity. Registrants must also obtain practice-related feedback and must prepare written reflective accounts. Registrants must provide a health and character declaration and declare that they have, or will have when practising, appropriate cover under an indemnity arrangement.
- 2.59 Compliance with all of the requirements must be demonstrated to an appropriate confirmer, whose details are shared with the NMC. Each year the NMC will select a sample of nurses and midwives to provide further information about their application for verification purposes.

## *Pharmaceutical Society of Northern Ireland*

### *Standards*

- 2.60 In February 2015, the Pharmaceutical Society for Northern Ireland (PSNI) launched its consultation on a new Code of Conduct for pharmacists in Northern Ireland. The proposed code incorporated learning from the fitness to practise process and the recommendations arising from the inquiry into the failings at Mid Staffordshire hospital. The PSNI's Council formally approved the Code in November 2015 and it came into effect on 1 March 2016, with a series of registrant roadshows held to publicise its introduction.

### *Fees*

- 2.61 On 30 November 2015, the PSNI launched its consultation on fees for 2016/17. PSNI proposed a modest increase to the existing fees pending the outcome of the comprehensive review of its fee structure which was commissioned in response to the identification of the historical error which resulted in some fees being incorrectly applied to some applicants and some registrants. The Council considered the fees consultation report in February 2016 when it noted that the

report containing the proposed amounts was submitted to the Department of Health, Social Services and Public Safety.

- 2.62 During a review of fees in 2014/15, it was identified that the substantive amendments agreed to articles 5 and 25A of the Pharmacy Northern Ireland 1976 Order (as amended) in 2009, were not incorporated into the regulations. A further more detailed review established additional anomalies in the legislative basis on which fees were levied to some applicants and some registrants during 1995-2014.
- 2.63 The PSNI has established that 11 separate groups may have been affected by the errors, and that students and those taking pre-registration examinations were more likely to have been charged incorrectly. Having obtained advice, the PSNI decided that it was under no obligation to repay the sums which it charged in excess of its statutory authority as it acted in good faith at all times and used the monies from the fees to pursue its statutory responsibilities.

## Recent developments and issues on fitness to practise

### *Change to our threshold for referring decisions to Court*

- 2.64 Under Section 29 of the National Health Service Reform and Health Care Professions Act 2002, we can refer final fitness to practise panel decisions made by the nine regulatory bodies to Court (a referral by us is treated by the Court as an appeal). For cases heard up until 31 December 2015, we could only make such a referral if we considered that the final fitness to practise panel's decision was unduly lenient (within the meaning of that phrase, as set out in case law) and that a referral was desirable for public protection.
- 2.65 Following changes that were made to legislation brought about by a Section 60 Order which came into effect from 31 December 2015, the threshold for making a referral to Court has changed – we may now make a referral if we consider that the final fitness to practise decision is *not sufficient (whether as to a finding or a penalty or both) for the protection of the public*. The legislation sets out that consideration of whether a decision is sufficient for the protection of the public involves:
- (a) To protect the health, safety and wellbeing of the public
  - (b) To maintain public confidence in the profession concerned
  - (c) To maintain proper professional standards and conduct for members of that profession.
- 2.66 Another consequence of the changes brought about by the Section 60 Order is a slight extension of the time-frame within which we have to make our decision about whether to make a referral to Court.

### *GMC's right to appeal decisions*

- 2.67 At the same time that changes made to the legislation altered our threshold for referring final fitness to practise decisions to Court, legislative changes were also made that gave the GMC the power to appeal final fitness to practise decisions made by its adjudication arm, the Medical Practitioners Tribunal Service (MPTS).

- 2.68 The GMC's appeal power essentially duplicates our power to make a referral to Court in the event that an MPTS panel decision is not sufficient for the protection of the public. We previously expressed our doubts about the added value of this arrangement.
- 2.69 We retain our power to make a referral to Court in respect of an MPTS panel decision, and now also have the power to be joined as a party into any appeal lodged by the GMC.
- 2.70 The introduction of a 'mirror' power for the GMC to appeal a final fitness to practise decision made by the MPTS has led us to create a second process for reviewing final fitness to practise decisions made by the MPTS, so that we can take into account any appeal that is lodged by the GMC, or any GMC decision not to lodge an appeal.
- 2.71 Since the GMC's power to appeal was introduced<sup>2</sup>, the Authority has considered five MPTS panel decisions at section 29 case meetings and has not referred any of those decisions to Court neither has the GMC lodged any appeals against MPTS panel decisions. Whilst it is early days, it is hard to see what added value to public protection this more complicated and therefore expensive arrangement brings.

### *Dishonesty*

- 2.72 The way in which regulators investigate and present cases involving dishonesty to their fitness to practise panels are issues that have arisen frequently in Court referrals made by the Authority in the past. This includes the seriousness with which the fitness to practise panels regard dishonesty, when considering whether a registrant's fitness to practise is impaired and what sanction should be imposed. That has continued to be our experience during 2015/16.
- 2.73 We held formal section 29 case meetings to consider the handling of dishonesty in several cases during this period. One issue that continued to crop up was the failure to investigate (and present to the panel) a complete picture of the registrants' dishonest actions. We have fed back learning points to the regulators on this issue (NMC, GOC, HCPC, GDC). We also identified learning points relating to failure by panels to properly apply the regulators' guidance, and/or to consider the relevant case law about the seriousness of dishonesty. Several of the referrals we made to Court in the period from 1 April 2015 included issues about the regulators' handling of dishonesty.
- 2.74 The importance of honesty and integrity for regulated health and care professionals was reinforced by High Court judgments issued during the year following our referral of cases involving dishonesty allegations:
- In one High Court judgment about an HCPC fitness to practise panel decision, the Judge, in upholding our referral, noted that the sanction the fitness to practise panel had selected (a caution order) was not in accordance with the HCPC's guidance for its panels (its Indicative Sanctions Policy). He noted too that the panel had not provided an adequate explanation of the reason why a markedly lenient sanction was appropriate in this particular case

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<sup>2</sup> Up to 10 May 2016

- In the second case, the High Court overturned the MPTS panel's decision that the fitness to practise of a doctor who had falsified documents to obtain entry to the GMC's Specialist Register was not impaired. In concluding that the panel's decision was unduly lenient, the Judge referred to the doctor's very serious and sustained deception, the panel's inaccurate assessment that he had admitted his guilt at the first opportunity, and the panel's failure to give proper consideration to the wider public interest in declaring and upholding professional standards and maintaining public confidence in the profession.
- In the third case, the High Court ordered the striking off from the NMC's register of a registrant who had been dishonest on several occasions to conceal his serious criminal conviction from both his employer and from the NMC. The High Court judge found that the panel had given too much weight to a number of factors, including: the impact of striking off on the registrant; the fact that the registrant had some (incomplete) insight; the panel's assessment that the misconduct was remediable and unlikely to be repeated; the absence of patient safety concerns; the registrant's having kept up to date; and the fact that this was the first fitness to practise case against the registrant. The High Court judge concluded that the panel had failed to consider 'the over-riding factor in the case ... the public interest in maintaining the reputation of the profession'.

2.75 As a result of such cases, we commissioned exploratory research from independent research agency Policis on public and professional attitudes to dishonest behaviour by health and care professionals. The research found that for the sample of eight appealed fitness to practise cases used in the research, the outcomes following a successful appeal by the Authority were more in line with public opinion than the original sanctions. This suggests we are appropriately considering the public interest. We will consider further the detailed findings when the research report is published in the early summer.

### *Duty of candour*

2.76 In June 2015 the GMC and NMC issued joint guidance to their registrants about what the duty of candour means for healthcare professionals, explaining their obligations to be honest with patients, their families and colleagues about errors. The guidance followed Sir Robert Francis QC's call for a more open and transparent culture within healthcare following the failures in patient care at Mid Staffordshire NHS Foundation Trust. The nine regulators that we oversee had all (jointly or individually) previously issued statements following the publication of the Francis report confirming their commitment to promoting the duty of candour amongst their registrants.

2.77 The guidance, *Openness and honesty when things go wrong: the professional duty of candour* was introduced on 29 June 2015 and builds on advice in *Good Medical Practice* which says that doctors have a professional duty to be open and honest with patients when things go wrong, and should report mistakes which have, or could have, compromised patient safety.

- 2.78 The joint statement published by eight of the nine regulators said:  
‘We will promote this joint statement on *the duty of candour* to our registrants, our students, and to patients, ensuring our registrants know what we expect of them. We will review our standards and strengthen references, where necessary, to being open and honest, as appropriate to the professions we regulate. We will encourage all registrants to reflect on their own learning and continuing professional development needs regarding the duty of candour’.<sup>3</sup>
- 2.79 The HCPC separately issued revised Standards which clarified the importance of candour.
- 2.80 However we are not yet confident that in their fitness to practise processes all regulators are applying the principles of duty of candour consistently. It is extremely rare for it to be mentioned at all by case presenters or panels.
- 2.81 In one of our referrals of an MPTS decision that was decided by the High Court during the year, the Judge (in upholding our argument that a warning should have been imposed) reinforced the importance of honesty when errors have been made. The Judge stated: “In my judgment, lying to senior colleagues about communications with patients and their families, is a very serious breach of trust and of professionalism, particularly where the doctor’s handling of the case is under scrutiny. It would be likely to result in a finding of impairment of fitness to practise in many cases”.
- 2.82 Against this backdrop of public commitment to the concept of a professional duty of candour, it is unsatisfactory that we have reviewed several cases during the course of the year where the duty of candour has not been considered by the regulators. Two of the referrals to Court we made during the period from 1 April 2015 concerned a failure by the regulator (the NMC) to present a registrant’s actions/inactions as breaching their duty of candour. We also identified learning points concerning a failure to present an allegation based on the duty of candour to fitness to practise panels in a further two cases (HCPC and NMC). We considered these at case meetings where we decided not to refer to Court but to issue learning points.
- 2.83 We consider that in order to implement their commitment to honesty with patients and colleagues when things go wrong, regulators should explicitly consider the duty of candour when preparing cases and that panels should understand its importance as a professional standard.
- 2.84 We also think that regulators should themselves be candid. We welcome the fact that some regulators assist us by drawing our attention to fitness to practise decisions which they think may be insufficient or when they have made a mistake, such as allowing a registrant’s registration to lapse while a case is ongoing. This is not done by all regulators however nor is it consistently done.

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<sup>3</sup> *Progress on strengthening professional regulation’s approach to candour and error reporting, Advice to the Secretary of State for Health, November 2014*  
<http://www.professionalstandards.org.uk/docs/default-source/publications/advice-to-ministers/progress-on-strengthening-approach-to-candour-november-2014.pdf>

- 2.85 Mrs Justice Cox in her judgment on a GPhC case at appeal said that the regulator ‘was under an obligation to bring the Panel’s error to the attention of the Authority’.<sup>4</sup>

### *Registrants with ongoing criminal sentences*

- 2.86 The High Court established (in an appeal in 2005 by our predecessor body against a decision made by a fitness to practise panel of the GDC<sup>5</sup>) a general principle that, where registrants have been convicted of a serious criminal offence or offences, they should not be permitted to resume their practice unrestricted as a regulated professional until they have satisfactorily completed that criminal sentence. The Court identified possible exceptions to that rule (‘only circumstances which plainly justify a different course’) such as cases involving sentences of disqualification from driving/time to pay a Court fine. The High Court justified that principle by reference to maintaining the reputation of the profession.
- 2.87 Several of the regulatory bodies have incorporated reference to this High Court judgment in the guidance they provide to their fitness to practise panels. We would also expect the independent legal advisers the regulators appoint to provide advice to panels during hearings to guide them about the principle set out by the High Court, where appropriate.
- 2.88 However, in the period since 1 April 2015 we have considered at section 29 case meetings, five fitness to practise panel decisions in which the panels concerned appeared to have failed properly to apply the principle established by the High Court and did not apply sanctions that would restrict the registrants’ practice for a sufficient length of time. Two of those case meetings resulted in our referring the case (HCPC) to Court. The other three case meetings resulted in us identifying learning points to feed back to the regulators (NMC, GDC and GMC) as we were concerned about flaws in the approach adopted by their panels. We encourage the regulators to ensure that their staff, panellists and any independent legal advisers to their panels are adequately trained on this topic, as there appears to be a trend emerging of decisions that do not pay adequate regard to the established principle.

### *Dealing with a failure to hold adequate indemnity insurance*

- 2.89 During our reviews of GDC final fitness to practise decisions during 2015/16 we have identified some concerns about the degree of seriousness with which both the GDC and its panels treat lengthy and persistent failures to hold adequate indemnity insurance.
- 2.90 Several of the cases that have raised concerns involved dental professionals acting outside the scope of their practice, who therefore did not have adequate indemnity insurance (they could not have obtained such insurance, as they should not have been carrying out direct patient treatment).
- 2.91 We note that despite the serious risk to public protection and to public confidence in the profession posed by lack of adequate indemnity insurance,

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<sup>4</sup> *Professional Standards Authority for Health and Social Care v General Pharmaceutical Council & Anor* [2014] EWHC 2521 (Admin)

<sup>5</sup> *CRHP v GDC and Fleischmann* [2005] EWHC 87 (Admin)



GDC panels have not always provided adequate reasoning to explain the types of sanctions they impose. For example, one case we reviewed involved a dentist who knowingly treated patients without indemnity insurance for a period of 20 months. The dentist had chosen not to renew his insurance due to his own financial difficulties, and had prioritised his own interests over those of his patients. He showed incomplete insight at the hearing (the panel said they were not satisfied he fully understood why indemnity insurance is mandatory) and did not appear to have obtained retrospective insurance, despite one patient having been harmed. We were concerned that the GDC did not suggest, and the GDC panel did not consider, whether the dentist's misconduct was fundamentally incompatible with continued registration as a dentist, and imposed a three-month suspension instead of a more severe sanction.

### *Handling of review hearings/remittals from Court*

- 2.92 The guidance that most of the regulators provide for their fitness to practise panels makes it clear that at a review hearing<sup>6</sup> the panel must assess whether the registrant's fitness to practise remains impaired.
- 2.93 The High Court in its judgment in a doctor's appeal against a GMC panel decision in 2008<sup>7</sup> established that a review panel's task is to consider whether all the concerns that led to the original finding of impairment of fitness to practise have been sufficiently addressed to the review panel's satisfaction. That judgment said that, in practical terms, there is a persuasive burden on the registrant at a review hearing to demonstrate that he or she has fully acknowledged why their past professional performance was deficient and how they have through insight, application, education, supervision or other achievement sufficiently addressed their past impairment. Many of the regulators have included wording to this effect in the guidance they provide to their fitness to practise panels. Their guidance usually also makes it clear that review panels will also need to check that the registrant has kept their skills and knowledge up-to-date during any period they have been out of practice, and to satisfy themselves that letting the registrant return to practice will not create any patient safety risk.
- 2.94 We identified serious concerns about the decisions reached in a number of NMC review hearings during 2015/16. We referred two such review panel decisions to Court.
- 2.95 In addition, we identified learning points to feed back to regulators in cases which returned for a second hearing in front of a fitness to practise panel, following either an appeal by a registrant or a Court referral by the Authority. It was particularly disappointing that in these remitted cases, either the regulator had failed to present the case properly (GMC), and/or the fitness to practise panels had failed to examine the evidence thoroughly or provide adequate reasons for their conclusions (NMC, GMC).

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<sup>6</sup> A review hearing is a hearing that takes place towards the end of any period of time for which a conditions of practice order or suspension order is imposed at the original fitness to practise panel hearing

<sup>7</sup> *Abrahaem v GMC* [2008] EWHC 183 (Admin)

### ***NMC registrants lapsing from the register – the impact on us***

- 2.96 On several occasions over the past three years we have been forced to seek injunctive relief from the High Court to prevent the NMC from removing individual registrants from its register before the High Court could address our referral of the relevant fitness to practise panels' decisions. This problem occurs because of the way in which the NMC's legislative framework is set out.
- 2.97 Taking such action can be expensive and time-consuming for both ourselves, the NMC and the NMC registrant concerned. It is therefore frustrating that the Department of Health has not yet taken steps to close the legislative 'loophole' that makes such a 'lapse' from the NMC's register possible in these circumstances, even though we first wrote to the Secretary of State on 10 March 2014 highlighting the problem.
- 2.98 During 2015/16 we have had to seek injunctive relief on two occasions in order to prevent NMC registrants 'lapsing' from the register before the referrals we had made had been decided by the High Court.

### ***Continuing fitness to practise***

- 2.99 We summarised in our 2013/14 report (p20-22, paras 7.25-7.28) the approach each of the nine regulators was taking in relation to continuing fitness to practise. At that time, only the GMC and GOC had already implemented schemes to provide assurance of their registrants' continuing fitness to practise. These schemes continue to operate. The other seven regulators have, since that report, continued to develop their schemes.
- 2.100 As we note above, in 2015/16 the GCC, GOsC and NMC have each undertaken activities relating to this area of work. The PSNI, GDC, GPhC and HCPC are each continuing to develop their CPD schemes. For instance, the GDC is currently running a six-month pilot of its proposed new CPD scheme. The pilot is due to be completed in August 2016, and the GDC expects to introduce the new scheme in 2017. The HCPC undertook research in 2015 to inform a decision as to whether changes were needed to its existing CPD scheme (which consists of standards for CPD and audits). The outcome of this was reported to Council in May 2016.

## **Accredited registers programme**

### ***Overview***

- 2.101 The Health and Social Care Act 2012 extended our role to include the large number of people working in health and care occupations that are not regulated by statute. We set accreditation criteria, known as our Accreditation Standards, for organisations holding registers that health and care practitioners may choose to join, to show their commitment to good care.
- 2.102 Our accredited registers programme strengthens patient, service user and consumer protection for health and care occupations which are not statutorily regulated. All accredited registers and their registrants display our registered trade mark so that the public can distinguish them easily. Our aim is to improve public protection, promote confidence in the registers, support choice for patients and services users and improve quality.



- 2.103 There is considerable interest in and support for this new approach. During the year, we accredited two new registers and renewed accreditation for 13. Every register accredited so far, the first were in February 2013, has applied to renew after their first year and some have now renewed three times. At the date of this report, the total number of accredited registers is 21<sup>8</sup>, covering 27 occupations and more than 70,000 practitioners. Occupations covered include public health, healthcare science, genetic counselling, psychotherapy, play therapy, sports rehabilitation, acupuncture, and complementary therapies such as aromatherapy. Practitioners work in various settings including the NHS, high street clinics, homes, schools and sports centres. Most of the registers are UK-wide. One register operates in Scotland only.
- 2.104 The accredited registers programme works with key stakeholders including government departments, NHS Employers, NHS England, the Royal College of General Practitioners and the Royal Society of Public Health. A number of bodies are in discussion with us about the formation of new registers, including the development of a credentialing register (where the identity and suitability of people entering NHS premises has been verified in advance), to raise standards in other sectors of the workforce. Applications have recently been received from two cosmetic practice registers, and one for hospital chaplains.
- 2.105 The programme has attracted interest internationally. Following several years of engagement with us, the Hong Kong Executive has recently announced that it will introduce a similar scheme. A number of our accredited registers have international registrants and although our accreditation does not extend beyond the UK, registers are keen explore the potential for developing an international model.

#### *List of accredited registers*

- Academy for Healthcare Science
- Alliance of Private Sector Practitioners
- Association of Child Psychotherapists
- Association of Christian Counsellors
- British Acupuncture Council
- British Association for Counselling and Psychotherapy
- British Association of Play Therapists
- British Association of Sport Rehabilitators and Trainers
- British Psychoanalytic Council
- Complementary and Natural Healthcare Council
- COSCA (Counselling & Psychotherapy in Scotland)
- Federation of Holistic Therapists
- Genetic Counsellor Registration Board
- Human Givens Institute

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<sup>8</sup> 19 registers were accredited as at 31 March 2016

- National Counselling Society
- National Hypnotherapy Society
- Play Therapy UK
- Register of Clinical Technologists
- Society of Homeopaths
- UK Council for Psychotherapy
- UK Public Health Register.

### *Principles and standards*

- 2.106 We apply five principles to the operation of the accredited registers programme:
- Proportionality – our criteria and the way we apply them should be proportionate to the risk of harm to the public
  - Free market – it should not create monopolies or unfairly restrict the market
  - Affordability – it should avoid excluding practitioners with lower incomes
  - Education – registers, not ourselves, should determine the standards required for competent practice of an occupation
  - Efficacy – we should make no judgement about the efficacy of any therapy or health or care practice.
- 2.107 With both education and efficacy we took the view that there are other organisations with the necessary expertise to decide the standards and the validity of these.
- 2.108 Our standards were developed collaboratively with the sector and other stakeholders, who opted to set the bar for accreditation at a high level. Achieving accreditation is therefore a mark of quality.
- 2.109 In operating the programme, we take the view that it is in the public interest that registers meet our demanding standards. We therefore work formatively with organisations to enable them to reach the levels required.
- 2.110 Our standards cover 11 areas:
- Hold a voluntary register of health and care practitioners
  - Be committed to protecting the public
  - Understand, monitor and control risks
  - Be financially sound
  - Inspire public confidence
  - Develop knowledge
  - Provide strong and effective governance
  - Set good standards for practitioners
  - Ensure appropriate education and training
  - Run registers well

- Manage complaints fairly and effectively.

### *Improving performance*

- 2.111 The White Paper *Enabling Excellence: Autonomy, and accountability for healthcare workers, social workers and social care workers*<sup>9</sup> which proposed the development of accredited registers made clear the purpose should be to give people independent assurance about the quality of the organisations holding the registers and their registrants. It recognised that there were a number of voluntary registers in existence, but no way to tell if they were meeting good standards or were trustworthy. The Health and Social Care Act also asks us to encourage improvements in governance.
- 2.112 Our report, *Accredited registers: ensuring practitioners are competent and safe (2015)* set out the scale of improvement achieved by organisations undergoing our accreditation assessments. Since then, four more registers have met our standards and been accredited. No register has yet achieved accreditation without making improvements first, showing the benefit of accredited registration over voluntary registration alone. The main changes made are strengthening governance arrangements especially where they have dual functions; managing conflicts of interest, and improving complaints handling. Registers have also increased the extent of user and public involvement. They have improved transparency including publishing records of disciplinary action taken and publishing board or committee minutes.
- 2.113 In our view, one of the key benefits of the accredited registers programme has been the fostering of a sense of belonging to a community committed to raising standards and protecting the public. As a result, we have seen a number of registers collaborating on a variety of initiatives including the development of memoranda of understanding, sharing learning and good practice, helping new registers set up and sharing information.
- 2.114 Since launching our programme and carrying out a review of our approach to education and training, one register voluntarily raised its education standards to a higher level, closing the gap with its peers. In 2015, three accredited registers announced a collaborative partnership, retaining their unique identities but recognising that they also had much in common that they could harness to help improve the nation’s mental health and wellbeing. The British Association for Counselling and Psychotherapy, British Psychotherapy Council and the United Kingdom Council for Psychotherapy committed to working together to develop the profession, safeguard the public by regulating effectively and widen public access to counselling and psychotherapy.
- 2.115 A summary of improvements made is set out in the table below:

Area of Standard	Specific subject covered by area	Examples of changes made by accredited registers to comply (or to improve compliance) with standards
Risk	Understanding, managing and monitoring risks	Requirement to identify, quantify and mitigate risks the occupation poses to the public. Some registers had a corporate risk register but not a register for risks

<sup>9</sup> Department of Health (2011)

		<p>posed by the occupation and its practice to the public</p> <p>Completion of a risk matrix to identify and mitigate high and low risks in three areas: personal behaviour, technical competence and business practice (where relevant)</p> <p>Adopt and maintain the matrix above as a single tool to record and manage risks (this was a learning point issued to most registers)</p> <p>Revised matrix must be submitted as part of annual review of accreditation so register reviews risks and its controls annually</p> <p>Must consider relevant risks posed to vulnerable groups (e.g. children)</p> <p>Must consider mitigating controls for specific risks relevant to the occupation</p>
Governance	Management of conflict of interest (firewall between registration functions and professional representation)	<p>Separation of register functions from professional association</p> <p>Created role of Registrar, clarifying difference between Registrar and Membership Secretary</p> <p>Implemented separate Board or Committee to oversee registration functions</p> <p>Developed a conflict of interest policy</p>
	Patient and public engagement	<p>Developed a strategy and plan to engage with patients, service users and the public</p> <p>Implemented strategy/plan and reported progress to Authority</p> <p>Created patient/service users consultation groups/forums</p> <p>Developed and promoted feedback tools on website to seek and use the views of service users and the public to inform decisions about register functions</p> <p>Carried out surveys on what information service users want to see on the online register and on service provided by its registrants</p> <p>Improved (in some cases redesigned) websites to improve communication with the public and help service users to make informed decisions<sup>10</sup></p>
	Lay involvement	Recruited lay people to Board of Directors

<sup>10</sup> The accreditation team reviews accredited registers' websites as if it was a service user looking for information and for a practitioner.

		and other committees Recruited lay people to sit on professional conduct panels
	Openness and transparency	Publication of standards for public access Publication of Board meeting dates, minutes and papers Publication of names of Board members Board meetings and professional conduct hearings open to the public
Setting standards for registrants	Indemnity cover	Included requirement for all registrants to have appropriate arrangements for indemnity cover Improved registration process to verify above, e.g. adding question to registration form and/or requesting proof of cover Implemented random annual audits of sample of registrants to ensure compliance
	Business practice	Developed additional guidance for registrants on business practice (e.g. selling of products, contracting, independent practice)
	Review of standards	Developed a policy with clear timescales to review standards Added 'review date' to relevant standards documents
Education and training	Assurance that registrants meet register's educational standards	Developed and expanded a quality assurance project to ensure third party organisations were assessing education and training appropriately Developed an online supervised test of competence for members who did not attend an accredited course Developed a test of competence (practice and theory) for individuals who did not attend an accepted course
	Approval or acceptance of education and training courses	Developed an accreditation of training courses programme Improved exchange of information between accrediting body and register to ensure effective review of standards when necessary Established an oversight committee to manage potential conflict of interest where the register provides training itself Required external examiner as condition for approval/accreditation of courses
Management of the	Accuracy, accessibility and	Redesigned the online register to include relevant information

register	information on the register to support users to make informed decisions	<p>Registers instructed to publish sanctions following a professional conduct hearing on the online register and relevant directories. Some registers only published sanctions in their quarterly magazine Others did not publish at all</p> <p>Improved operational efficiency by holding all relevant information for registration (e.g. conduct and fitness) in a single database</p> <p>Developed new website or redesigned current website taking into account accessibility requirements (e.g. font size, colour scheme, readable documents)</p> <p>Limited right of registrant to opt out of appearing on the online register to exceptional circumstances</p>
	Recognition of decisions regarding professional conduct	<p>Developed and implemented a process to notify other regulators and accredited registers about its conduct decisions</p> <p>Set up electronic receipt of notifications from other relevant regulators about their decision following a conduct hearing</p> <p>Included a self-declaration question in the registration form and annual re-registration on whether or not applicant had been removed from another statutory or accredited register in the past</p> <p>Accredited registers established a collaborative forum to discuss co-operation in this area</p>
Complaints handling	Focus on protecting service users and the public	<p>Made information about how to complain against registrants and the register easily accessible (e.g. some registers had the information hidden in long documents or no information at all in the public domain)</p> <p>Created a 'raising a concern' tab on their websites to make easier for the public to make a complaint</p> <p>Made clear the support offered to complainants and witnesses. All registers offer support to complainants who cannot put a complaint in writing</p>
	Fairness, transparency and consistency	<p>Removed perceived and real conflicts of interest e.g. Board Members' involvement in professional conduct panels</p> <p>Recruited lay people to panels that were formed by registrants only</p> <p>Some registers had to develop a complaints process to hear complaints</p>

		<p>against themselves</p> <p>Established an Ethics Committee to hear complaints against the organisation or in other cases to scrutinise registration functions</p> <p>Re-designed the whole complaints procedure to comply with the standards</p> <p>Implemented three stage process (investigation, adjudication and appeals) with different people involved in each stage</p> <p>Developed an appeals procedure for decisions regarding removal or acceptance to the register. Most registers did not have a mechanism to review its decisions</p> <p>Developed indicative sanctions guidelines to ensure consistency of decision-making and restoration policy to ensure fairness.</p>
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### *Strengthening public protection*

- 2.116 Some changes have a more direct impact on public benefit such as changing rules for joining registers to prevent registrants resigning before a complaint can be considered. Changes such as these are often identified by the registers themselves and made without the need for us to issue any form of direction.
- 2.117 Our controls include placing conditions on accreditation, suspension and removal of accreditation. Our accreditation panels can also issue instructions and learning points. We have issued conditions twice. In each case, register holders have responded positively and complied with the condition, enabling us to remove it.

Register	Last date Accredited	Conditions	Instructions	Learning Points
Academy for Healthcare Science	18 December 2015	0	0	1
Alliance of Private Sector Practitioners	01 August 2015	0	0	3
Association of Christian Counsellors	26 March 2016	1	1	3
British Acupuncture Council	14 March 2016	0	1	1
British Association of Play Therapists	26 November 2015	0	0	0
British Association for Counselling & Psychotherapy	05 March 2016	0	1	0
British Association of Sports Rehabilitators and Trainers	10 December 2015	0	0	0
British Psychoanalytical Council	20 November 2015	1	3	6
Association of Child Psychotherapists	20 November 2015	0	0	3
Complementary and Natural Healthcare Council	23 September 2015	0	0	0



Counselling & Psychotherapy in Scotland	19 June 2015	0	0	1
Federation of Holistic Therapists	09 January 2016	0	0	0
National Counselling Society/National Hypnotherapy Society	21 May 2015	0	1	3
Play Therapy UK	11 April 2015	0	1	1
Register of Clinical Technologists	07 September 2015	0	9	7
Society of Homeopaths	09 September 2015	0	1	3
UK Public Health Register	03 April 2015	0	0	2
United Kingdom Council for Psychotherapy	11 November 2015	0	0	1
		<b>TOTAL</b>	<b>TOTAL</b>	<b>TOTAL</b>
		<b>2</b>	<b>18</b>	<b>35</b>

- 2.118 In September 2015, we used conditions to require the Federation of Holistic Therapists to stop registering acupuncturists and counsellors and psychotherapists. This was because we were not satisfied that FHT's arrangements for education and training were sufficiently robust. Although we do not set the educational requirements for entry to a register, we do require registers to demonstrate to us that they have set an appropriate standard and are able to quality assure qualifications and training.
- 2.119 If in the future the FHT wishes to reopen the register to counsellors and acupuncturists, they will need to demonstrate that they meet accreditation standard 9 (education and training) in respect of these two occupations. We also required them to provide us with evidence of improvement to their Education Experts panel to ensure it has the expertise to assess applications for entry to its register for the various occupations it covers.
- 2.120 In November 2015, we suspended the United Kingdom for Counselling and Psychotherapy register's accreditation, re-instating it in January 2016. Our accreditation panel had identified shortcomings in three standards including handling of complaints. As a consequence our panel was not convinced that the register would continue to inspire public confidence. It therefore suspended accreditation until UKCP had put matters right. UKCP acted swiftly and the panel agreed to lift the suspension.
- 2.121 We also use instructions to encourage improvement where the panel decides a change is needed but does not merit use of a condition. For example, the accreditation panel instructed the British Psychotherapy Council and the Association of Child Psychotherapy to:
- '... publish all upheld cases and sanctions against registrants following a professional conduct hearing on its website and on the registrant's entry in the register ... [disciplinary action] against a practitioner following a professional conduct hearing must be clearly displayed on the register and other search tools where the public may find practitioners on the register. The Panel did not expect this to be done retrospectively but for all future cases...'*



2.122 Both organisations made the changes needed.

### *Mutual recognition*

2.123 One of the important protections provided by our accredited registers programme is the principle of mutual recognition. Accredited registers can and do remove practitioners from their registers. Unlike statutory regulators, this does not debar them from practising because there is no legal protection of title. However, when accredited registers remove a registrant for misconduct we require them to notify each other and not to accept that person onto a different register. This closes a loophole which existed under the previous voluntary system. The United Kingdom Public Health register led work to develop an information sharing protocol with regulators and accredited registers to strengthen this safety net.

2.124 The programme is gaining in recognition in order that employers, patients and service users only choose people from accredited registers. We value the support of organisations such as NHS Employers who publish information about our programme in all three of their bulletins. NHS Choices is also amending its website to direct people to our programme more explicitly. More publicity is still needed to ensure the programme achieves its potential to protect people in this proportionate way.

2.125 We also encourage employers and commissioners to use people on accredited registers and to remain vigilant in checking registers, which they can do using the 'Find a register' tool on our website. We publicly recommend that people use practitioners on either a regulator's register or on an accredited register.

### *Handling complaints*

2.126 Accredited registers also offer an opportunity to respond to concerns about registrants in a different way. When designing the programme we took account of the shortcomings from patients and service users' perspectives, of both existing complaints handling systems and statutory regulators' fitness to practise processes. We deliberately avoided the language associated with fitness to practise and instead talk about complaints and encourage mediation and early resolution. However, we have been concerned to note that many of the accredited registers are incorporating aspects of the statutory regulators' fitness to practise processes in circumstances where we do not consider that to be proportionate. These proceedings can be costly and stressful for those taking part. For the statutory regulators of professions, which can remove someone's right to practise a profession, it is perhaps understandable that such a formal, legalistic model has developed. We are increasingly seeing registers adopting an adversarial legal model, with registrants legally represented, where an inquisitorial method is likely to be more appropriate. Some registers report that they feel compelled to do this in order to avoid accusations that they are denying a fair 'trial'. One of the benefits of accredited registration is that it is not trapped in the legal framework of the statutory sector. We will address this issue further in the forthcoming year.

2.127 We have encountered particular difficulty with some accredited registers' ability to consider complaints from people who believe they have suffered as a result of therapy provided to another member of their family. These are often referred

to as 'third party' complaints and have tended to emerge in counselling and psychotherapy, where a patient or service user has been receiving therapy and family members report their relationships have been disrupted or damaged. These are not easy complaints to resolve, as although registers may be able to take them forward without the patient's consent, there are a number of legal factors to consider including access to sufficient evidence to bring a case to answer and the protection of personal data.

- 2.128 We held a seminar in April 2016 attended by lawyers, academics, the Parliamentary Ombudsman's office and mediator to discuss these matters and to explore solutions. The accredited registers will be continuing to work on this area during 2016.

### *Constraints on the programme*

- 2.129 There are some barriers which are constraining the accredited registers programme. We have already highlighted<sup>11</sup> the need to promote the programme widely to maximise use and take advantage of the improved standards and greater protection offered. This has to be achieved cost effectively to ensure the programme is affordable to as wide a registrant group as possible, given the relatively low incomes of many. The programme is not yet financially sustainable. Registers pay an initial application fee of £12,485 and £9,364<sup>12</sup> annual renewal. Currently, the Department of Health provides a small subvention to close the gap between the fee income and expenditure. Whilst in future the programme might achieve break-even, it is reliant on having sufficient numbers of registers to do so.
- 2.130 There are some legislative restrictions which accredited registers report are hampering their ability to protect the public. They have expressed concern that they are constrained with regard to rehabilitation of offenders' legislation and the barring of persons from taking part in regulated activity. We have raised this issue with the Department of Health.
- 2.131 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 provides the means whereby certain professions can ask exempted questions and use this information to decide whether to offer an offender a position or post. The list of professions and occupations coming under the auspices of the Exceptions Order has grown over the years and includes professions as diverse as accountants, taxi drivers and care workers. Currently, accredited registers cannot access enhanced criminal records disclosures. This affects accredited registers' ability to vet entry to their registers and consider complaints. It means that accredited registers must rely on those with spent convictions pertaining to crimes involving issues of trust, honesty and violence declaring them. It also means that where an individual is on a barred list, accredited registers are not in a position to know that information. We have raised this matter with the Department of Health.
- 2.132 There are other areas, such as prescribing, where the term 'registered healthcare professional' is interpreted to mean a regulated professional, which

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<sup>11</sup> 'Accredited registers: ensuring that health and care practitioners are competent and safe'. Professional Standards Authority for Health and Social Care, March 2015

<sup>12</sup> Fees are increased annually by 2% or in line with inflation

is placing constraints on plans to expand the workforce or employ them in new roles.

### **Controversies**

- 2.133 The accredited registers programme sets standards for the holders of registers. It does not set standards for therapies or the people who practise them; that is the task of the register. Inevitably this means that some of the occupations covered by the programme use complementary or alternative therapies and may be regarded by some as controversial. Such occupations are permitted by law and are used by choice, sometimes within the NHS, and we consider that the user will benefit from a practitioner who is committed to standards of conduct, has signed up to a complaints system and is properly registered. During the last year we have continued to resist attempts by lobby groups to undermine the programme's approach.
- 2.134 One area where we made a decision to exclude a form of therapy was not on the basis of efficacy but on grounds of our legal requirement to avoid discrimination. This is the practice of so called 'gay conversion therapy'. This form of counselling is not provided by any of the counselling registers that we accredit. It remains available from counsellors who are not on a register.
- 2.135 The scope of our legislation is wide and non-prescriptive. We have therefore chosen to interpret the scope of 'health and social care' reasonably widely as we consider that there is a benefit to public protection from accreditation. For instance we will include cosmetic treatments and are in discussions with organisations for people with disabilities about a register for the trainers and handlers of assistive dogs; we consider that assistive dogs are part of the care system for people and therefore fall within our remit. The boundaries of our legislative scope will no doubt be tested in due course as the programme expands.

### **Developments in regulation and registration**

- 2.136 In the summer of 2015 we published *Rethinking Regulation*<sup>13</sup>, an analysis of the weaknesses of the current regulatory model and with proposals for significant reform. We argued that, 'regulation needs a radical overhaul if it is to support rather than stand in the way of the serious changes being proposed for our health and care services. We will not be able to change health and care unless we also change the way it is regulated.'
- 2.137 *Rethinking regulation* has received considerable attention both in the UK and internationally. It is not of course uncontroversial but it has set the framework for a different kind of debate about what works in regulation, how to use regulation to limit the risk of harm, how to control costs and how to ensure regulation supports the development of a different health and care workforce for the future. One reviewer wrote;
- 'The report should be mandatory reading for regulators of all professions everywhere...Whether one agrees or disagrees it provides a fascinating discussion of the direction of professional regulation.'*<sup>14</sup>

<sup>13</sup> Rethinking regulation (2015) [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

<sup>14</sup> Richard Steineke, Toronto, <http://www.sml-law.com/wp-content/uploads/2015/09/Greyar199.pdf>

2.138 We were pleased therefore when in December 2015 the Parliamentary Under Secretary of State at the Department of Health, Ben Gummer MP, announced: *'Our priorities for reform in this area are better regulation, autonomy and cost-effectiveness while maintaining and improving our focus on public protection. We intend to consult on how these priorities can be taken forward, taking account of the Law Commissions' work on simplification and consistency and building on the Professional Standards Authority for Health and Social Care's paper Rethinking regulation published in August 2015. We will present proposals that give the regulators the flexibility they need to respond to new challenges in the future without the need for further primary legislation.'*<sup>15</sup>

2.139 The statutory regulators, the accredited registers are all working with the Department of Health and ourselves on the first stage of that consultation. We welcome this opportunity to pick up the reform of professional regulation which all agree is needed and to make it fit for the future.

### Conclusion

2.140 We have now entered a period in which change to the regulatory system is necessary. We have changed the way we do our performance reviews. The regulators have an increasing sense of frustration about the constraints placed on them by their regulatory frameworks. As a result, piecemeal changes to legislation are being made which only add to its complexity. The accredited registers model has shown us that it is possible to do things differently. We look forward to the Government's proposed consultation on change.

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<sup>15</sup> Regulation of Health and Social Care Professionals: Written statement - HLWS421, 17 December 2015



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# Annual Report and Accounts 2015/2016

## 3. Performance report

### Overview

- 3.1 This report sets out the work of the Professional Standards Authority over the last year.

### About the Professional Standards Authority

#### *Who we are*

- 3.2 The Professional Standards Authority for Health and Social Care (the Authority) was established on 1 December 2012. Its role and duties are set out in the Health and Social Care Act 2012.<sup>16</sup> In brief, the Authority protects the public by raising standards of regulation and registration of people working in health and care. The Authority is an independent UK body.
- 3.3 The Authority has a board comprising seven non-executive members and one executive member, the Chief Executive, who is appointed by the Board.
- 3.4 The non-executive members are appointed by the Privy Council, Scottish and Welsh ministers, and the Department of Health, Social Services and Public Safety in Northern Ireland.
- 3.5 From 1 August 2015 the Authority ceased to be funded by the Department of Health in England and by the devolved administrations in Northern Ireland, Scotland and Wales. It is instead primarily funded by the fees paid by the regulators we oversee.

#### *Our role and what it entails*

- 3.6 Under the acts of Parliament that govern what we do, we have the powers to carry out a range of activities to promote the health and wellbeing of patients, service users and the public in relation to the regulation of health and social care professionals.
- 3.7 We have duties and powers in relation to:
- The oversight of nine statutory bodies that regulate health and social care professionals in the UK
  - The provision of advice to, and undertaking investigations for, government
  - The accreditation of the registers held by non-statutory registering bodies of health and care professionals
  - The provision of advice to other similar organisations in the UK and overseas.

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<sup>16</sup> Available at [www.legislation.gov.uk/ukpga/2012/7/contents/enacted](http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted)

## What we do

### *Oversight of the regulators*

- 3.8 The Authority has powers to:
- Investigate, compare and report on the performance of each regulatory body. We are specifically required to report to Parliament on how far each regulatory body has complied with any duty imposed on it to promote the health, safety and wellbeing of patients, service users and the public
  - Audit the initial stages of fitness to practise cases and report on our findings in relation to each regulator
  - Review the outcome of final fitness to practise cases and refer them to court if we consider that the outcome is insufficient to protect the public<sup>17</sup>
  - Give directions requiring a regulatory body to make rules under any power the body has to do so.
- 3.9 We promote the health and wellbeing of patients, service users and the public in the regulation of health and social care professionals. To do this, we listen to people's views and concerns and consider them when developing our work.
- 3.10 We assist the Privy Council in the exercise of their appointment powers in respect of the regulatory bodies, and support the quality of appointments to regulators' councils. In consultation with the regulatory bodies, we have produced standards for the Privy Council relating to recruitment and appointments to the regulators' councils.
- 3.11 We scrutinise and oversee the work of the nine regulatory bodies that set standards for the training and conduct of health and social care professionals.
- 3.12 We promote good practice and right-touch regulation. We work with the regulatory bodies to improve quality and share good practice. For example, we share learning points arising from the scrutiny of fitness to practise cases and organise seminars to explore regulation issues.
- 3.13 We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We work closely with, and advise, the four UK government health departments on issues relating to the regulation of health and care professionals. In addition, we monitor policy in the UK and Europe.
- 3.14 The regulatory bodies are the:
- **General Chiropractic Council (GCC)** which regulates chiropractors in the UK
  - **General Dental Council (GDC)** which regulates dentists, dental nurses, dental technicians, dental hygienists, dental therapists, clinical dental technicians and orthodontic therapists in the UK
  - **General Medical Council (GMC)** which regulates doctors in the UK

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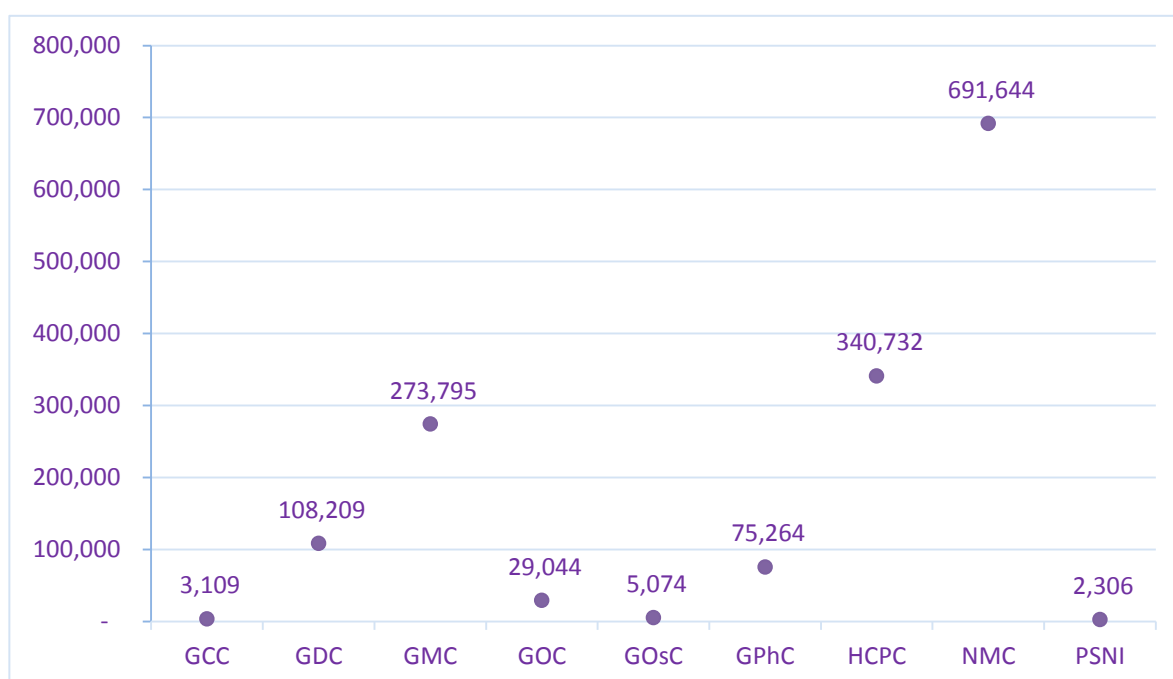
<sup>17</sup> Note: As of 31 December 2015 the phrase 'insufficient to protect the public' replaced the phrase 'unduly lenient'.



- **General Optical Council (GOC)** which regulates optometrists, dispensing opticians, student opticians and optical businesses in the UK
- **General Osteopathic Council (GOsC)** which regulates osteopaths in the UK
- **General Pharmaceutical Council (GPhC)** which regulates pharmacists and pharmacy technicians in England, Wales and Scotland
- **Health and Care Professions Council (HCPC)** which regulates arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, paramedics, physiotherapists, practitioner psychologists, prosthetists and orthoptists, radiographers and speech and language therapists in the UK, and social workers in England
- **Nursing and Midwifery Council (NMC)** which regulates nurses and midwives in the UK
- **Pharmaceutical Society of Northern Ireland (PSNI)** which regulates pharmacists in Northern Ireland.

3.15 Details of the number of registrants in each health and social care professional regulator we oversee (as at 31 March 2016) are shown below.

**Table 1 Number of registrants per health and social care professional regulator**



### **Advising health ministers**

3.16 We support the work of the Secretary of State for Health, the National Assembly for Wales, Scottish ministers and the Department of Health, Social Services and Public Safety in Northern Ireland by providing advice about the regulation and standards of health and care professionals. We also provide advice on other matters when asked to do so.

- 3.17 The Secretary of State and Health ministers in Scotland, Wales and Northern Ireland may also ask us to investigate matters of concern. As set out in the Health and Social Care Act 2012, the Department of Health and devolved administrations pay a fee, determined by the Authority, for this work.
- 3.18 We consult with the UK government and the governments in Wales, Scotland and Northern Ireland on the development of guidelines for the sector and respond to their consultations. In addition, we keep abreast of international developments, particularly in Europe, that may affect health and social care regulation in the UK. We work with colleagues in the UK and internationally, ensuring that we are aware of these developments and that we strengthen our relationships with these partners.

### *Accrediting registers*

- 3.19 The Authority has a role in strengthening quality and patient safety by setting standards and accrediting registers of people working in occupations not regulated by law. As at 31 March 2016, there were 19 accredited registers.
- 3.20 The purpose of accreditation is to improve the quality of registration carried out by the organisations holding these registers and to promote good standards of behaviour, technical competence and, where relevant, business practice by their registrants. It is intended to enhance public protection and support choice by members of the public when seeking services from practitioners in occupations not regulated by law. It is a proportionate means of managing risks.

### *Advice provided to other organisations*

- 3.21 Our legislation permits us to provide advice or auditing services to regulatory bodies and to others that have similar functions to those of a regulatory body, whether or not these functions relate to health or social care. This work is paid for by the organisation requesting the advice.

### *Our values*

- 3.22 Our values act as a framework for our decisions. They are at the heart of who we are and how we would like to be seen by our partners. We are committed to being:
- Focused on the public interest
  - Independent
  - Fair
  - Transparent
  - Proportionate.
- 3.23 Our values are explicit in the way we work: how we approach our oversight of the registration and regulation of those who work in health and social care, how we develop policy advice and how we engage with all our partners. We strive to be consistent in the way we apply our values.
- 3.24 We are independent but hold ourselves accountable to the public and to the parliaments and assemblies of the UK for what we do and how we do it.

3.25 We listen to the views of people who receive care. We seek to ensure that their views are considered in the registration and regulation of people who work in health and social care.

3.26 We develop and promote right-touch regulation.<sup>18</sup> This is regulation that is proportionate to the risk of harm to the public and provides a framework in which professionalism can flourish and organisational excellence can be achieved.<sup>19</sup> We apply the principles of right-touch regulation to our own work.

### **Our aim**

3.27 We work to protect the public, set standards and encourage improvement in the registration and regulation of people who work in health and social care. The safety of the public is at the heart of everything we do.

### **Strategic objectives**

3.28 Our strategic objectives, which were agreed by the Board in September 2014 for 2014-17 are set out below.

3.29 We will work to:

- Reconfigure our processes for the oversight of the statutory regulators to ensure that they are risk-based, targeted, right-touch and continue to focus on outcomes for public protection
- Ensure we have the research and policies in place to maintain our thought leadership now and in the next phase of regulatory reform
- Deepen our understanding of good regulation through international knowledge exchange, bringing benefits to the UK
- Establish the value that accredited registers add to consumer protection and the public interest and make the model sustainable
- Deliver effective financial management to inspire confidence internally and externally in our new funding arrangements
- To deliver these strategic objectives, the Authority will work to maintain and develop a high performing staff team and Board properly recognised, valued and resourced.

### **Business principles**

3.30 Our Board recognised the financial and operational changes we would face after the implementation of the Fee Regulations 2015 and the particular need for clear separation of income and expenditure of our different work streams. In addition to setting revised strategic objectives, it also set for us the following business principles, which we have followed since 1 August 2015:

- All fees from the regulatory bodies will be applied only to our statutory functions of regulatory oversight and improvement as set out in the legislation

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<sup>18</sup> Professional Standards Authority. 2010. Right-touch regulation. Available at <http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation>

<sup>19</sup> Organisational excellence is defined as the consistent performance of good practice combined with continuous improvement.

- Any surplus or deficit generated against our budget as approved by the Privy Council will be used in the calculation of the following year's fee.
- 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
- All fees for accreditation or renewal from occupational registers will be applied only to provide and develop the accredited registers programme. Any surplus generated will be retained for the benefit of the programme.

3.31 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 our four functions
- Publish an internal auditor's statement setting out our compliance with these business principles.

### **Chief Executive's statement**

3.32 As can be seen from the content of this report, the Authority has fulfilled its Statutory duties, it has successfully implemented its new funding arrangements and it has expanded and developed both the accredited registers programme and its international commissions.

3.33 The volume of work carried out by staff has remained high. The number of cases referred to us this year has for the first time been fewer than the number in the previous year. Likewise, the number of cases that we have discussed at case meetings and appealed has fallen, although the percentage of referrals remains constant.

3.34 During the year we concluded our investigation into the General Dental Council's handling of a disclosure by a whistleblower about the investigating committee.

3.35 In August 2015, we published *Rethinking regulation*, an important and well received contribution to the debate about the role and effectiveness of health and care regulation. Our international reputation, as demonstrated by the large number of requests for help and advice we receive, is significant and growing.

3.36 As Chief Executive I am confident that the Authority is performing well; it is maintaining the high quality of its outputs and working within its business principles and budget. The directors take personal responsibility for their budgets and for the risks associated with their areas of work which are reviewed regularly by the directors group and overseen by the Audit and Risk Committee and the Board.

### **Key performance indicators**

3.37 This section explains how we measure performance. In our annual business plan, we set out key performance indicators (KPIs) for our work. We review them as part of the work programme of the directors group and we have

reported our performance against them regularly with Department of Health and the administrations in Scotland, Wales and Northern Ireland.

3.38 Our performance against the KPIs during 2015/16 is set out below:

Workstream	KPI	Performance
<b>Section 29 decisions</b>	All (100%) relevant decisions to be considered within statutory deadlines	100%
<b>Complaints about regulatory bodies</b>	All (100%) complaints acknowledged within five working days Concerns addressed in accordance with our published criteria	100%
<b>DPA and FOI enquiries</b>	All (100%) FOIA and DPA requests dealt with within statutory deadlines	100%
<b>Finance</b>	To pay undisputed invoices: 60% in five days 100% in 10 days	84% in five days 100% in 10 days
<b>HR</b>	Sickness no more than 2.5%  Staff turnover less than 10%	3.31%  13.95% for permanent staff
<b>Complaints about the Authority</b>	100% of complaints acknowledged in five days 100% of complaints to be completed within 28 days	100% 100%
<b>Accredited registers</b>	90% of organisations which we have accredited will apply for continued accreditation  Timescales are met:  <ul style="list-style-type: none"> <li>• Applications put before the Panel within 21 days of receipt of all information/documentation required</li> <li>• To determine and renew all renewal applications within five days from the renewal date provided all relevant information and documentation has been received</li> <li>• Letters advising of need to apply for renewal to be issued 12 weeks before accreditation ceases.</li> </ul>	100%  100%  100%

## Performance analysis

3.39 As this report shows, we have continued to focus on public protection, the improvement of professional regulation and registration and the effective delivery of all our statutory functions. We have worked hard to ensure that we have maintained the quality of our performance while adjusting to the new funding arrangements, our internal reorganisation and revised performance review processes.

- 3.40 The volume of work carried out by staff has remained high. We are appreciative of the support and collaboration that we have received from the regulatory bodies particularly their co-operation with the new funding arrangements, the introduction of which has required us to run two fee consultations in the same financial year. We are grateful to the General Optical Council for seconding a senior manager to us to assist with the revision of the performance review.
- 3.41 The accredited registers programme, although still relatively new, is now fully integrated into our work plans, governance and financial management. With 19 registers accredited covering some 70,000 practitioners, it is making a valuable contribution to choice and quality in health and care.
- 3.42 Our policy work and our research programme have continued to grow in influence.
- 3.43 We are committed to good practice in governance and operations and financial management. We have spent particular time and effort in preparing for our new financial arrangements as set out in the Health and Social Care Act 2012 and the consequent Fee Regulations. The new arrangements have required a significant shift in our budgeting and accounting practices and have caused us to think carefully about new risks and new assurances. Our Board has been particularly mindful of these matters while, at the same time, overseeing the high productivity and quality of our activities.
- 3.44 In December 2015, the commencement of the *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015*, gave the GMC powers to appeal fitness to practise decisions of the Medical Practitioners Tribunal Service (MPTS). It also amended our threshold for referring the fitness to practise decisions from any of the nine regulators we oversee to the Courts under section 29 of our legislation.
- 3.45 At the time of writing, we await the commencement of parts of the *Health and Social Care (Safety and Quality) Act 2015*. These parts will amend our over-arching objective so that it is in line with the GMC's, and with our new threshold for section 29 referrals; it will also amend the over-arching objectives of all the regulators except for the GMC and the Pharmaceutical Society of Northern Ireland (PSNI).

### Performance and activities

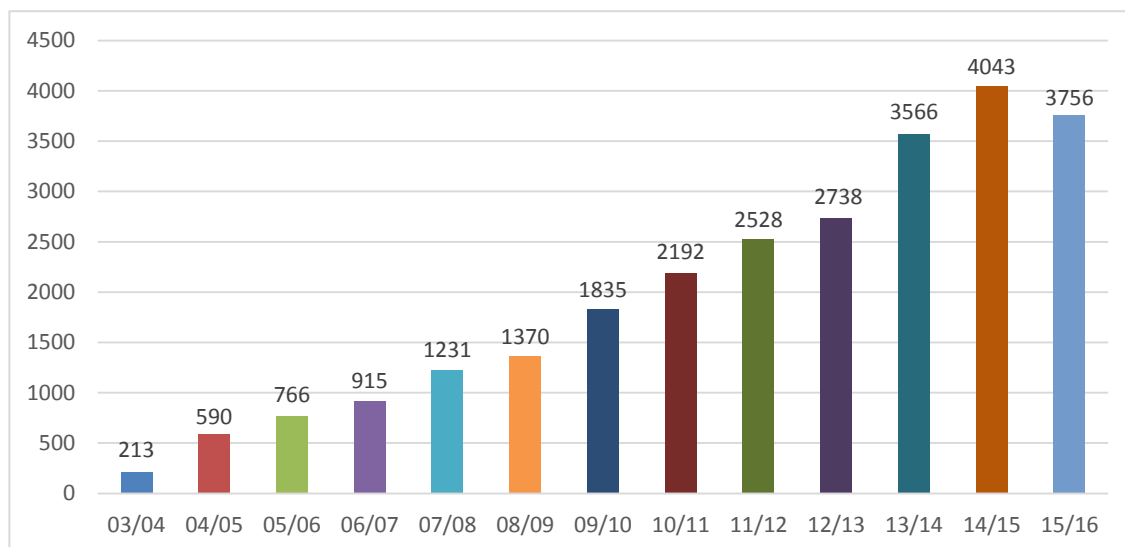
- 3.46 This year, for the first time, we have seen a slight decrease in the number of fitness to practise cases notified to us by the regulators, from 4,043 in 2014/15 to 3,756 in 2015/16. The majority of the cases we reviewed (59 per cent) relate to NMC panel decisions and we believe that the overall decrease is probably reflective of the reduction in the NMC's fitness to practise adjudication activity during 2015/16 compared to the two preceding years.
- 3.47 Of the 3,756 cases we received in 2015/16, 3,390 were closed with no requirement for more information. However, 816 of these cases had resulted in the regulator removing the registrant's name from its register, therefore raising no concerns about public protection and requiring no Authority intervention.
- 3.48 We have a range of powers to scrutinise the regulators to ensure that patient safety and public protection are central to their work. Under Section 29 of the

National Health Service Reform and Health Care Professions Act 2002, we can refer final fitness to practise decisions made by the nine regulatory bodies to Court (a referral by us is treated as an appeal). For cases heard up until 31 December 2015, we could only make such a referral if we considered that the final fitness to practise decision was unduly lenient (within the meaning of that phrase, as set out in case law) and that a referral was desirable for public protection. Following changes that were made to legislation brought about by a Section 60 Order which came into effect from 31 December 2015, the threshold for making a referral to Court has changed – we may now make a referral if we consider that the final fitness to practise decision is insufficient for public protection. Another consequence of the changes to this legislation is a slight extension of the time-frame within which we have to make our decision about whether or not to make a referral to Court.

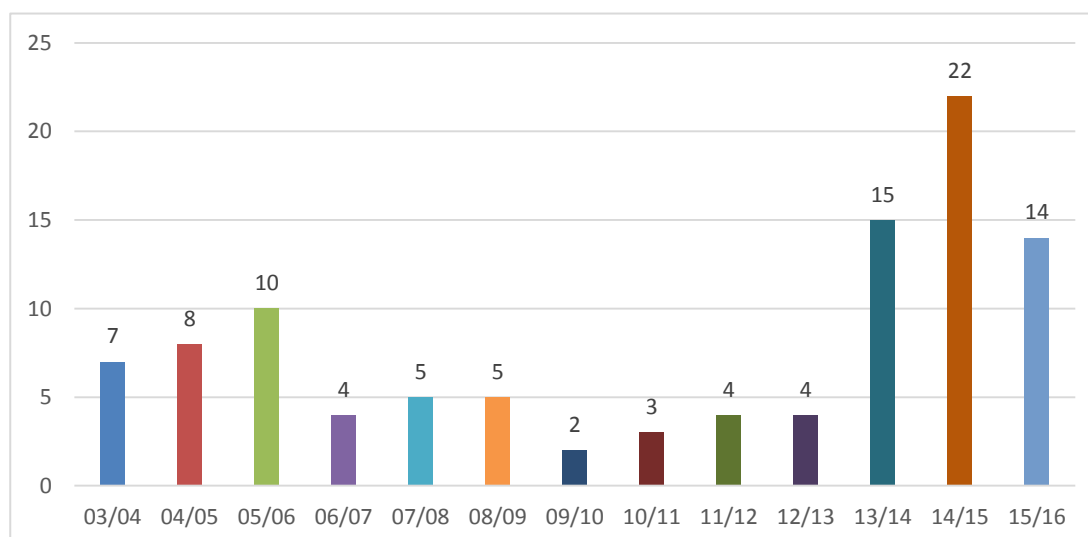
- 3.49 In addition, the changes to the legislation gave the GMC the power to appeal final fitness to practise decisions made by the Medical Practitioners Tribunal Service (MPTS). The GMC's appeal power essentially mirrors our power to make a referral. The introduction of a 'mirror' power for the GMC to appeal a final fitness to practise decision made by the MPTS if it considers that decision is insufficient for public protection, has led us to adapt our process for reviewing final fitness to practise decisions made by the MPTS.
- 3.50 During 2015/16 we considered 44 cases at formal Section 29 case meetings, compared to 49 cases during 2014/15. We referred 14 of those cases to Court; compared to 22 in 2014/15 (although we subsequently withdrew three of those referrals). In all 30 of the cases considered at formal Section 29 case meetings resulted in a decision not to refer to Court, we instead identified learning points to feed back to the regulators.
- 3.51 Although the number of fitness to practise decisions we reviewed has decreased slightly in 2015/16 (see table 2), the trend of us referring to Court 0.4-0.5 percent of cases has continued in the last three years (see table 3).
- 3.52 Of the 14 referrals to Court we made in 2015/16, six related to NMC decisions, four to HCPC decisions, and two to decisions of the GMC and the GDC respectively. Fifty-nine per cent of the final fitness to practise decisions we considered related to NMC cases, which is reflected in the proportion of Court referrals relating to NMC decisions.



**Table 2 Number of fitness to practise cases reviewed annually**



**Table 3 Number of fitness to practise cases referred to court each year**



\* These figures represent the total number of referrals to court but also include a small number of cases which were subsequently withdrawn, for example, 3 in 2014/15.

3.53 Our process of auditing cases closed at the initial stages of the regulators' fitness to practise process was paused during 2015/16, while we revised our Performance Review process. The annual programme of initial stages audits has now been incorporated within the revised Performance Review Process.

### **Performance review**

3.54 We have a statutory duty to report annually on the performance of each of the regulators in fulfilling their duty to protect the public. We do this by assessing their performance against a set of agreed standards (the Standards of Good Regulation). In 2015 we publicly consulted on our proposals for revising the Performance Review process, following a period of informal consultation with the nine regulatory bodies. Following the close of the public consultation in July 2015, we considered the responses and made some changes to our proposals

in light of those responses. Our Board approved the revised Performance Review process proposals in September 2015, and we started working with the revised process in January 2016.

### ***Scrutiny of regulators' council appointments processes***

- 3.55 We assist the Privy Council with appointments to the regulatory bodies' councils (excluding the PSNI).
- 3.56 The aspects of assistance that are not specified in the Health and Social Care Act 2012 are the subject of a memorandum of understanding concluded between the Privy Council and the Authority in February 2013. We provide advice to the Privy Council in relation to all open competitions for appointments and reappointments processes and, if the Privy Council requests it, in relation to any other aspect of the Privy Council's appointments function. We have published two documents detailing our approach, describing the scrutiny process we use, and providing good practice guidance on making council appointments.
- 3.57 In 2015/16, we provided advice to the Privy Council in relation to 32 processes run by seven regulators. Eight of these processes related to appointments via open competition, covering 21 vacancies including one Chair role. Five of these processes related to reappointments, covering 11 vacancies. We advised the Privy Council that it could have confidence in all of these processes.
- 3.58 In the course of our scrutiny, we have identified areas for improvement as well as instances of good practice, which we have shared with the individual regulators throughout the year. Following a positive response to our appointments seminar with the eight regulatory bodies in June 2015 to share good practice, we will be reviewing our guidance in light of the learning and insights we have gained during 2015/16. We will continue to encourage the regulators to share best practice and learning with each other.

### ***Policy and research projects***

- 3.59 We carry out a variety of work to help ensure that regulation achieves what is intended. This includes conducting research and publishing policy advice and looking forward, to anticipate change and ensure regulation remains agile. We encourage collaboration between the regulators we oversee and academics to stimulate learning. Our objective is to ensure that regulation and registration is evidence based.
- 3.60 We published two important discussion papers during the year. In our paper *Rethinking regulation* we explained why the current arrangements for regulation are no longer fit for purpose and set out our vision for the future. In the Autumn, we published a revised version of *Right-touch regulation*, which re-affirms the value of this approach. Our revised version clarifies some of the concepts that are central to the *Right-touch* principles, and includes new sections on risk and responsibility. Our approach has attracted considerable attention here and internationally.
- 3.61 During the year, we commissioned research on public and professional attitudes to dishonesty. We decided to commission this because we noted that some regulators' fitness to practise panels were not in our opinion addressing dishonesty sufficiently. We also commissioned work by the University of Surrey

and Royal Holloway University of London to review cases involving dishonesty from our database of final fitness to practise outcomes, and to develop a typology of different kinds of dishonest misconduct.

- 3.62 We started work to create a model, which we call a 'continuum of assurance' that will allow the risks of harm associated with an occupation to be assessed and the 'right-touch' form of assurance be chosen.
- 3.63 We considered a large number of consultations during the year and responded to 26. These included regulatory consultations in England, Scotland, and Wales and topics such as whistleblowing, confidentiality, social work reform, case examiners, fitness to practise panels and sanctions.
- 3.64 We continued to encourage improvement in regulation through discussion, debate and encouraging research. Our annual Symposium in February explored how regulators could accommodate and expedite innovation whilst protecting the public.
- 3.65 We have continued to build our links with the academic community and now have more than 95 on our list of academics from various disciplines interested in different aspects of regulation or whose work in other fields can be applied to regulatory improvement. In November we held a seminar on Regulating for Positive Outcomes with the Collaborating Centre for Values Based Practice, St Catherine's College, Oxford. We developed this theme further, again with the Centre, at our third annual academic and research conference in March. Eighty-five people attended the conference from 22 academic institutions, 22 regulatory organisations, and others, including international colleagues. Twenty-four presentations were delivered on research into different aspects of regulatory practice and improvement.
- 3.66 We held our first 'Conversation about regulation and professionalism' in Scotland this year, attended by health boards, system and professional regulators and academics. We contributed to several conferences including an ethics seminar at the University of Surrey in October on regulators and behaviour. We were represented at Department of Health working groups including the Cavendish Governance Board, the Health and Social Care Strategy Workforce Forum and the Regulatory Futures Review.
- 3.67 We held a workshop with some members of the public to help us improve our communication and approach to patient, service user and public engagement. We also conducted focus groups.
- 3.68 To try to make it easier for people to understand our work and that of the regulators, we have introduced a new Find a Register section to our website, giving easy access to all registers, both regulators and accredited registers, through a single site. We carried out a review of our approach to handling complaints and concerns and have made changes. We have introduced a new 'Share your experience' process to help people understand how they can share feedback with us about the regulators and accredited registers and how we will use it in our work.

### *Legislative reform*

- 3.69 A considerable amount of time this year was spent responding to several of proposals for legislative change through section 60 Orders and other legislation.

3.70 Whilst generally supporting plans to remove statutory supervision of midwives from the NMC, we expressed our disappointment to the Department of Health that it was not also planning to introduce an amendment that would prevent NMC registrants from lapsing either before the period of time we have for considering whether to appeal has expired, or before any appeal lodged has been decided upon. This is an issue that we have previously raised with the Secretary of State for Health because of the risk it presents to public protection (see paragraphs 2.96-2.98 for more details).

#### *Advice to ministers*

3.71 In July 2015, the Department of Health commissioned us to work with Sir Bruce Keogh and the professional regulators to develop a common set of values to encourage professional behaviours in accordance with their Codes, and promote quality improvement across the NHS. Our Chief Executive jointly chaired a summit with The Medical Director of NHS England in September 2015. During the year the Department of Health commissioned us to carry out some preliminary work on the use of prohibition orders.

#### *Accredited registers programme*

3.72 The Health and Social Care Act 2012 has given the Authority the power to accredit registers that meet our standards in the interests of service users and the public. The accredited registers programme, launched in 2013, applies to the health and care sector in the UK. It was established to provide assurance that registers are well run.

3.73 Being accredited means that an organisation has satisfied the Authority that it meets its high standards. It is a mark of quality. Accredited registers are entitled to use the Authority's accreditation mark (shown below) so that they can be distinguished easily.



3.74 The quality mark gives peace of mind for anyone looking for a practitioner, letting them know that anyone who holds the mark has committed to the high standards of personal behaviour, technical competence and business practice (where applicable) of the organisation holding an accredited register.

3.75 We have so far accredited 19 registers, covering 25 occupations and approximately 70,000 practitioners. Accreditation is reviewed annually. By the end of the financial year, three organisations were undergoing assessment for initial accreditation and five were going through their annual review.

3.76 To encourage learning and improvement, we hold an annual seminar for accredited registers. In addition, we ran workshops (webinars) for organisations planning or preparing to apply for accreditation with us.

- 3.77 We held a roundtable event in July 2015 with senior decision and policy makers to raise awareness of the accredited registers programme. This built upon our earlier report *Accredited registers – ensuring the health and care practitioners are competent and safe*. After the roundtable event we met with key stakeholders to discuss how accredited registers could support them in achieving their policy objectives as well as improve and raise standards of care. We met, for example, the Royal College of General Practitioners, NHS England, NHS Choices, the Department of Health, Healthwatch England, Local Government Association and Hospice UK. Following this engagement, we formulated a plan to further disseminate information about the programme and raise public awareness.
- 3.78 During the year we received and considered 28 queries about accredited registers.
- 3.79 We commissioned an independent review of our approach to assessing our accreditation standard for education and training (Standard 9) and following consultation, included from 1 April 2016, an additional element to our standard to help inform the public when choosing practitioners from an accredited register.
- 3.80 We delivered presentations about the programme at different events and met with several stakeholders during the year. We also responded to consultations relevant to the programme and to accredited registers.

#### ***Advice provided to other bodies***

- 3.81 We were commissioned to carry out a performance review of the College of Registered Nurses of British Columbia. We adapted our Standards of Good Regulation and added a set of standards on governance, against which to assess the College's performance and produce a substantial report.
- 3.82 We were pleased to win a contract from the Ontario Ministry of Health and Long-term care. Our recommendations were welcomed by the Ministry.

#### **Financial summary**

- 3.83 The funding of the Authority significantly changed during the period 2015/16 following the commencement of the Professional Standards Authority for Health and Social Care (Fees) Regulations 2015 (the Fee Regulations) which were laid in Parliament on 27 February 2015 and came into force on 1 April 2015 stating that the fees were to be paid as of 1 August 2015. The regulations implemented changes set out in the Health and Social Care Act 2012 for the Authority to be funded by the regulatory bodies it oversees. Accordingly, for the year under review we were primarily funded by the Department of Health up to 31 July 2015 and thereafter by fees paid by the regulatory bodies.
- 3.84 Our funding for 2015/16 comprised £2.7 million fees raised from the regulators, £1.4 million from the Department of Health and £0.038 million from the devolved administrations relating to previous years. In 2014/15 our funding was £3.46 million from the Department of Health and £0.30 million from the devolved administrations.
- 3.85 At 31 March 2016, we carried forward reserves of £1.81 million (2014/15: £1.04 million) after net operating costs of £0.68 million (2014/15: £3.46 million). Net

operating costs 2015/16 are calculated net of fees received from the regulators, which is recorded as an income in accordance with IAS 18.

- 3.86 An analysis of accounting policies is shown in note 1 to the accounts. There have been no significant changes to these during the year.

### Transparency

- 3.87 The Authority is committed to the provision of information to the public.
- 3.88 Our creditor payment policy is maintained in accordance with the government's Better Payment Policy, which currently provides for payment of suppliers within five working days of receipt of invoice, except where there may be a query or dispute regarding an invoice.
- 3.89 This target is challenging, especially for a small organisation, and could only be achieved if we employed more staff. Accordingly, we aim to pay 60% of undisputed invoices within five days and 100% within 10 days.
- 3.90 During the 2015/16 financial year, 100% of invoices were paid in 10 days and 84% (by number of invoices) and 76% (by total invoice value) within five days. Details of our payment record can be found on our website<sup>20</sup>.
- 3.91 No interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998.
- 3.92 The balance owed to trade payables as at 31 March 2016 was £11,445 (2014/15: £57,000). As a proportion of the total amount invoiced by suppliers in the year, this is equivalent to 2.13 days (2014/15: 9.6 days).
- 3.93 Other information that can be found in the government disclosure and transparency sections of our website include:
- Expenditure over £25,000
  - Board member expenses
  - Executive team expenses
  - Hospitality
  - Staff organograms.

### Summary of performance

#### Sustainability

- 3.94 Due to our size, we are not required to provide a sustainability report. We nevertheless do seek to minimise the impact of our activities on the environment.
- 3.95 Our office was refurbished, before we became tenants, in accordance with the BREEAM environmental assessment standard, which looks at heating, lighting, recycling and other matters, and has an 'excellent' rating.
- 3.96 We occupy 2.58 per cent of the building, part of which is occupied by our tenants.

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<sup>20</sup> <http://www.professionalstandards.org.uk/about-us/ask-us-for-information/government-disclosure/payment-statistics>



- 3.97 Rainwater is collected and used to supply the sanitary facilities, reducing our clean water consumption.
- 3.98 Our offices have facilities to separate waste for recycling, and to encourage staff to do this, no waste is collected from bins at desks. Waste is separated into glass, recyclable, non-recyclable and food waste. A contractor separates the mixed recyclables. No waste goes to landfill. Waste that cannot be recycled is incinerated. For us, based on 2.58 per cent of the building total, 0.04 tonnes were incinerated and 3.29 tonnes were recycled. Food waste is used to produce compost for the landscaped areas around the building. The cost of all waste disposal is included in our building service charges.
- 3.99 Our gas and water consumption is calculated as 2.58 per cent of the total. Our electricity is separately monitored and the consumption for the space rented from the landlord is known. This does not, however, include the consumption by our tenants. Our consumption for 2015/16 and the previous year is set out below.

	<b>2015/2016</b>	<b>2014/2015</b>
<b>Gas</b>	6,253kWh	4,932kWh
<b>Electricity</b>	64,882kWh	69,739kWh
<b>Water</b>	155.77 m <sup>3</sup>	145.30m <sup>3</sup>
<b>Waste removed</b>	3.33 tonnes	3.44 tonnes

- 3.100 The installation of waste compactors has reduced the frequency of collections from daily to fortnightly, reducing vehicle emissions.
- 3.101 We seek to minimise the impact of our own activities on the environment. When equipment is purchased, consideration is given to energy consumption. We use recycled materials where such alternatives are available and provide value for money.
- 3.102 We continue to seek to reduce the use of paper by maximising the use of our intranet and website for the dissemination of information. We are also using electronic versions of meeting papers where technically practical. Where paper is used, we look to reduce its consumption through the active management of printers requiring double-sided printing.
- 3.103 We use 'off-white recycled paper' for our day-to-day needs. We used 69 cases of paper in 2015/16 (77 cases in 2014/15).
- 3.104 When travel is necessary, we use public transport as much as possible and have increased our use of telephone and video conferencing to avoid the need to travel. When appropriate journeys within the UK and Europe are made by train.
- 3.105 We have continued to collect environmental information regarding journeys made by Board and staff members.



Mode of travel	2015/2016		2014/2015	
	CO <sup>2</sup> /kg Total	CO <sup>2</sup> /kg Average per full-time equivalent*	CO <sup>2</sup> /kg Total	CO <sup>2</sup> /kg Average per full-time equivalent*
<b>Air*</b>	4,268	125	8,601	268
<b>Rail</b>	762	22	738	23

\* This information only relates to flights booked through our central supplier. Some international flights booked separately, often by commissioning organisations, are not included.

Approved by the Board



Harry Cayton CBE  
Accounting Officer  
23 June 2016

## 4. Accountability Report

### Corporate Governance report

#### *Directors' report*

- 4.1 We have an executive team as shown below, covering our three areas of work: scrutiny and quality; policy and standards; and governance and operations.
- 4.2 A register of senior managers' interests is available on our website<sup>21</sup>.
- 4.3 Directors are members of staff and are paid in accordance with staff policies.

Harry Cayton	Chief Executive
Linda Allan	Director of Governance and Operations
Christine Braithwaite	Director of Policy and Standards
Rosalyn Hayles	Director of Scrutiny and Quality

#### *Board reappointments*

- 4.4 Public appointments are generally made for an initial term of four years, which can be extended for a second term. The total time served should not exceed eight years. When the Council for Healthcare Regulatory Excellence, the predecessor to the Authority was established, the Council members were appointed for varying initial terms in order to facilitate future continuity.
- 4.5 Schedule 7 of the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and by the Health and Social Care Act 2012, provides directions for the appointment of members to the Authority.
- 4.6 In the summer of 2015, Baroness Jill Pitkeathley announced that she intended to resign from her position as Chair of the Authority.
- 4.7 Following a recruitment process using our appointment principles, the Privy Council appointed George Jenkins as the Chair of the Authority for a period of four years, effective from 1 January 2016.
- 4.8 Details of all Board appointments and who makes them are shown in the table below.
- 4.9 Details of the directorships and significant interests held by the board are contained within the register of interests held on our website<sup>22</sup>.

<sup>21</sup> <http://www.professionalstandards.org.uk/docs/default-source/board/management-team-register-of-interests-2016.pdf?sfvrsn=0>

<sup>22</sup> <http://www.professionalstandards.org.uk/docs/default-source/board/board-register-of-interests.pdf>

### *Board members*

<b>Board member</b>	<b>Appointed by</b>
Jill Pitkeathley OBE(Chair)*	Privy Council
George Jenkins OBE(Chair)**	Privy Council
Renata Drinkwater	Privy Council
Ian Hamer OBE	Welsh Ministers
Andrew Hind CB	Secretary of State
Stuart MacDonnell	Department of Health, Social Services and Public Safety in Northern Ireland
Jayne Scott	Scottish Ministers
Antony Townsend	Privy Council
Harry Cayton CBE	Authority's Board

\* Up to 31 December 2015

\*\* From 1 January 2016

- 4.10 Details of the attendance of Board members can be found in the governance statement.

### *The Board and Accounting Officer's Statement of responsibilities*

- 4.11 Under the Cabinet Office's Guidance on Codes of Best Practice for Board Members of Public Bodies, we are responsible for ensuring propriety in its use of public funds and for the proper accounting of their use. Under Schedule 7, Paragraph 16 (2) of the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008, we are required to prepare a statement of accounts in respect of each financial year in the form and on the basis directed by the Secretary of State for the Department of Health, with the consent of HM Treasury. The accounts are to be prepared on an accruals basis and must give a true and fair view of the Authority's state of affairs at the year end and of its income and expenditure, total changes in taxpayers' equity and cash flows for the financial year.
- 4.12 In preparing the accounts, we are required to:
- Observe the accounts direction issued by the Secretary of State, with the consent of HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
  - Make judgements and estimates on a reasonable basis
  - State whether applicable accounting standards have been followed, and disclose and explain any material departures in the financial statements
  - Prepare the statements on the going concern basis unless it is inappropriate to presume that we will continue in operation.

- 4.13 The Accounting Officer for the Department of Health has appointed the Chief Executive as our Accounting Officer. His relevant responsibilities as the Accounting Officer, including his responsibility for the propriety and regularity of the public finances for which he is answerable and for the keeping of proper records, are set out in the Non-Departmental Public Bodies' Accounting Officers' Memorandum issued by HM Treasury and published in Managing Public Money.

#### **Data handling**

- 4.14 Details of this can be found in paragraphs 4.68-4.74.

### **Governance statement**

- 4.15 Our Board has corporate responsibility for ensuring that the Authority fulfils its statutory duties and for promoting the efficient, economic and effective use of its resources.
- 4.16 The Authority's Board comprises seven non-executive members and one executive member. All non-executive members of our Board have been appointed from the public so that we are completely independent of the health and social care professional regulators that we oversee.

#### **Chair of the Board**

- 4.17 The Chair has a particular leadership responsibility on the following matters:
- Leading the Board in formulating our strategy
  - Ensuring that the Board, in reaching decisions, takes proper account of any relevant guidance provided by the ministers or the sponsor departments
  - Promoting the efficient, economic, and effective use of resources, including staff
  - Encouraging high standards of propriety
  - Ensuring that the Board meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions made and, where appropriate, the views of individual members
  - Ensuring that the work of the Authority is reported to Parliament.

#### **Attendance at Board meetings held in public**

- 4.18 There were six Board meetings held in public between 1 April 2015 and 31 March 2016.

<b>Council member</b>	<b>Number of meetings attended</b>	<b>Possible</b>
Jill Pitkeathley (Chair)*	4	4
George Jenkins (Chair)**	2	2
Renata Drinkwater	6	6
Ian Hamer	6	6
Andrew Hind	5	6
Stuart MacDonnell	5	6
Jayne Scott	6	6
Antony Townsend	6	6
Harry Cayton	6	6

\* Up to 31 December 2015

\*\*From 1 January 2016

- 4.19 During the year under review, the Board was active in ensuring that our existing statutory functions were maintained and that the risks we were encountering were being addressed. It achieved this by effective use and monitoring of the risk register and assurance framework and by remaining vigilant about the quality of our outputs.
- 4.20 The Board is confident that it continues to receive appropriate, complete and relevant reports from the executive to ensure that it can fulfil its strategic role and can hold the executive to account. Quality assurance is provided by both the Scrutiny Committee and the Audit and Risk Committee, which report to the Board. The Board also reviews all key policy papers and reports before publication to ensure they meet the high standards it expects. The Board also receives finance reports and reviews the risk register twice a year.
- 4.21 The Board pays particular attention to the conduct of the Authority's investigations and carefully assures itself of the quality of the final reports. During the year it oversaw the investigation and report into allegations made by a whistleblower at the GDC.
- 4.22 The Board plays an important role in establishing the strategic direction for the Authority and considers this and related issues at its annual planning day.
- 4.23 The Board also reviews its own performance as part of its strategic planning. It reviewed its own preparation and the executive team's work in planning for the financial changes and new fee arrangements which were implemented during the year. The Board considers that it is functioning effectively.
- 4.24 Maintaining the quality of our work is an important consideration for the Board. It contributes to publications and reports prior to publication and takes a close interest in research and policy development. Board members attend the Authority's annual research conference and Symposium.
- 4.25 The Board also reviews information it receives about the Authority's performance from external parties including the statutory regulators, the accredited registers and the Departments of Health in England, Scotland, Wales and Northern Ireland.
- 4.26 All members of the Board are appraised annually by the Chair and are able to comment on the performance of both the Chair and the Chief Executive.
- 4.27 The detail of quality assurance is delegated to the Scrutiny Committee and to the Audit and Risk Committee. We report on their activities separately. The Terms of Reference for the two committees are reviewed annually. In 2016, the

Scrutiny Committee's Terms of Reference were revised to ensure it was able to give proper attention to the accredited registers programme and to clarify its oversight of Section 29 decision-making by the executive.

## Committees and working groups of the Board

### *Audit and Risk Committee*

4.28 The Board has an Audit and Risk Committee to support it in its responsibilities for risk control and governance. The committee reviews the comprehensiveness of assurances in meeting the Board's and Accounting Officer's assurance needs and reviewing the reliability and integrity of these assurances.

4.29 Four Audit and Risk Committee meetings were held between 1 April 2015 and 31 March 2016.

4.30 Members' attendance at committee meetings during 2015/16 was as follows:

Committee member	Number of meetings attended
Andrew Hind (Chair)	4
Stuart MacDonnell	4
Jayne Scott	4

4.31 The minutes of the committee's meetings are formally reported to the Board, as is the committee's opinion on the risk register and the changes made to it.

4.32 The committee reviews its Terms of Reference and work programme annually and reports any changes that it proposes to the Board. Each year, it formally reports to the Board on:

- Its work during the previous financial year
- The assessment of information governance arrangements
- The internal audit reports submitted to it
- The views and opinions of the auditors.

4.33 The committee sets its own work programme for the coming year and this influences the work programme set by the internal auditors.

### *Regulators internal audit hub*

4.34 We are within the Government Regulators Internal Audit Hub and we were party to the tender for the Hub's internal audit provision; the Hub's internal auditors, Grant Thornton (GT), were our internal auditors for 2015/16.

4.35 The internal audit work this year focused on:

- Consultation processes for Fees and Performance Review
- Adherence to our business principles.

### *Consultation processes for Fees and Performance Review*

4.36 The review considered both the design and operation of the consultation processes for the 2015/16 fee determination and the proposals for changing the

performance review process, including timetabling, the structure of the consultation including design of questions, collation and analysis of responses, in addition to an assessment of how the overall approach of both processes compared to relevant good practice.

- 4.37 The review which identified a small number of areas for us to consider concluded:

*'The Authority's approach to consultation for both fee determination and performance review broadly aligns with good practice.*

*Firstly, for the fees process, the Authority has had to act swiftly to create a process which enabled income to be received from the regulatory bodies in a timely manner for both 2015-16 and 2016 -17 years ... with management seeking to obtain efficiency gains from the timetabling in 2017-18 and beyond, this should enable the Authority to consult ... to enable it to propose a fee to the Privy Council and receive the same in a timely manner'.*

*Secondly, for the performance review process, the Authority has been in full control of the impact of the timetable and therefore recognising the fundamental proposed changes, decided on a period of pre-consultation which in hindsight doesn't clearly indicate it added much value, based upon the subsequent formal feedback received'.*

#### *Adherence to business principles*

- 4.38 This review looked at whether the Authority was acting in accordance with its own business principles which are set out in paragraphs 3.30 and 3.31. The review, which identified one action that merited attention for the Authority to consider concluded:

*'In the period August 2015 – February 2016, based on the limited testing we undertook, the Authority was working to the set of business principles. We identified one area that merited management attention to ensure more robust controls are in place. This related to time recording for the commissioned projects. Our work did not identify any fundamental or significant errors in relation to the application of the principles, based solely on the work carried out.'*

#### *Risk register*

- 4.39 The Directors Group reviews the risk register quarterly. Every six months, the updated report is considered by the Audit and Risk Committee and thereafter by the Board. Risks are added, updated or deleted outside of this process when the need arises.
- 4.40 During the year, the committee reviewed the risk register maintained by the executive. The main risks discussed, some of which are covered in detail in the strategic report, related to the timing of new funding arrangements and the need to retain staff.

#### *Assurance framework*

- 4.41 During 2014/15 the committee considered how the Board members could be assured about the operation of the Authority and how this could be documented. In doing so, the committee sought to identify a format that was proportionate and informative.



4.42 The document that was produced, the Assurance Framework, is intended to record and inform Board members of the evidence they can rely on to provide assurance to them in relation to the running of the Authority and the mitigation of risks.

4.43 The document is linked to the risk register and is regularly updated.

### *Scrutiny Committee*

4.44 The Scrutiny Committee receives reports on the operation of our scrutiny and oversight of the nine health and care professional regulatory bodies and provides quality assurance of the accredited registers programme.

4.45 At its meeting in February 2016, the Scrutiny Committee approved draft changes to its Terms of Reference to ensure they are still relevant and fit for purpose.

4.46 During 2015/16 the Scrutiny Committee received updates at each meeting on the Authority's scrutiny of the appointments processes used by eight of the regulators in respect of their Council members; the exercise by the Authority of its Section 29 right to refer decisions made by the regulators' fitness to practise panels to Court; the initial stages audit and Performance Review programmes; and on the activities of the accredited registers programme.

4.47 There were two Scrutiny Committee meetings held between 1 April 2015 and 31 March 2016. Members' attendance at each meeting is shown below.

<b>Committee member</b>	<b>Number of meetings attended</b>
Ian Hamer (Chair)	2
Harry Cayton (CE)	2
Renata Drinkwater	2
Antony Townsend	2

### *Initial stages audits*

4.48 At the October 2015 Scrutiny Committee meeting, the committee was updated on the progress with publishing the final audit report from the 2014 cycle – the NMC audit report (published in November 2015).

### *Appointments to regulators' councils*

4.49 At its meetings in October 2015 and February 2016, the Scrutiny Committee considered reports on recent activity, as well as information provided about the Authority's internal processes and its relationship with external stakeholders including the Privy Council in relation to this area of its work.

### *Review of final fitness to practise decisions (the Authority's Section 29 jurisdiction)*

4.50 At its meetings in October 2015 and February 2016, the Scrutiny Committee reviewed decisions taken to refer to Court/not to refer to Court individual regulators' final fitness to practise panel decisions that had been taken at Section 29 case meetings. At each meeting, the Committee reviewed a sample

of these decisions taken throughout the year and confirmed that it was satisfied as to the processes followed.

- 4.51 During the October 2015 meeting, the Committee also reviewed a small sample of cases that, while they raised concerns, had not been referred for further consideration at Section 29 case meetings. The Committee accepted a recommendation to seek a review of these decisions by external Counsel.
- 4.52 At the February 2016 meeting the Committee was provided with, and accepted, the resulting advice from Counsel, including a recommendation about a structured test that could in future be used to decide whether or not a Section 29 case meeting should be held. The Committee approved the use of the proposed test to be incorporated within an updated version of the Authority's Section 29 Process and Guidelines document. This was approved by the Board for implementation in 2016/17.

#### *Annual performance review of regulators*

- 4.53 At the meeting in October 2015, the Scrutiny Committee was updated on the Authority's progress in implementing the revised Performance Review process following completion of the public consultation on the Authority's proposals and review by the Authority's Board of the consultation responses in September 2015.
- 4.54 The first cycle of reviews of the regulators' performance using the revised Performance Review process began in January 2016. At the February 2016 meeting, the Scrutiny Committee agreed that it would assure aspects of the revised Performance Review process once a complete cycle has been completed in 2017.

#### *Other work*

- 4.55 The Committee has regularly reviewed the Authority's handling of concerns about the regulators. At the February 2016 meeting, it was confirmed that the Authority is developing a document intended to be provided to the public which will make it clearer that the Authority is not a complaints-handling organisation and outlining the Authority's remit.

#### *Accredited registers*

- 4.56 The Scrutiny Committee carried out its scrutiny of the accredited registers programme. It received progress updates on applications going through initial assessment, annual reviews of accreditation and notifications of change.
- 4.57 The committee was also kept informed about the communications activities and engagement with stakeholders to raise awareness of the programme.

#### **Pension scheme regulations**

- 4.58 As an employer with staff entitled to membership of the NHS Pension Scheme, control measures are in place to ensure all employer obligations contained within the scheme regulations are complied with. This includes ensuring that deductions from salary, employer's contributions and payments to the scheme are in accordance with the rules and that member pension scheme records are

accurately updated in accordance with the timescales detailed in the regulations.

- 4.59 The protection of data held by us and requests for its disclosure continue to be important considerations for us.
- 4.60 As a small employer not within the NHS, the Authority does not have online access to the NHS Pension Authority (NHSPA). We submit paper documentation to the NHSPA in order that they would update our staff records and other data.
- 4.61 We have continued to try to make arrangements to have online access so that the records, especially staff records, can be updated in real time.

### **Risk and uncertainty**

- 4.62 The timetable for the determination and collection of our fee income was of concern to us during 2015/16 both in respect of the income for that year and in relation to the receipt of the fees for 2016/17.
- 4.63 There was insufficient time between the commencement of the fee regulations and their implementation date for the necessary steps required by the consultation process to be undertaken and the determination to be made by 1 August 2015. We were pleased that the Department of Health made arrangements for the Authority to be able to borrow money from the government from the end of July 2015 through to the end of November 2015 when we received the fee income for 2015/16. The Authority paid interest in respect of this arrangement.
- 4.64 Having completed the process for 2015/16 we then had to undertake it a second time for 2016/17. Given that we were working to achieve receipt of the fees by 1 April 2016 this also was a tight timetable for both the Authority and the Privy Council. We were pleased that it was completed so that we were in receipt of funds by the start of the financial year. The fact that the regulators paid promptly meant that we ended the 2015/16 financial year in receipt of the majority of our income for 2016/17.
- 4.65 Our Board were conscious of the risks to our cash flow should there be any delay to the receipt of the fees and set out its proposals for a reserves policy in our 2016/17 consultation document. These are set out on the notes to the accounts.
- 4.66 We approached the Department of Health to request additional financial subsidy for the accredited registers programme for 2015/16 financial year and were pleased that it was provided. It is still our objective that the scheme become fully self-funding.
- 4.67 During discussions with the Department of Health regarding the transition of the Authority to the new funding arrangements it had been agreed that a submission would be made regarding removing the Authority from being listed on the Designation Order listing bodies within the main government accounting framework. To date this has not been progressed and our status both as an entity and in accounting terms is still not settled. Our official classification remains that of 'an unclassified public body'.

## **Data handling**

- 4.68 Our system of internal control is based on the HMG Security Policy Framework and we continue to monitor and review our compliance with them.
- 4.69 We hold little personal information. The main data we hold relates to our own staff. Where we require access to personal data held by others, this is generally undertaken at the premises of the data holder. Staff undertaking audits as part of performance reviews are required to work through remote access to our server whenever possible. Since this is not always possible, the laptops used by the auditors have been encrypted to provide another layer of security.
- 4.70 Staff continue to undertake the government's 'Protecting Information' online training. The training is split into three levels and is assessment-based.
- 4.71 All staff are required to complete the level appropriate to their level of responsibility for data-handling. All members of staff who have completed the training to date successfully passed the assessment.
- 4.72 The Audit and Risk Committee Chair has provided a statement that he was satisfied that we have appropriate policies for staff to adhere to, as far as they apply to the Authority, and that suitable processes are in place to mitigate risks to our information.
- 4.73 This statement has been prepared following consideration of the Authority's Annual Assessment of Information Risk Management for 2015/16 and the assurance provided by it.
- 4.74 We have no personal data incidents to report.

## **Accounting Officer's responsibilities**

### **Scope of responsibility**

- 4.75 As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Authority's policies, aims and objectives, while safeguarding the public funds and organisational assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money.
- 4.76 The Authority reports to the UK Parliament and works closely with the devolved administrations in Northern Ireland, Scotland and Wales, and with the Department of Health in England, to deliver our statutory obligations and the key objectives of our business plan. This includes identifying and responding appropriately to both internal and external risks.

### **The purpose of the system of internal control**

- 4.77 The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.
- 4.78 The system of internal control is designed to identify and prioritise the risks to the achievement of organisational policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

4.79 Our system of internal control has been in place for the year ended 31 March 2016 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance. The key elements of the system of internal control include:

- Financial procedures detailing financial controls for responsibilities of, and authorities delegated to, the management team
- Business planning processes setting out the objectives of the Authority supported by details of annual income, expenditure, capital and cash flow budgets
- Regular reviews of performance along with variance reporting, scenario planning and reforecasting.

#### Review of effectiveness

4.80 As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the internal auditors, the Directors Group, which has responsibility for the maintenance of the internal controls, and comments made by the external auditors in their management letter and other reports. The Audit and Risk Committee and Board have advised me on the implications of the result of my review on the system of internal control. The Scrutiny Committee has this year considered in detail our performance against our own standards of our statutory functions.

4.81 The effectiveness of the system of internal control was maintained and reviewed through:

- The Board of the Authority, which met six times
- The Audit and Risk Committee, which consists of three members of the Board. I also attended the Audit and Risk Committee meetings together with the Director of Governance and Operations, the Head of Finance and representatives from the National Audit Office and our internal auditors
- Risk management arrangements as described, under which key risks that could affect the achievement of our objectives have been managed actively, with progress being reported to the Audit and Risk Committee and, through it, to the Board of the Authority
- Our annual assessment of information risk management undertaken in accordance with the Cabinet Office's guidance
- Regular reports from the internal auditors, Grant Thornton, complying with the government's Internal Audit Standards
- Comments made by external auditors in their management letter and other reports.

4.82 Grant Thornton, internal auditors to the Regulators Hub have been our internal auditors for the year under review. The Head of Internal Audit in his report for 2015/16 stated that:

*'.....There was nothing that has come to our attention, either as a result of audit activity we have undertaken since 1 April 2015 or by other means that affects the audit opinion we give as at the date of this report.....'*

*Based specifically on the scope of reviews undertaken and specific testing/evaluation we performed during 2015 -16, we have concluded that controls we tested were suitably designed and operating effectively in the areas of corporate governance, risk management and internal controls.'*

- 4.83 I do not consider that we have any significant weaknesses in our system of internal controls. A programme of continuous monitoring exists, in consultation with the Audit and Risk Committee, internal auditors and external auditors, to ensure that we meet best practice standards in all areas of our operations.
- 4.84 Our Assurance Framework is monitored along with the risk register by the Directors Group, the Audit and Risk Committee and the Board. External and internal influences are considered and any potentially significant risks are discussed with key stakeholders as soon as they become apparent.
- 4.85 I am satisfied that this report adequately reflects the information risks we have managed and that we have considered future risks. I consider that we have taken the actions necessary to manage information risks effectively. I am confident that staff are aware of their responsibility to store, share and destroy information securely. I am satisfied that the minor information risk incidents which occurred this year were managed appropriately and that no sensitive information was disclosed or lost.
- 4.86 This report has been prepared in accordance with the 2015 - 2016 Government Financial Reporting Manual (FRM) issued by HM Treasury.
- 4.87 Our accounts have been prepared in accordance with Schedule 7, Paragraph 15 of the National Health Service Reform and Health Care Professions Act 2002, as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012.
- 4.88 Details about the NHS Pension Scheme and the treatment of pension liabilities in the accounts are set out in accounting policies within the notes to the accounts (note 1).
- 4.89 I confirm that:
- The assessment of information risk management has been completed satisfactorily and that the information can be used for our Annual Governance Statement
  - This report and accounts as a whole are fair, balanced and understandable
  - We have complied with the Code of Corporate Governance as detailed in DAO(GEN)02/12 – Governance Statements in so far as it applicable to us
  - So far as I am aware, there is no relevant audit information of which the auditors are unaware, and that I have taken all the steps to make myself aware of any relevant audit information and to establish that the auditors are aware of that information
  - I take personal responsibility for the report and the judgements required for determining that it is fair, balanced and understandable.



## 5. Remuneration and staff report

### Remuneration policy

#### Remuneration Committee

- 5.1 The Remuneration Committee meets once a year, or more frequently if necessary, to deal with other remuneration issues if they arise.
- 5.2 The Authority does not have a Nominations Committee. The Remuneration Committee would undertake this role should the need arise.
- 5.3 One Remuneration Committee meeting was held between 1 April 2015 and 31 March 2016. Members' attendance is shown below.

Committee member	Number of meetings attended
George Jenkins (Chair)	1
Ian Hamer	1
Andrew Hind	1
Linda Allan (in attendance)	1

- 5.4 The committee authorised the introduction of retention payments in order to better retain and secure the services of business critical post holders.
- 5.5 The pay policy introduced when our organisation was established incorporated a band structure whereby staff could progress along incremental points within a given band alongside a performance appraisal process. No separate performance-related pay bonuses were paid. Progression through the pay band increments was subject to meeting certain performance standards as defined in the policy.
- 5.6 In 2010/11, we were instructed by the Department of Health that as the annual increments were not contractual, the Cabinet Office guidelines prohibited us from paying them. Accordingly, 2015/16 was the sixth consecutive year that the staff received no increments.
- 5.7 Normal practice would be for the Remuneration Committee to consider an annual uplift to reflect a cost of living increase payable from April. Since at the commencement of the year we were still funded by the Department of Health, in line with the pay guidance for government employees issued by the Cabinet Office in 2010, the uplift payable in 2015/16 was centrally determined.
- 5.8 We experienced unacceptably high staff turnover in 2014/15 which, continued into 2015/16. In light of this and the need to address the increasing risk arising from the loss of skilled staff the Remuneration Committee introduced a retention allowance. The allowance which is temporary is paid to staff who have agreed to give the Authority more than the minimum notice period.
- 5.9 The Remuneration Committee also agreed that an independent review of the staff grades and pay bands should be undertaken. This will be done during 2016/17.



## 5.10

Contracts are generally offered on a permanent basis. If they are offered on a fixed-term basis, this is to reflect the nature and context of the work involved. The notice period required is determined by the position of the post holder. We treat termination payments and provisions for compensation for termination on a case-by-case basis in consultation with our advisers.

### Senior managers' contracts

Name	Title	Date of contract	Unexpired term	Notice period
Linda Allan	Director of Governance and Operations	15 March 2010	Permanent contract	3 months
Christine Braithwaite	Director of Standards and Policy	17 May 2010	Permanent contract	3 months
Harry Cayton	Chief Executive	1 August 2007	Permanent contract	6 months
Rosalyn Hayles	Director of Scrutiny and Quality	15 August 2010	Permanent contract	3 months

### Senior managers' salaries

Name	Salary 2015/2016 £'000	Expenses payments (taxable)	Performance pay and bonuses £'000	Long-term performance pay & bonuses £'000	All pension-related benefits £'000	TOTAL 2015/2016 £'000
Linda Allan	90-95*	0	0	0	20-25	115-120
Christine Braithwaite	90-95*	0	0	0	25-30	120-125
Harry Cayton	150-155*	0	0	0	45-50	200-205
Rosalyn Hayles	95-100**	0	0	0	25-30	120-125

Name	Salary 2014/2015 £'000	Expenses payments (taxable)	Performance pay and bonuses £'000	Long-term performance pay & bonuses £'000	All pension-related benefits £'000	TOTAL 2014/2015 £'000
Linda Allan	85–90	0	0	0	20–25	110–115
Christine Braithwaite	85–90	0	0	0	30–35	115–120
Harry Cayton	140–145	0	0	0	15–20	160–165
Rosalyn Hayles	85–90	0	0	0	25–30	115–120

\* Salary figures include a 5% retention allowance

\*\* Includes payment in respect of annual leave not taken

- 5.11 This table has been audited by the Comptroller and Auditor General.
- 5.12 All senior managers in the year were members of the NHS Pension Scheme.
- 5.13 Total remuneration includes salary and all pension-related benefits calculated in accordance with the NHS Pensions guidance<sup>23</sup>, which seeks to quantify the increase in pension benefits in the year by comparing the overall pension benefits at the beginning of the year with those at the end of the year. There were no non-consolidated performance-related pay, benefits-in-kind or severance payments in 2015/16 or 2014/15.

<sup>23</sup> Disclosure of Senior Managers' Remuneration (Greenbury) 2015

## Pensions

Name	Title	Real increase in pension at age 60 (bands of £2,500)	Real increase in pension lump sum at age 60 (bands of £2,500)	Total accrued pension at age 60 as at 31 March 2016 (bands of £5,000)	Lump sum at age 60 related to accrued pension as at 31 March 2016 (bands of £5,000)	Cash Equivalent Transfer Value as at 1 April 2015 (to the nearest £1,000)**	Cash Equivalent Transfer Value as at 31 March 2016 (to the nearest £1,000)**	Real increase in the Cash Equivalent Transfer Value during the reporting year (to the nearest £1,000)**
Linda Allan	Director of Governance and Operations	0-2.5	N/A*	5-10	N/A*	120	154	32
Christine Braithwaite	Director of Standards and Policy	0-2.5	5-7.5	15-20	45-50	314	359	42
Harry Cayton	Chief Executive	2.5-5	0-2.5	25-30	20-25	456	517	56
Rosalyn Hayles	Director of Scrutiny and Quality	0-2.5	N/A*	5-10	N/A*	67	86	18

\* Not applicable in the 2008 scheme

\*\* On 16 March 2016, the Chancellor of the Exchequer announced a change in the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate from 3.0% to 2.8%. This rate affects the calculation of CETV figures in this report. Due to the lead time required to perform calculations and prepare annual reports, the CETV figures quoted in this report for members of the NHS Pension Scheme are based on the previous discount rate and have not been recalculated.

5.14 This table has been audited by the Comptroller and Auditor General.

### Cash Equivalent Transfer Value

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capital value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the members' accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another scheme or arrangement when the member leaves a scheme and chooses to transfer the benefit accrued in the former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The CETV figure – and from 2005 - 2006, the other pension details – include the value of any pension benefits in another scheme or arrangement which the individual has transferred to the NHS Pension Scheme. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. A CETV is calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

**Real increase/(decrease) in CETV**

This reflects the increase/(decrease) in CETV. It takes account of the increase in accrued pension due to inflation, contributions paid by the employer and employee (including the value of any benefits transferred from another scheme or arrangement) and uses common market valuation factors for the start and end of the period.

- 5.15 No compensation has been paid to former senior managers, or payments made to third parties for the services of a senior manager.
- 5.16 This information has been audited by the Comptroller and Auditor General.
- 5.17 No senior manager had expenses subject to UK tax.

**Authority members' remuneration**

- 5.18 Remuneration for the Chair and Board members is not subject to superannuation.
- 5.19 The payments made to the Board are also subject to Cabinet Office guidance and have not increased since 2009/10. The Chair receives remuneration of £33,688 pa (2014/15: £33,688 pa); members receive annual remuneration of £7,881 (2014/15: £7,881) and the Audit and Risk Committee Chair receives annual remuneration of £13,135 (2014/15: £13,135). Members' remuneration during the year amounted to £90,450 (2014/15: £90,494) including social security costs.
- 5.20 Members' remuneration is subject to tax and national insurance through PAYE.
- 5.21 In addition, expenses amounting to £12,514 (2014/15: £14,717) were reimbursed to Board members. Travel expenses related to travel to the Authority's offices are subject to tax.
- 5.22 Members' remuneration has been audited by the Comptroller and Auditor General.
- 5.23 Payments to individual members are disclosed below.

**Payments made to the Authority's Board members during 2015/16**

	2015/2016 Salary (bands of £5,000)	2014/2015 Salary (bands of £5,000)
<b>Chair</b>		
George Jenkins*	5–10	NA
Jill Pitkeathley **	25–30	30–35
<b>Members</b>		
Renata Drinkwater	5–10	0–5
Ian Hamer	5–10	5–10
Andrew Hind (Audit and Risk Committee Chair)	10–15	10–15
Stuart MacDonnell	5–10	5–10
Jayne Scott	5–10	5–10
Antony Townsend	5–10	0–5

\*From 1 January 2016

\*\* Up to 31 December 2015

## Staff report

- 5.24 We are committed to enabling all employees to achieve their full potential in an environment characterised by dignity and mutual respect. Our employment policies seek to create a workplace in which all employees can give their best, and can contribute to our and their own success. These are reviewed and updated by external specialists in order to ensure compliance with legislation.
- 5.25 We retain the services of Right Corecare and our staff have access to assistance and counselling if required.
- 5.26 We recognise the business benefits of having a diverse workforce and are committed to maintaining a culture in which diversity and equality are actively promoted and where discrimination is not tolerated. We operate a fair and open selection policy relating to applications for employment and internal promotion.
- 5.27 Further information about the senior management team can be found in the Remuneration section of this report.
- 5.28 Our staff turnover while less than last year, was still a cause for concern given the loss of expertise, knowledge and skills. Following recommendations from the Remuneration Committee, the Board introduced a retention payment linked to increased notice periods which has assisted with knowledge transfer, facilitating handovers and reducing the time that posts are vacant.
- 5.29 As part of our corporate social responsibility we encourage our staff to support charities and other community organisations. Members of staff are currently involved with National Voices, Comic Relief and a research ethics committee.

## Fair pay disclosures

- 5.30 The Authority is required to disclose the relationship between the remuneration of the highest paid director (in our case, the Chief Executive) and the median remuneration of the Authority workforce.
- 5.31 The remuneration of the Chief Executive in the financial year 2015/16 was £152,500 This was 3.28 times the median remuneration of the workforce, which was £46,438.
- 5.32 The remuneration of the Chief Executive in the financial year 2014/15 was £142,500. This was 3.44 times the median remuneration of the workforce, which was £41,483
- 5.33 No employee received remuneration in excess of the Chief Executive in 2015/16 or 2014/15. Remuneration ranged from £26,000 to £153,000 (2014/15: £20,000 to £144,000).
- 5.34 In 2015/16, three members of the senior management team were female (75%) (2014/15 3 persons 75%) while overall, 29 employees were female (73%) (2014/15 74%, 27 employees).
- 5.35 This information has been audited by the Comptroller and Auditor General.

## Sick absence

- 5.36 A total of 264 days (2014/15 130.5 days) were lost due to sick absence in the year. This equates to six days (2014/15 3.2 days) per person. More than 50% of

this absence related to two staff members who had long-term absences during the year.

### **Policies relating to disability**

- 5.37 We are committed to applying our equal opportunities policy at all stages of recruitment and selection.
- 5.38 We work to ensure that:
- The most suitable applicant is appointed to each post, having regard to the real needs of the job
  - That the process is open, fair and honest
  - We make reasonable adjustments to overcome barriers during the course of interviews and employment
  - Equal opportunities are provided for all applicants
  - Both internal and external candidates are assessed based on the same selection criteria
  - Discrimination and bias is eliminated from the process
  - Legal objectives are met, and good employment practices followed
  - Our application form provides a section for potential candidates to confirm whether or not they consider themselves to have a disability.
- 5.39 If identified on the application form all candidates who meet the minimum selection criteria of a vacancy will be interviewed under the Guaranteed Interview Scheme.
- 5.40 Whilst we are committed to the Guaranteed Interview Scheme, this requirement does not extend to the appointment decision, whereby the best person for the job will be appointed in line with equality legislation.

### **Staff numbers and related costs**

#### ***Average number of persons employed***

- 5.41 The average number of full-time and part-time staff employed (including temporary staff) during the year is as follows:

	<b>Permanently employed</b>	<b>Other</b>	<b>Total 2015/16</b>	<b>Permanently employed</b>	<b>Other</b>	<b>Total 2014/15</b>
Total	32.4	0.7	<b>33.1</b>	32.1	0.7	<b>32.8</b>

- 5.42 There were no staff engaged on capital projects in the period to 31 March 2016.

*Costs of persons employed*

	Permanently employed	Other	Total 2015/16	Permanently employed	Other	Total 2014/15
	£'000	£'000	£'000	£'000	£'000	£'000
Salaries	1,717	-	1,717	1,595	-	1,595
Social security costs	153	-	153	159	-	159
Superannuation costs	180	-	180	172	-	172
Agency/temporary costs	-	47	47	-	56	56
	<b>2,050</b>	<b>47</b>	<b>2,097</b>	<b>1,926</b>	<b>56</b>	<b>1,982</b>

5.43 This table has been audited by the Comptroller and Auditor General.

*Reporting of Civil Service and other compensation schemes: exit packages*

5.44 No redundancy or other departure costs were incurred in the year.

5.45 This information has been audited by the Comptroller and Auditor General. No persons were employed off payroll or on a consultancy basis during the year.



## 6. Parliamentary accountability and audit report

### Losses and special payments

- 6.1 Losses and special payments were individually and in total below the reporting threshold of £300k.

### Regularity of Expenditure

- 6.2 The Authority operates with four distinct work streams which are reflected in the segmentation of our accounts.
- Fees collected from the regulatory bodies that it oversees which fund the costs of its regulatory and standards functions
  - Income from advice and investigations that are specifically commissioned by the Secretary of State and/or the Devolved Administrations. These commissions will be funded by fees set by the Authority
  - Income arising from the accreditation of voluntary registers. This activity operates on a cost-recovery basis with the aim of becoming self-funding. To date it has required some additional funding from the Department of Health in order to sustain it
  - Income from other activities, for example, fees from the provision of advice and advisory services to the regulatory bodies and other similar organisations in the UK and abroad.
- 6.3 The income and expenditure for each segment is accounted for separately and we work to ensure that there is no cross-subsidy.
- 6.4 As reported elsewhere our internal auditors undertake an annual review of the management of our finances in relation to our published business principles which are in paragraphs 3.30 and 3.31.
- 6.5 This information has been audited by the Comptroller and Auditor General.

### Fees and charges

- 6.6 The Health and Social Care Act 2012 provided for the Authority to be funded by the regulatory bodies that it oversees.
- 6.7 The Act enabled the Privy Council to make regulations requiring each of the regulatory bodies that regulate health and social care professionals to pay fees to the Professional Standards Authority in relation to the functions undertaken by the Authority as specified in the regulations. This secondary legislation, The Professional Standards Authority for Health and Social Care (Fees) Regulations 2015 (the Fee Regulations) was laid in Parliament on 27 February 2015 and came into force on 1 April 2015.
- 6.8 The first fees were collected in November 2015 for the period 1 August 2015 to 31 March 2016. The Department of Health provided funding for the period 1 April 2015 to 31 July 2015.

- 6.9 The functions within the scope of the Fees Regulations are those within our first work stream; that is the regulatory oversight and improvement work undertaken in relation to the statutory regulated health professional bodies.
- 6.10 2016/17 will be the first full year that the Authority has been funded primarily through fees. The fee period for 2016/17 will be from April to March covering the same period as the Authority’s financial year.
- 6.11 Details of the related operating costs for our standards and regulation function are shown below.

31 March 2016	<b>Standards and regulation</b>	<b>Government commissions</b>
	<b>£'000</b>	<b>£'000</b>
Operating costs	3,507	24
Operating income	(2,914)	(25)
<b>Net operating costs</b>	<b>593</b>	<b>(1)</b>

6.12 This information has been audited by the Comptroller and Auditor General.

**Long-term expenditure trends**

- 6.13 The main drivers that will influence our future budgetary needs are:
  - Changes to the volume of work that we have to undertake in particular the number of Fitness to Practise cases reviewed
  - Changes to legislation that either place new duties upon us or require us to utilise more resources in undertaking our existing work as a consequence of changes to processes and procedures
  - Changes to legislation that we as a business or employer are required to comply with
  - Changes that we introduce
  - Changes to our costs arising from inflation etc
  - Changes to the income and expenditure of the accredited registers programme.

**Section 29 cases**

6.14 This is the area of our work that can significantly fluctuate and is accordingly difficult to predict. Many cases take a long time from the date a complaint is made to when they come to the Authority, hence it is not just the volume received by a regulator but the time they take to process them that influences the Authority’s workload.

- 6.15 While in 2015/16 the numbers dropped, we could experience a sudden increase. While staff can absorb a degree of change, the fact that we need to meet statutory deadlines means that we may need to engage temporary staff should the numbers rapidly rise.

**Changes to our legislation**

- 6.16 There is the prospect that changes to legislation directly or indirectly may impact on our work. The introduction of proposed changes to legislation either for us or for the regulators would require analysis and consideration. There are proposals for changes to the regulation of health and social care professionals, but these are not yet developed to a state that would enable the Authority to consider the impact on our work or expenditure.
- 6.17 Assuming that our workload remains consistent with the current year we would not anticipate significant changes to our expenditure.



Harry Cayton CBE  
Accounting Officer  
23 June 2016

## **The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament, the Scottish Parliament and the Northern Ireland Assembly**

I certify that I have audited the financial statements of the Professional Standards Authority for Health and Social Care for the year ended 31 March 2016 under the National Health Service Reform and Health Care Professions Act 2002 as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration and Staff Report and the Parliamentary Accountability Disclosures that are described in the report as having been audited.

### **Respective responsibilities of the Board, Accounting Officer and auditor**

As explained more fully in the Statement of Board and Accounting Officer's Responsibilities, the Board and the Accounting Officer are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the National Health Service Reform and Health Care Professions Act 2002 as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Professional Standards Authority for Health and Social Care's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Professional Standards Authority for Health and Social Care; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions

recorded in the financial statements conform to the authorities which govern them.

### **Opinion on regularity**

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### **Opinion on financial statements**

In my opinion:

- the financial statements give a true and fair view of the state of the Professional Standards Authority for Health and Social Care's affairs as at 31 March 2016 and of its net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the National Health Service Reform and Health Care Professions Act 2002 as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012 and Secretary of State directions issued thereunder.

### **Opinion on other matters**

In my opinion:

- the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited have been properly prepared in accordance with Secretary of State directions made under the National Health Service Reform and Health care Professions Act 2002 as amended by the Health and Social Care Act 2008 and the Health and Social Care Act 2012; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

### **Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

Sir Amyas C E Morse  
Comptroller and Auditor General

Date: 27 June 2016

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## 7. Financial statements – financial position as at 31 March 2016

	Note	March 2016		March 2015	
		£'000	£'000	£'000	£'000
<b>Non-current assets</b>					
Intangible assets	7	274		313	
Property, plant and equipment	8	87		74	
<b>Total non-current assets</b>			<b>361</b>		<b>387</b>
<b>Current assets</b>					
Trade and other receivables	9	1,022		337	
Cash and cash equivalents	10	4,579		658	
<b>Total current assets</b>			<b>5,601</b>		<b>995</b>
<b>Total Assets</b>			<b>5,962</b>		<b>1,382</b>
<b>Current liabilities</b>					
Trade and other payables	11	(4,142)		(330)	
<b>Provisions</b>	12	(7)		(8)	
<b>Total current liabilities</b>			<b>(4,149)</b>		<b>(338)</b>
<b>Assets less liabilities</b>			<b>1,813</b>		<b>1,044</b>
<b>Reserves</b>					
General reserves			<b>1,813</b>		<b>1,044</b>

The notes on pages 82 to 95 form part of these accounts.



Harry Cayton CBE  
Accounting Officer  
23 June 2016



## 8. Financial statements – comprehensive net expenditure for the year ended 31 March 2016

			March 2016 £'000		March 2015 £'000
<b><i>Expenditure</i></b>					
Staff costs	3		2,097		1,982
Other administrative costs	4		1,873		2,282
<b><i>Income</i></b>					
Fees Income	5		(2,690)		-
Operating income	6		(595)		(809)
<b>Net operating cost</b>			<b>685</b>		<b>3,455</b>

The notes on pages 82 to 95 form part of these accounts.

### Other comprehensive net expenditure

There was no other comprehensive net expenditure in the year ended 31 March 2016.

## 9. Financial statements – cash flows for the period ended 31 March 2016

	Note	March 2016	March 2015
		£'000	£'000
<b>Cash flows from operating activities</b>			
Net operating costs for the year		(685)	(3,455)
Adjustment for non-cash transactions	4	89	115
(Increase) in trade and other receivables	9	(685)	(59)
Increase in trade and other payables	11	3,812	77
(Decrease) in provisions	12	(1)	2
<b>Net cash inflow/(outflow) from operating activities</b>		<b>2,530</b>	<b>(3,320)</b>
<b>Cash flow from investment activities</b>			
Purchase of property, plant and equipment	8	(63)	(36)
<b>Net cash outflow from investment activities</b>		<b>(63)</b>	<b>(36)</b>
<b>Cash flow from financing activities</b>			
<i>Grant in aid from the Department of Health:</i>			
Revenue		1,396	3,395
Capital		20	60
<i>Credit Facility received from Department of Health</i>			
Revenue – cash drawn down		200	-
Revenue – cash repaid		(200)	-
<i>Devolved Administration funding:</i>			
Scotland		15	165
Wales		9	95
Northern Ireland		14	43
<b>Net cash flow from financing activities</b>		<b>1,454</b>	<b>3,758</b>
<b>Net financing</b>			
<b>Net increase in cash and cash equivalents</b>	10	3,921	402
Cash and cash equivalents at the beginning of the financial year	10	658	256
<b>Cash and cash equivalents at the end of the financial period</b>	10	<b>4,579</b>	<b>658</b>

The notes on pages 82 to 95 form part of these accounts.

## 10. Financial statements – changes in taxpayer's equity for the year ended 31 March 2016

		General reserve
		£'000
<b>Balance as at 31 March 2014</b>		<b>741</b>
<b>Changes in reserves in the year ended 31 March 2015</b>		
<b>Net operating costs</b>		<b>(3,455)</b>
<i>Grant in aid from the Department of Health:</i>		
Revenue		3,395
Capital		60
<i>Funding from the devolved administrations:</i>		
Scotland		165
Wales		95
Northern Ireland		43
<b>Balance as at 31 March 2015</b>		<b>1,044</b>
<b>Changes in reserves in the year to 31 March 2016</b>		
<b>Net operating costs</b>		<b>(685)</b>
<i>Grant in aid from the Department of Health:</i>		
Revenue		1,396
Capital		20
<i>Funding from the devolved administrations:</i>		
Scotland		15
Wales		9
Northern Ireland		14
<b>Balance as at 31 March 2016</b>		<b>1,813</b>

The notes on pages 82 to 95 form part of these accounts.

# 11. Notes to the accounts

## 1. Accounting policies

### ***Basis of preparation***

These financial statements have been prepared in accordance with the 2015/16 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the UK public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Authority for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Authority for the reportable period are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

### ***Critical accounting judgements and key sources of estimation uncertainty***

In the application of the Authority's accounting policies, management is required to make judgements, estimates and assumptions about carrying amounts of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. Actual results may differ from those estimates. The estimates and underlying assumptions are continually reviewed. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods. During the year no significant judgements were made.

### ***Non-current assets***

#### ***Intangible assets***

##### ***Internally generated intangible assets***

An internally generated intangible asset arising from the Authority's activities and expenditure is recognised where all of the following conditions are met:

- An asset is created that can be identified (such as bespoke software)
- It is probable that the asset created will generate future economic benefits
- The development cost of the asset can be measured reliably.

Intangible fixed assets are measured at cost and valued using depreciated replacement cost.

For intangible assets with finite useful lives, amortisation is calculated so as to write off the cost of an asset, less its estimated residual value, over its useful economic life.

Database amortisation had been charged from the date the asset is brought into use and is amortised on a straight line basis over 10 years.

### ***Property, plant and equipment***

Non-current assets other than computer software are capitalised as property, plant and equipment as follows:

- Equipment with an individual value of £1,000 or more
- Grouped assets of a similar nature with a combined value of £1,000 or more
- Refurbishment costs valued at £1,000 or more.

The Authority has adopted IFRS 13 and in accordance with the FReM has deemed that depreciated historical cost is a suitable proxy to current value in existing use or fair value where the asset has a short useful economic life or is of low value. Indexation has not been applied since 31 March 2008 as this would not be material. Asset valuations are reviewed on an annual basis, at each statement of financial position date, to ensure that the carrying value fairly reflects current cost.

Depreciation is provided on a straight-line basis, calculated on the revalued amount to write off assets, less any estimated residual balance, over their remaining estimated useful life.

The useful lives of non-current assets have been estimated as follows:

- Furniture and fittings over the remaining accommodation lease term
- Computer equipment—three years.

These provide a realistic reflection of the lives of the assets.

Depreciation is charged from the month in which the asset is acquired.

### ***Cash at bank and in hand***

Cash is cash in hand and deposits with any financial institution repayable without penalty on notice of not more than 24 hours.

In the statement of cash flows, cash is shown net of bank overdrafts held with the Government Banking Service (GBS) that form an integral part of the Authority's cash management and over which the Authority has a right of set off against other GBS accounts in credit.

### ***Grant in aid and general reserve***

For the period from 1 April to 31 July 2015 the Authority was financed by grant-in-aid from the Department of Health.

Revenue grant in aid received from the Department of Health, was used to finance activities and expenditure which supported the statutory and other objectives of the Authority, was treated as contributions from a controlling party giving rise to a financial interest in the residual interest in the Authority, and therefore accounted for as financing by crediting them directly to the general reserve on a cash received basis.

Financial contributions to the activities of the Authority received from 1 April to 31 July 2015 from the devolved administrations were also accounted for as

financing by crediting them directly to the general reserve on a cash received basis.

### **Government Grant**

In the period from 1 August 2015 to 31 March 2016 the Authority received funding from the Department of Health that was used to part-finance the accredited registers programme.

This funding is classified as Government Grant and is recognised in the Income Statement in the same period as related expenses.

### **Reserves policy**

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

The cash flow issues are linked to the receipt of the fee income. If the fee consultation process is not concluded in time for the determination to be made by the beginning of March in any year then the Authority will face the prospect of having no income at the start of the next financial year.

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, 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.

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 unanticipated demands on their own budgets.

To accommodate unexpected expenditure peaks and cash flow deficiencies, and to reduce the prospect of needing to seek additional fees, the Board agreed that the Authority should keep a level of financial reserves, sufficient to ensure that its statutory functions can continue to operate.

The policy is set out below:

- The reserves will be built up from prior reserves and from fee income
- The reserves will initially and for the most part comprise the 2015/16 underspend
- Any balance required will come from the 2016/17 fee income
- Assuming the Authority can arrange credit facilities at an acceptable cost, it will aim for a reserve level of two months' expenditure
- If the Authority is unable to arrange a credit facility, it will operate with a reserve of three months' expenditure.

### ***Fees income***

From 1 August 2015 Authority has primarily been financed through fees paid by the regulatory bodies. This is in accordance with the Health and Social Care Act 2012 and The Professional Standards Authority for Health and Social Care (Fees) Regulations 2015.

Receipts from the fees from the regulatory bodies are classified as income and recognised over the period agreed in Fee Regulations. Any surplus arising will be taken into account when calculating future fee rates to the extent that this is not required to maintain an appropriate level of reserves in accordance with the Authority's reserves policy.

### ***Operating income***

Operating income includes: Section 29 case cost recoveries; premises income received from subtenants; fees received from the provision of services to other members of the health regulation community; and accreditation fees received from register applicants wishing to be accredited.

Accredited registers' revenue consists of non-refundable fixed accreditation fees, payable when application documents have been submitted to the Authority, and renewal fees, payable on the anniversary of the accreditation date. Income from both initial and renewal fees is recognised in the operating cost statement in accordance with the completion of the Authority's work in relation to these.

### ***Comparative costs and restatements***

#### ***Section 29 costs and recoveries***

Under its Section 29 powers, the Authority can appeal to the High Court against a regulatory body's disciplinary decisions. Costs incurred by the Authority in bringing Section 29 appeals are charged to the comprehensive net expenditure statement on an accruals basis.

As a result of judgments made by the courts, costs may be awarded to the Authority if the case is successful or costs may be awarded against the Authority if the case is lost. Where costs are awarded to, or against, the Authority, these may be subsequently revoked or reduced as a result of a successful appeal either by the defendant or by the Authority. Therefore, in bringing either income or expenditure to account, the Authority considers the likely outcome of each case on a case-by-case basis.

In the case of costs awarded to the Authority, the income is not brought to account unless there is a final uncontested judgment in the Authority's favour or an agreement between parties of the proportion of costs that will be paid and submitted to the courts. When a case has been won but the final outcome is still subject to appeal, and it is highly probable that the case will be won on appeal and costs will be awarded to the Authority, a contingent asset is disclosed.

In the case of costs awarded against the Authority, expenditure is recognised in the income and expenditure where there is a final uncontested judgment



against the Authority. In addition, where a case has been lost, but the final outcome is still subject to appeal, and it is probable that costs will be awarded against the Authority, a provision is recognised in the accounts. Where it is possible but not probable that the case will be lost on appeal and that costs may be incurred by the Authority, or where a sufficiently reliable estimate of the amount payable cannot be made, a contingent liability is disclosed.

### ***Value added tax***

Value added tax (VAT) on purchases is not recoverable, hence is charged to the comprehensive net expenditure statement and included under the heading relevant to the type of expenditure, or capitalised if it relates to an asset.

### ***Retirement benefit costs***

Past and present employees are covered by the provisions of the NHS Pension Scheme. The scheme is an unfunded, defined benefit scheme that covers NHS employers, general practices and other bodies, allowed under the direction of the Secretary of State, in England and Wales. The scheme is not designed to be run in a way that would enable NHS bodies to identify their share of the underlying scheme assets and liabilities.

Therefore, the scheme is accounted for as if it were a defined contribution scheme; the cost to the NHS body of participating in the scheme is taken as equal to the contributions payable to the scheme for the accounting period.

For early retirements, other than those due to ill health, the additional pension liabilities are not funded by the scheme. The full amount of the liability for the additional costs is charged to the income statement at the time the Authority commits itself to the retirement, regardless of the method of payment.

### ***Operating leases***

Rentals payable under operating leases are charged to the comprehensive net expenditure statement on an accruals basis.

### ***International Financial Reporting Standards (IFRSs), amendments and interpretations in issue but not yet effective or adopted***

International Accounting Standard (IAS8), accounting policies, changes in accounting estimates and errors require disclosures in respect of new IFRSs, amendments and interpretations that are, or will be, applicable after the accounting period. There are a number of IFRSs, amendments and interpretations issued by the International Accounting Standards Board that are effective for financial statements after this accounting period. The following have not been adopted early by the Authority:

- IAS 38 Intangible assets
- IAS 34 Interim Financial Reporting
- IAS 19 Employee Benefits
- IAS16 Property, Plant and Equipment
- IAS 1 Presentation of Financial Statements.

None of these new or amended standards and interpretations are likely to be applicable or are anticipated to have future material impact on the financial statements of the Authority.

### *Accounting standards issued that have been adopted early*

The Authority has not adopted any IFRSs, amendments or interpretations early.

## 2. Analysis of net operating costs by segment

### *Segmental analysis*

Net operating costs were incurred by the Authority's four main expenditure streams as follows. The Authority does not maintain separate statements of financial position for these streams. There were no inter-segment transactions in the year.

<b>31 March 2016</b>	<b>Standards and regulation</b>	<b>Government commissions</b>	<b>Chargeable activities</b>	<b>Accredited registers</b>	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Operating costs	3,507	24	75	364	<b>3,970</b>
Operating income	(2,914)	(25)	(99)	(247)	<b>(3,285)</b>
<b>Net operating costs</b>	<b>593</b>	<b>(1)</b>	<b>(24)</b>	<b>117</b>	<b>685</b>
<b>31 March 2015</b>	<b>Standards and regulation</b>	<b>Government commissions</b>	<b>Chargeable activities</b>	<b>Voluntary registers</b>	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Operating costs	3,722	126	144	273	<b>4,265</b>
Operating income	(489)	-	(178)	(142)	<b>(809)</b>
<b>Net operating costs</b>	<b>3,233</b>	<b>126</b>	<b>(34)</b>	<b>131</b>	<b>3,456</b>

## 3. Staff numbers and related costs

Full details regarding these matters are on pages 69-71 in the Staff Report.

#### 4. Other administrative costs

	Notes	31 March 2016	31 March 2015
		£'000	£'000
Members' remuneration		90	91
Legal and professional fees		662	1,038
Premises and fixed plant		575	636
Training and recruitment		98	129
PR, communications and conferences		172	95
Establishment expenses		95	97
External audit fee (*)		19	21
Other costs		73	60
<b>Non cash expenditure:</b>			
Amortisation	7	39	40
Depreciation	8	50	75
<b>Total administrative costs</b>		<b>1,873</b>	<b>2,282</b>

\* The Authority made payments of £283,654 to the National Audit Office for non-audit work in respect of accommodation costs of the Authority for use of office space at 157-197 Buckingham Palace Road, London.

#### 5. Fee Income

	31 March 2016	31 March 2015
	£'000	£'000
Fee Income from Regulators	2,690	-
<b>Total</b>	<b>2,690</b>	<b>-</b>

#### 6. Operating Income

	31 March 2016	31 March 2015
	£'000	£'000
Section 29 cost recoveries	78	349
Accredited registers' income	197	142
Fees from external customers	99	178
Subtenancy income	143	137
Other operating income	3	3
Income from DH Commissions	25	-
Accredited registers Grant from DH	50	-
<b>Total operating Income</b>	<b>595</b>	<b>809</b>

## 7. Intangible assets

<b>31 March 2016</b>	<b>Section 29 database</b>
	<b>£'000</b>
<b>Valuation</b>	
At 1 April 2015	393
<b>Amortisation</b>	
At 1 April 2015	80
Charge for the period	39
At 31 March 2016	119
<b>Net book value</b>	
<b>At 31 March 2016</b>	<b>274</b>
At 31 March 2015	313

<b>31 March 2015</b>	<b>Section 29 database</b>
	<b>£'000</b>
<b>Valuation</b>	
At 1 April 2014 and 31 March 2015	393
<b>Amortisation</b>	
At 1 April 2014	40
Charge for the period	40
At 31 March 2015	80
<b>Net book value</b>	
<b>At 31 March 2015</b>	<b>313</b>
At 31 March 2014	353

## 8. Non-current assets

### *Property, plant and equipment*

31 March 2016	Furniture, fixtures and fittings	IT equipment	Total
	£'000	£'000	£'000
<b>Valuation</b>			
At 1 April 2015	128	344	472
Additions	23	40	63
Disposals	-	(33)	(33)
At 31 March 2016	151	351	502
<b>Depreciation</b>			
At 1 April 2015	116	282	398
Charge in period	11	39	50
Disposals	-	(33)	(33)
At 31 March 2016	127	288	415
<b>Net book value</b>			
<b>At 31 March 2016</b>	<b>24</b>	<b>63</b>	<b>87</b>
<b>At 31 March 2015</b>	<b>12</b>	<b>62</b>	<b>74</b>

All assets above are wholly owned by the Authority without any related financial liabilities.

31 March 2015	Furniture, fixtures and fittings	IT equipment	Total
	£'000	£'000	£'000
<b>Valuation</b>			
At 1 April 2014	126	310	436
Additions	2	34	36
At 31 March 2015	128	344	472
<b>Depreciation</b>			
At 1 April 2014	96	227	323
Charge in period	20	55	75
At 31 March 2015	116	282	398
<b>Net book value</b>			
<b>At 31 March 2015</b>	<b>12</b>	<b>62</b>	<b>74</b>
<b>At 31 March 2014</b>	<b>30</b>	<b>83</b>	<b>113</b>

## 9. Trade receivables and other current assets

Amounts falling due within one year:

	31 March 2016	31 March 2015
	£'000	£'000
Trade and other receivables	844	152
Prepayments	178	185
<b>Total trade and other receivables</b>	<b>1,022</b>	<b>337</b>

There are no trade receivables and other current assets falling due after more than one year.

### *Intra government balances*

Intra government balances within the totals for trade receivables and other current assets are as follows:

	31 March 2016	31 March 2015
	£'000	£'000
Balances with other central government bodies	23	-
Balances with local authorities	137	136
Total intra government balances	<b>160</b>	<b>136</b>
Balances with bodies external to government	862	201
<b>Total trade and other receivables</b>	<b>1,022</b>	<b>337</b>

## 10. Cash and cash equivalents

	31 March 2016	31 March 2015
	£'000	£'000
Balance at 1 April 2015	658	256
Net changes in cash and cash equivalent balances	3,921	402
<b>Balance at 31 March 2016</b>	<b>4,579</b>	<b>658</b>
<i>The following balances were held at:</i>		
Government Banking Service	133	563
Commercial banks and cash in hand	4,446	95
<b>Balance at 31 March 2016</b>	<b>4,579</b>	<b>658</b>

## 11. Trade payables and other current liabilities

Amounts falling due within one year:

	31 March 2016	31 March 2015
	£'000	£'000
Trade and other payables	11	57
Taxation and social security	50	48
Accruals and deferred income	4,081	225
<b>Total trade and other payables</b>	<b>4,142</b>	<b>330</b>

There were no trade payables and other current liabilities falling due after more than one year.

### *Intra government balances*

Intra government balances within the totals for trade payables and other current liabilities are as follows:

	31 March 2016	31 March 2015
	£'000	£'000
Balances with other central government bodies	53	60
Balances with NHS bodies	0	5
Total intra government balances	<b>53</b>	<b>65</b>
Balances with bodies external to government	4,089	265
<b>Total trade and other payables</b>	<b>4,142</b>	<b>330</b>

## 12. Provisions for liabilities and charges

	HMRC provision
	£'000
Balance at 31 March 2015	8
Arising during the period	7
Provision used	(8)
<b>Balance at 31 March 2016</b>	<b>7</b>

The HMRC provision as at 31 March 2016 represents the Authority's estimated liability for income tax and National Insurance Contributions in relation to Board members' travel and subsistence expenses.



### 13. Contingent assets and liabilities

#### *Assets*

There were no contingent assets as at 31 March 2016.

#### *Liabilities*

Eleven High Court cases under the Authority's Section 29 powers were undecided as at 31 March 2016. There was therefore uncertainty, as at that date, as to the related financial consequences, pending a final judgment.

Judgment by the High Court may permit recovery of these Authority costs or, alternatively, issue a charge to the Authority of the costs of the regulatory body and its registrant.

### 14. Capital commitments

The Authority had no capital commitments as at the statement of financial position dates.

### 15. Commitments under leases

#### *Operating leases*

The Authority's expenses include rent and service charge payments under operating lease rentals.

The Authority had the following obligations under non-cancellable operating leases:

<b>Buildings</b>	<b>31 March 2016</b>	<b>31 March 2015</b>
	<b>£'000</b>	<b>£'000</b>
Not later than one year	297	276
Later than one year and not later than five years	594	866
<b>Total commitments under operating leases</b>	<b>891</b>	<b>1,142</b>

The Authority sub-leases its premises to two subtenants and recognises rent and service charge sub-lease receipts as income.

Total future minimum lease receipts due to the Authority under operating leases are given in the table below:

<b>Future minimum sub-lease receipts</b>	<b>31 March 2016</b>	<b>31 March 2015</b>
	<b>£'000</b>	<b>£'000</b>
Not later than one year	83	69
Later than one year and not later than five years	71	104
<b>Total minimum sub-lease receipts</b>	<b>154</b>	<b>173</b>

### ***Finance leases***

The Authority did not have any finance leases in the period to 31 March 2016.

## **16. Related parties**

The Authority is accountable to the UK Parliament.

The Authority is an unclassified public body. It was funded and sponsored by the Department of Health to 1 August 2015. The Department also provided funding to support the accredited registers scheme and to pay for advice commissioned from the Authority. The Department of Health is regarded as a related party.

During the period to 31 March 2016, the Department of Health provided total grant in aid of £1.4m (2014/15: £3.46m).

The Authority received funding contributions towards its activities from the devolved administrations in Northern Ireland (£14K), Scotland (£15K), and Wales (£8K) that related to the previous year. In 2014/15, the Authority received £43K from Northern Ireland, £165K from Scotland and £95K from Wales.

The Authority maintains a register of interests for the Chair and Board members, which is available on the website. The register is updated on a periodic basis by the Executive Secretary to reflect any change in Board members' interests. During the period ending 31 March 2016, no Council member undertook any related party transactions with the Authority.

The senior management team is also asked to disclose any related party transactions. During 2015/16, there were no related party transactions to disclose.

## **17. Losses and special payments**

Losses and special payments were individually and in total well below the reporting threshold of £300k.

## **18. Post statement of financial position events**

These accounts were authorised for issue on 27 June 2016 by the Accounting Officer.

Following the result of the EU referendum the Authority has considered what if any impact the decision might have on its operations. Given the nature of our work we do not believe that there will be any significant impact:

- The Authority does not trade across borders, accordingly currency fluctuations are not material to our business
- We do employ staff who are not British citizens. All have legal permission to work in the United Kingdom and are able to continue to work for the Authority.

## **19. Financial Instruments**

### ***Financial risk management***

Financial reporting standard IFRS 7 requires disclosure of the role that financial instruments have had during the period in creating or changing the risks a body faces in undertaking its activities.

Given the way the authority is financed, and that it has limited powers to borrow or invest surplus funds, and that its financial assets and liabilities are generated by day to day operational activities, the Authority's exposure to financial risks is reduced.

Debtors and creditors that are due to mature or become payable within 12 months from the statement of financial position date have been omitted from all disclosures.

### ***Currency risk***

The Authority is a domestic organisation with the great majority of transactions, assets and liabilities being in the UK and Sterling-based. The Authority has no overseas operations. Therefore, the Authority has low exposure to currency rate fluctuations.

### ***Interest rate risk***

During the year the Authority's only exposure to interest rate risk was that interest was payable in relation to the credit facility arranged with the Department for Health for the period prior to receipt of fee income. The interest was fixed so the Authority's exposure to this risk was very low. As at 31 March 2016, the Authority had a non-interest bearing cash balance of £4,579,062.11.

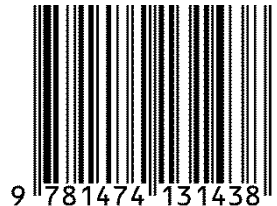
### ***Credit risk***

Because the majority of the Authority's income comes from statutory fees payable by regulatory bodies the credit risk that the Authority is exposed to is low. However, the timing of the receipt of this income could potential result in short term cash flow issues. The Authority is mitigating this risk by maintaining a reasonable level of reserves.

### ***Liquidity risk***

The Authority relies primarily on fee income with statutory fees payable at the commencement of financial year therefore, the Authority has low exposure to liquidity risk.

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