
Professional Standard Authority (PSA) performance review 2017/18

Meeting: 13 November 2019

Status: For noting

Lead responsibility: Alistair Bridge (Director of Strategy)

Paper author(s): Marie Bunby (Policy Manager)

Council Lead(s): There is no Council lead for this work.

Purpose

1. To enable Council to discuss the outcome of the Professional Standard Authority's (PSA) review of our performance for the period 1 October 2017 to 31 December 2018.

Recommendations

2. Council is asked to note the PSA's assessment of our performance and our work in engaging with the review process.

Strategic objective

3. The PSA's review of our performance helps us to assess whether we are achieving our strategic objectives and fulfilling our overarching duty to protect the public.

Background

4. The PSA oversees our work and that of the eight other UK healthcare professional regulators. Every year the PSA conducts a performance review of the regulators it oversees against its 24 Standards of Good Regulation ('standards'). The PSA published its report on our 2017/18 performance on 25 September 2019.

Analysis

5. We have met 22 of the PSA's 24 standards. This is the same as the PSA's last two performance reviews (2015/16 and 2016/17). This year we:
 - met all of the standards for Guidance and Standards;
 - met all of the standards for Education and Training;
 - met five of the six standards for Registration; and
 - met nine of the 10 standards for Fitness to Practise (FTP).
6. This year we did not pass:
 - the third Registration standard: 'through the regulator's registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions of their practice'; and

- the sixth FTP standard: 'FTP cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders'.
7. As part of the review, the PSA carried out a targeted review of six of the standards. This included a targeted check of 25 FTP cases closed at the triage stage during the performance review period. The review involved several members of the PSA's staff coming to our offices for a number of weeks to conduct the review.
 8. We did not pass the third Registration standard regarding everyone being able to easily access information about registrants. This was because an accuracy check of our register found seven errors relating to FTP decisions. These were due to human error and have been rectified. Since we were notified about the errors, we have updated our standard operating procedures to ensure that register entries are checked at all points where a determination is made and a sanction has expired.
 9. We did not pass the sixth FTP standard regarding dealing with FTP cases as quickly as possible, due to the PSA's concerns that they had not seen any evidence of improvement in timeliness since the last performance review. We have had plans in place to improve timeliness, which include a number of measures such as, expanding and restructuring the team, using additional in-house advocates and expanding our expert witness pool. We are pleased to note the PSA recognises the efforts we are currently making to facilitate change, particularly the ongoing dialogue with the other healthcare regulators and the Department of Health and Social Care (DHSC) to reform our legislation. We believe that the removal of the cap on our FTP hearings panel (which will allow us to hold more FTP hearings simultaneously), as well as increased use of acceptance criteria and agreed panel disposal (previously referred to 'consensual panel disposal') will impact on our timeliness and that we will see improvement in the next annual performance review.
 10. We were pleased to note that we passed the first FTP standard (around how we receive complaints) that we had previously not passed in the last performance review, particularly given that a targeted review of this area was carried out. The PSA decided that we had passed this standard due to the considerable positive changes that we have made to our triage process, including the introduction of acceptance criteria, changes to the triage case plan, allowing dedicated staff to make and assess triage decisions, and creating a robust quality assurance mechanism.

Finance

11. There is no specific budget allocated to this area of work, cooperation with the PSA review process is an integral part of all our roles and has been coordinated this year by our policy team.

12. We believe we have adequately budgeted to address concerns raised in the report as part of our ongoing FTP improvement programme.

Risks

13. The performance review process can help to highlight areas where we need to improve to better protect the public. However, failing standards does carry a reputational risk and can undermine stakeholders' confidence in us. We mitigate this risk by clearly explaining how we plan to improve in these areas.

Equality Impacts

14. We do not consider there to be any equality impacts arising from this area of work.

Devolved nations

15. The PSA's remit is UK-wide and we have shared with them the good work we are doing to engage with stakeholders in, and take account of issues specific to, the devolved nations.

Other Impacts

16. We have repeatedly made the point that in certain areas, especially FTP, legislative change would help us meet standards.

Communications

External communications

17. We sent a press release about the review to our stakeholders and the trade press welcoming the review, setting out our improvement plans against the two standards we failed and reiterating our call for legislative reform.

Internal communications

18. We have drawn the attention of our staff to the report in an SMT bulletin on our intranet. Directors have had discussions with their individual teams about how they can continue to meet the standards and/or improve performance in areas that we did not pass.

Next steps

19. The next PSA performance review will cover the 9-month period 1 January to 30 September 2019. We have already provided the PSA with some initial information and we expect to hear from them before the end of the year in respect of whether we will be subject to a targeted review. Given that we failed two standards this year, we would expect as a minimum that those two standards would be subject to review. We are aware that some stakeholders have already provided third party feedback to the

PSA as part of this process and welcome their openness in sharing these reflections with us.

Attachments

Annex one: PSA Annual review of performance 2017/18: General Optical Council

Annex two: PSA Snapshot: Annual review of performance 2017/18

Annual review of performance 2017/18

General Optical Council



About the Professional Standards Authority

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

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

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

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

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

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About the General Optical Council

The General Optical Council (GOC) regulates the optical professions in the United Kingdom. Its work includes:

- Setting and maintaining standards of practice and conduct
- Assuring the quality of optical education and training
- Maintaining a register of students, qualified professionals and optical businesses
- Requiring optical professionals to keep their skills up to date through continued education and training
- Acting to restrict or remove from practice registrants who are not considered to be fit to practise.

As at 31 December 2018, the GOC was responsible for a register of 27,976 optical professionals and students and 2,740 optical businesses. Its annual retention fee for optical professionals was £330 for 2017/18 and £340 for 2018/19.



At a glance

Annual review of performance

Regulator reviewed: **General Optical Council**

Standards of good regulation

Core functions

Met

Guidance and Standards

4/4

Education and Training

4/4

Registration

5/6

Fitness to Practise

9/10

1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the GOC.¹ More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our Standards of Good Regulation (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- It tells everyone how well the regulators are doing
 - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

The Standards of Good Regulation

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

¹ These are the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland.

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

2. What we found – our judgement

- 2.1 In January 2019, we carried out an initial review of the GOC's performance from 1 October 2017 to 31 December 2018. The performance review period was extended due to late publication of the previous year's report and delays to the initiation of this year's review. Our review included an analysis of the following:
- Council papers, performance and committee reports and meeting minutes
 - Policy and guidance documents
 - Statistical performance dataset
 - Third party feedback
 - A check of the GOC register
 - Information available to us through our review of final fitness to practise decisions under the Section 29 process.²
- 2.2 As a result of this assessment, we carried out a targeted review of Standards 3 and 5 of the Standards of Good Regulation for Registration and Standards 1, 3, 4 and 6 of the Standards of Good Regulation for Fitness to Practise.
- 2.3 We obtained further information from the GOC relating to these Standards through targeted written questions. We also carried out a targeted check of 25 fitness to practise cases closed at the triage stage by the GOC between November 2017 and December 2018.
- 2.4 As a result of a detailed consideration of this further information and the findings from our targeted check, we determined that the GOC had not met Standard 3 for Registration and Standard 6 for Fitness to Practise. The reasons for this are set out in the following sections of the report.

Summary of the GOC's performance

- 2.5 For 2017/18 we have concluded that the GOC:
- Met all of the Standards of Good Regulation for Guidance and Standards
 - Met all of the Standards of Good Regulation for Education and Training
 - Met five of the six Standards of Good Regulation for Registration. The GOC did not meet Standard 3.
 - Met nine of the ten Standards of Good Regulation for Fitness to Practise. The GOC did not meet Standard 6.
- 2.6 This represents a similar performance to last year, when the GOC did not meet Standards 1 and 6 for Fitness to Practise.

² Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

3. Guidance and Standards

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

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

- 3.2 In our last performance review we commented on the new Standards of Practice and Standards for Optical Students which came into effect on 1 April 2016. Since then the GOC has been developing new Standards for Optical Businesses to replace the existing Code of Conduct for Business Registrants. The GOC published the Standards for Optical Businesses in April 2019 which will come into effect in October 2019, although we note these developments are outside the period under review.

- 3.3 We are satisfied that this Standard is met.

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

- 3.4 Guidance on specific areas of the GOC standards relating to practice or law, including conflict of interest and whistleblowing is available on the GOC website. The GOC most recently published guidance on the professional duty of candour and guidance on gaining valid consent in March and April 2017 respectively. We commented on these in our last performance review.
- 3.5 In our last performance review we noted that the GOC had worked with the Driver and Vehicle Licensing Agency (DVLA) to produce a bulletin for registrants in July 2017 to help them understand their responsibilities in notifying the DVLA where a patient is unfit to drive if the patient will not or cannot do so. This was in response to the DVLA updating its guidance for health professionals.
- 3.6 The GOC also commissioned research to enable a better understanding of registrants' responsibilities in this area and how well the current system protects the public. The research report was published in October 2017. The GOC intends to use the findings and explore a joint initiative with the DVLA and other relevant optical bodies to raise awareness of vision and safe driving.
- 3.7 The GOC plans to consult on draft guidance in this area in Q4 2018/19 and we will continue to monitor the progress of this work.

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

- 3.8 As explained in Standard 1 above, the GOC developed the new Standards for Optical Businesses (the Standards) which it publicly consulted on from 14 June 2018 until 30 August 2018 through its consultation hub. The consultation received 351 responses via the hub, and seven offline responses. The GOC also received responses from patients as part of the consultation, both via the online survey and through qualitative work. The GOC appointed consultants to undertake qualitative research and undertake analysis and reporting of all consultation data. The final report was published in November 2018.
- 3.9 Although we did not formally respond to the consultation, we expressed our support for the alignment between the draft Standards and the Standards of Practice for Optometrists and Dispensing Opticians.
- 3.10 The GOC explained that most respondents were broadly supportive of the Standards but a small number of businesses and professional associations raised concerns. The GOC said that it considered feedback from all respondents and set up a task and finish group which discussed amendments in the light of this feedback prior to the Standards being published.
- 3.11 It is clear that the GOC has taken account of stakeholder views and experiences, and the evidence suggests it has used stakeholder feedback from around the UK to inform its standards development.
- 3.12 We are satisfied that this Standard is met.

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

- 3.13 There have been no significant changes identified to the ways in which standards and guidance are published and made available.
- 3.14 The Standards are available in Welsh; other formats and languages are available on request with a contact telephone number and email address given on the relevant page of the website. The GOC website allows users to adjust the text size and use audio facilities as well as having the option to read it in English or Welsh.
- 3.15 We are satisfied that this Standard is met.

4. Education and Training

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

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

- 4.2 In our last performance review we said that we would monitor the GOC's Education Strategic Review (ESR), which is one of the GOC's key priorities of its Strategic Plan 2017-2020. In July 2017 the GOC's Council agreed a phased project plan for the ESR, including an indicative timeline with the aim of introducing changes to regulatory requirements for optical education from September 2020.
- 4.3 Since our last review the GOC has carried out further work on the ESR. In December 2017 the GOC launched a consultation on the concepts and principles that could underpin optical education and training in the future. This consultation followed the GOC's initial Call for Evidence about the future of eye care delivery and changes for the education of optical professions which we commented on in last year's review.
- 4.4 The consultation ran from December 2017 to March 2018. A total of 36 responses were received, 26 from organisations and 10 from individuals. Stakeholder engagement meetings were held with education providers and student groups. The GOC also held an open invitation event in February 2018 in which 60-70 delegates participated, including professional associations, patient organisations, education providers, and employer organisations.
- 4.5 As part of the ESR, the GOC commissioned research to gain insight into the views and perceptions of newly qualified optical practitioners (both optometrists and dispensing opticians) and optical employers across the UK. The findings, published in a report in May 2018, included evidence that 60 per cent of newly qualified optometrists felt that the amount of clinical experience they received during their degree course was insufficient; and 58 per cent of newly qualified optical practitioners were either unsure or did not agree that their education and training had adequately equipped them to work in a hospital setting. These research findings support the emphasis in the draft education standards on the need for improved clinical experience in a reformed education system.
- 4.6 The GOC originally planned to carry out a joint consultation in summer 2018 covering both the revised education standards and learning outcomes and the new process for continuing education and training (CET – see Standard 6 for Registration, below). However, it deferred the consultation on the

education standards until the autumn to allow continued testing and engagement with stakeholders.

- 4.7 The GOC launched the consultation on new education standards and learning outcomes on 12 November 2018. The consultation ran until 25 February 2019 and received 539 responses.
- 4.8 Following the consultation the GOC explained that there was more work to do and that the consultation had helpfully highlighted a number of new concerns which will be considered in more detail in the anticipated consultation response document.
- 4.9 The GOC said the next step was to invite stakeholder representatives to workshops to explore the risks and benefits of key elements of the education standards and to co-create solutions that safeguard public health. The workshops would also explore feasible timeframes for implementation and sustainable models for delivery. The GOC will publish a response paper to the consultation and seek agreement with Council on the next steps.
- 4.10 The GOC is consulting with stakeholders to determine the implementation timeframe for the new education standards. It has told us that recent engagement has been positive. The GOC proposes to discuss the implementation plan at its Council meeting in November 2019. We will comment further on any developments in the next performance review period.
- 4.11 While the findings from the original survey raised questions about the existing process, the GOC is assessing them and engaging with stakeholders to inform the development of its plans. We have no evidence of a risk to public protection. We are satisfied that this Standard is met.

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

- 4.12 The GOC continued to carry out its quality assurance programme during 2017/18. There have been no significant changes to the GOC's process for quality assuring education programmes although the GOC has developed a new framework for tracking the conditions that providers must meet and managing the associated risk. It has also developed guidance to assist providers when completing its annual monitoring form. In addition, the GOC published guidance on the notifications of reportable key events and changes that it expects education providers to report. The GOC has also developed its Recognition of Prior Learning guidance.
- 4.13 The GOC announced that in parallel with developing draft standards for education providers and draft learning outcomes for both students and current practitioners (mentioned in Education and Training Standard 1 above), work has been progressing on the GOC's approach to the approval and quality assurance of education providers. The GOC said it will be implementing a plan to improve its current approach whilst also developing a

new approach to the approval and quality assurance of education providers under the new system to ensure that the proposed new standards for education providers are enforced effectively. We will monitor any progress and further developments in the next performance report. We are satisfied that this Standard is met.

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

- 4.14 The GOC continues to take action if concerns are identified.
- 4.15 The GOC told us it carried out 20 quality assurance visits to Accredited Training Providers during the period of review, five for Ophthalmic Dispensing, nine for Optometry, three for therapeutic prescribing, two for Contact Lens opticians and one for awarding bodies. These figures include two new applications which were granted provisional approval (with conditions) and two provisionally approved programmes which were granted full approval (without conditions). The GOC imposed conditions on 15 education and training programmes.
- 4.16 The GOC said it will monitor progress using its new framework (mentioned in Education and Training Standard 2) for tracking the conditions that providers must meet including setting deadlines when conditions would need to be met.
- 4.17 We are satisfied that this Standard is met.

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

- 4.18 The GOC continues to publish on its website details of approved courses and accredited training providers together with information about the quality assurance and approval processes. Reports for all of this year's quality assurance visits are available on the website.
- 4.19 The website provides details on the quality assurance process, the 'Approval Status' (provisional approval or full approval, with the exception of the status of the College of Optometrists) and the visit procedures along with the relevant GOC handbooks detailing how to apply for approval, the visits and possible outcomes, and the relevant competencies. A Supervision policy is also provided.
- 4.20 The quality assurance schedule, dates of the last GOC visit and latest reports from visits are provided on the website. Four new training programmes were granted GOC approval during this review period, of which one was subject to conditions. The GOC has scheduled quality assurance visits for each new programme.
- 4.21 We are satisfied that this Standard is met.

5. Registration

- 5.1 As we set out in section 2 of this report, we conducted a targeted review of Standard 3 and Standard 5 for Registration. The reasons for this, and what we found as a result, are set out under the relevant Standard below. Following the targeted review, we concluded that Standard 3 was not met. The reason for our judgement is set out below.

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

- 5.2 We have seen no evidence to suggest that the GOC has added to its register anyone who has not met the registration requirements. We are satisfied that this Standard is met.

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

The Developments in optometrist applications: on-EEA route to registration for optometrists

- 5.3 The College of Optometrists (the College) previously provided the non-EEA route to registration on the GOC's behalf, holding a non-EEA examination twice a year. The College held the last examination in June 2017 and has decided not to continue providing the examination. The GOC explained that the College decided not to continue providing the examination, having recognised that it required updating to bring it into line with the GOC's approach to assessing UK applicants. As a result it was necessary for the GOC to develop a new route to registration. The new non-EEA route to registration for optometrists was initially expected to be in place by March 2018, but this was pushed back to June 2018. The new process involves mapping of applicants against the GOC's stage 1 and stage 2 competencies, an interview, further academic training if required, then the full Scheme for Registration operated by the College of Optometrists.
- 5.4 We can see from the table below that the number of non-EEA applications fell from eight in 2016/17 to three in 2017/18 and this trend has continued in 2018/19 quarter one, two and three data.

Application processing times

- 5.5 In the last performance review we reported that the GOC amended its performance target for processing applications from three to five working days. The GOC confirmed that since 1 July 2018 this has been amended to 10 working days.
- 5.6 We noted in our last report that in one quarter there was a sharp spike in the time taken to process applications, although this did not affect the overall timescales for year. We said that we would monitor this. As the table below

shows, this spike did not indicate a trend of increasing processing times as the medians for quarters one to three 2018/19 are broadly the same.

- 5.7 In respect of the data, we note fluctuations in the processing time for EU and non-EEA applications. However, due to the small number of applications received, the median time could be affected by an increased processing time for a small number of cases. The median processing times therefore are inherently more volatile, and that the overall impact is less, particularly in relation to non-EEA applicants.

Median time (in working days) taken to process initial registration applications for:	2015/16	2016/17				2017/18					2018/19			
	Annual	Q1	Q2	Q3	Q4	Annual	Q1	Q2	Q3	Q4	Annual	Q1	Q2	Q3
UK graduates	2	6	5	4	3	4	5	13	5	3	6	3	5	5
No. of applications	946	69	417	313	152	951	100	438	227	265	1030	155	302	348
EU/EEA (non-UK) graduates	1	3	4	5	13	5	9	5	2	5	8	7	4	4
No. of applications	43	3	10	6	3	22	5	4	3	3	15	9	5	3
International (non-EU/EEA) graduates	1	2	2	3	1	2	N/A	20	6	0	14	1	N/A	N/A
No. of applications	7	2	2	1	3	8	0	1	2	0	3	1	0	0

Appeals against registration decisions

- 5.8 In our last two performance reviews, we reported that there had been an increase in the number of registration appeals from the previous year. The GOC received two appeals in the financial year 2014/15, four in 2015/16, six in 2016/17 and 12 in 2017/18. We note that this did not necessarily indicate a trend but we stated we would continue to monitor the number of appeals.
- 5.9 The data for this period of review (which covers quarter three 2017/18 to quarter three 2018/19 inclusive) indicates that there have been nine registration appeals received, of which one was upheld. We would expect such small numbers to fluctuate. This is something we will continue to monitor to establish if last year's increases are repeated.
- 5.10 The GOC did not uphold any appeals where no new information was provided in 2016/17, 2017/18 nor in the first three quarters in 2018/19. We will continue to monitor the number and outcome of registration appeals.

However, the evidence does not indicate any concerns about the GOC's performance in relation to registration appeals.

- 5.11 The GOC has been able to manage processing registration applications with the median time remaining relatively consistent. Although in the past we have reported that there has been an increase in the number of registration appeals from 2014/15 to 2017/18, we consider this does not necessarily indicate a trend given the small number of appeals. In addition, the data during the first three quarters of 2018/19 shows only one appeal.
- 5.12 We are satisfied that this Standard is met.

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

- 5.13 We carried out an accuracy check of the GOC's register in October 2018. Forty-seven register entries were checked for the fitness to practise decisions we were informed of by the GOC with regards to our Section 29 process. Three issues were identified in the initial register check that affected a total of 10 register entries. We carried out a targeted review of this Standard to explore the three issues we identified. We concluded the Standard is not met.
- 5.14 The first issue related to exclusions from the public register. In three cases where the registrant had been suspended and remained so at the date of the register check, they did not appear on the public register. The GOC explained that these were not recording errors. Details of the registrants' suspensions were on the hearings page of the website and the GOC confirmed that the registrants were on the statutory register but, because the three identified had failed to renew their registration, they were not on the public register. The GOC confirmed this is its standard policy.
- 5.15 We noted the GOC's publication requirements set out in section 11(2) of the Opticians Act 1989 (the Act). Section 11 of the Act states:
- '(1) The Council shall publish from time to time information from each register in such form (including electronic form) as they consider appropriate.
- (2) The information published by the Council shall include—
- (a) a list of all persons or bodies whose names are in the registers on a date specified by the Council at the time of publication;
- (b) the number assigned to the person or body on the appropriate register; and
- (c) such other particulars (if any) as the Council may direct in relation to registrants or a particular class of registrant.
- (3) A copy of the appropriate register purporting to be published by the Council shall be evidence (and in Scotland sufficient evidence) in all proceedings that the persons or bodies whose names are in the appropriate register are registrants, and the absence of the name of any person or body from such a copy of the appropriate register shall be evidence, until the contrary is shown, that that person or body is not a registrant'.

- 5.16 The GOC explained that it considers it does 'publish' information about a registrant's registration even if it removes a registrant from the online (public) register for not meeting its renewal requirements. The advanced search function on the online register includes an explanation of the GOC's approach and contact details of the relevant department at the GOC if more information is needed. The GOC can therefore provide relevant information to anyone enquiring about the registrant's status including whether that registrant may be subject to a suspension order. The Act does not stipulate that the GOC must publish all the information in the same way, rather it states that the GOC can publish the information in a form that it considers appropriate. The Act therefore may not preclude the GOC from publishing some information online and some by phone or on request.
- 5.17 From a public protection perspective, evidence suggests that the GOC carries out this policy consistently and specifically seeks an undertaking from registrants in these circumstances that they will not practise. The GOC states that this policy protects the public by ensuring that only those registrants who have successfully applied for retention show on the public search. This means that those who do not meet requirements such as continuous education training, declarations or providing insurance details, are not shown as being able to practise. Where a registrant has been removed from the public register in accordance with this policy but has a suspension order against their registration still in place, the determination on the imposition of the suspension order is in the hearings section of the GOC website for the duration of the suspension order and there will be a press release about the registrant's suspension. This would appear to protect the public and be consistent with the legislation.
- 5.18 We therefore did not have any concerns in relation to the first issue we identified as part of the register check.
- 5.19 The remaining issues we identified involved errors in seven separate register entries.
- 5.20 The GOC accepted that these errors were a result of human error and the GOC said that they have been rectified. Nevertheless, out of a total of 47 register entries checked, seven errors equates to roughly a 15 per cent error rate which is considerably high. The errors were as follows:
- In two cases where the registrant had been issued with a warning, which was current at the date of the register check, the determination was not published. In one of these cases, the information published against the register entry was an interim order decision which was no longer in place
 - In four cases where the registrant had been found not to be impaired and no warning was issued, the determination was published as part of their register entry. GOC policy outlines that when impairment is not found, the determination remains published on the register for a period of three

months.³ The four cases identified were older than three months and should have been removed

- In one case dated 19 August 2018 with the same outcome as the four above, the determination was not published but should have been as the outcome was within the three-month publication period.

5.21 Since we brought this to its attention, the GOC said it has made the following changes. It has:

- Updated the 'post-hearing tasks standard operating procedure' (SOP). The SOP sets out the actions which must be completed following an 'event'. The update to the SOP includes an additional stage (Stage 7) requiring a Hearings Officer to create a calendar entry when amendments to the website or the registrant's record need to be made
- Introduced a new quality assurance check on all post hearing actions
- Amended the DIP checking form to include calendar alerts. The calendar alerts were limited to the date the sanction would come into effect but will now also include when amendments to the records need to be made, for example removing a 'no misconduct' determination from the hearings page after three months.

5.22 The GOC has taken steps to minimise these registration errors happening again and informed us that it is reviewing its disclosure policy and Post Hearings Tasks SOP further. The GOC has also said that it will be working with developers to improve its case management system by introducing automatic alerts for post-hearing actions which should address the errors we identified. This is expected to be operational during 2019.

5.23 The GOC has met this standard over the last two performance reviews. Last year we did not find any errors in our accuracy check of the GOC register and only one error in the previous year. However, in 2014/15 we identified six errors and concluded that the Standard was not met. Seven errors were identified during this review period, which is a concern.

5.24 The GOC has taken a number of steps to mitigate any future errors from occurring. However, these measures were taken after this review period ended so we have not seen evidence of the outcomes following the steps the GOC has taken. As a result, we are not satisfied that this Standard is met and we will continue to monitor this in the next performance review cycle.

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

5.25 A registrant search function by individual, bodies corporate and GOC registration number are both clearly accessible on the GOC website. Links are provided on the search function for information about the different groups

³ GOC Information Governance Handbook – Disclosure Policy 3.41: 'Where the outcome of the FTFC shows no findings (where no impairment is found, no facts are proven, and no warning is issued), we will publish this for a period of three months'

that the GOC registers and the different specialty qualifications. A link to the guide to using the registers is also provided.

5.26 We are satisfied that this Standard is met.

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

5.27 We carried out a targeted review of this Standard to explore the GOC's illegal practice caseload as the GOC had stopped publishing details of this during this review period.

Illegal practice caseload

5.28 In September 2016, the GOC had a total of 244 open illegal practice cases, of which 96 per cent were at least nine months old. In our report last year, we noted that the GOC had dramatically reduced its caseload in terms of both number and age: by September 2017 28 per cent of cases had been open for longer than 26 weeks, with the oldest case being three years old. Since then we noted from the GOC's own performance reporting data for quarter three of 2017/18 showed that 26 per cent of open cases were older than 26 weeks and as at 31 December 2018, the GOC again recorded 26 per cent of open cases were older than 26 weeks. This shows that the GOC has maintained its performance in this area and continues to manage its illegal practice caseload.

5.29 In total, the GOC opened 112 illegal practice cases in 2018, 80 of which had been closed by 31 December 2018. The majority of cases opened related to protected title/misrepresentation of registration status, sale of power contact lenses and sale of zero powered contact lenses. The GOC's Illegal Practice Protocol outlines a risk-based approach to dealing with illegal practice complaints.⁴ From the data received, the GOC closed 118 cases in 2018, 101 (85.6 per cent) of which were closed within 26 weeks of the complaint being received. Of the 118 cases closed, only one case was diverted to fitness to practise, with no complainants prosecuted. The majority of cases were closed due to the suspected illegal activity ceasing, lack of sufficient evidence to carry the complaint further or a finding that no offence was committed. We cannot comment on the outcome of these cases nor compare these numbers against previous performance review years as we do not have sufficiently detailed data to do so, however we have not received any evidence to suggest the GOC is failing to protect the public. Furthermore, the data suggests that the GOC has maintained its performance in managing its illegal practice caseload during this performance review year.

5.30 The GOC explained that the reduction in caseload and improvement in processing times is due to a mixture of greater resourcing and some process improvements. During this performance review period the GOC said it has also proactively followed up on businesses that have not renewed their

⁴ www.optical.org/download.cfm?docid=06EA3CCF-6B33-4270-8A5959C22D67DD60.

registration, to ensure that they were not continuing to hold themselves out as GOC registrants. This is a positive proactive step to reduce any risk of harm to the public and of damage to public confidence in the profession if non-registered businesses advertise as GOC registrants.

- 5.31 Additionally, in 2019, the GOC introduced a process for sending an information letter to non-UK suppliers of optical appliances to the UK. The GOC states that this seeks to address its concern over the risks to UK contact lens users who have not had a recent contact lens check: the letter informs the supplier of UK legislation and the potential patient safety risks from their sale processes, and aims to encourage safer practice. We consider that the GOC needs to ensure that this approach is proportionate in the circumstances for two reasons: firstly, whether it is the GOC's role to raise a concern that UK contact lens users may not have had a recent contact lens check; secondly, whether it is the role of the GOC to contact non-UK suppliers as the GOC does not investigate complaints where the supplier is based abroad as they are not bound by UK law. The GOC says it will monitor the impact of these letters and will be able to report on this from January 2020. We note the positive work the GOC has made in reducing its illegal practice caseload and we will continue to monitor performance in this area.

'Love Your Lenses' campaign

- 5.32 We have commented on the GOC's involvement in the 'Love Your Lenses' campaign in previous performance reviews. In our last performance report, we identified concerns about the GOC's involvement in this area. The GOC's statutory remit is to regulate optical professionals. It is arguably outside the GOC's statutory remit to run a public health campaign. In addition, support of the campaign by some optical businesses registered with the GOC may give rise to perceptions that the GOC endorses these businesses or that the support given by the businesses may create a conflict for the GOC given that it also regulates them and, further, that the GOC is promoting the commercial interests of its registrants with a campaign encouraging the public to use optical professionals.
- 5.33 The GOC does not agree with our view. It believes the campaign accords with its statutory objective to protect, promote and maintain the health and safety of the public, and at the same time enables the GOC to raise awareness of illegal practice and the possible risk this poses to individuals. The GOC informed us that the 'Love Your Lenses' website makes it clear that the GOC does not endorse the optical businesses listed. The GOC's view is that it is important for registrants and businesses to be involved to ensure the messages of the campaign reach the public. The GOC does not accept that there is a conflict of interest, or the perception of one. The GOC has stated that there is a clear evidence base that regular aftercare appointments mitigate the risk of eye infection for contact lens users, and that its campaign is aimed at building awareness of the need for aftercare rather than promoting commercial interests.
- 5.34 The second 'Love Your Lenses' campaign ran from 24-30 March 2018 and raised similar concerns for us to those we raised in the previous reports. We

understand that the third campaign ran from 23-30 March 2019 with a focus on providing guidance for registrants to improve standards of contact lens aftercare, rather than on providing information directly to contact lens wearers. The GOC has now evaluated the impact of the campaigns and its Council decided in July 2019 not to continue to lead or fund any future 'Love Your Lenses' campaigns. This is outside the scope of this review period, but we will monitor the GOC's work in this area in our next report.

- 5.35 We will continue to monitor the GOC's approach and consider how it sits in the light of the new Standards of Good Regulation that we will be using next year. However, we do not consider that our concerns are sufficient to cause doubts about the remainder of the GOC's work in respect of this Standard. We are satisfied that this Standard is met.

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

- 5.36 In our last performance review we said the GOC was evaluating its Enhanced Continuing Education and Training (CET) scheme for optometrists and dispensing opticians. This work is closely linked to the strategic review of optical education and training described under Standard 1 for Education and Training above. The GOC carried out further work on the review during 2017/18.
- 5.37 The GOC initially planned a two-phase review of CET. The first phase would focus on customer service improvements and accessibility of the current scheme.⁵ The second phase would begin in 2018 and run until the beginning of the following three-year CET cycle on 1 January 2022. This phase would look at more fundamental changes to the CET system. The GOC established a CET stakeholder reference group.
- 5.38 The engagement with stakeholders through the Education Strategic Review (ESR) and through the CET Reference Group showed a strong appetite for change and in May 2018 the GOC proposed bringing forward from January 2022 to January 2020 the introduction of significant changes to the scheme, with a transitional year in 2019. The key change in January 2020 would be a move to linking CET requirements to more high-level learning outcomes, rather than requiring registrants to undertake CET in relation to all of the current detailed competencies, regardless of their current scope of practice. A consultation on high level themes and principles would take place followed by further development and consultation on a proposed new CET scheme from October to December 2018.
- 5.39 The CET consultation was launched on 14 July 2018 and ran until 11 September 2018. The GOC received 994 responses from 973 individuals and 21 organisations. The findings showed that there was significant appetite for registrants to have more control over their own learning and development.

⁵ The GOC has confirmed that in January 2019 (after our review period) it implemented the planned customer service changes, accessibility for registrants and education providers and also updated its reflective practice tools for registrants.

However, the findings also identified some risks with this level of autonomy and that a balance would need to be struck between tailored, flexible and compulsory learning to ensure registrants had a sufficiently broad knowledge base.

- 5.40 Following the consultation, the GOC decided to revert to its original plan of a three-year cycle commencing in 2019 under current requirements, and plans to make significant changes to the CET scheme in January 2022. The GOC considered that the successful delivery of the scheme in 2020 would be problematic. It recognised that it would need more time to deliver the sustained culture change needed to support some of the key policy proposals. The GOC also recognised that there needed to be a sufficient period of notification and implementation, particularly for CET providers but also for registrants. It concluded that the current timescales did not allow for extensive stakeholder engagement and buy-in for this project. The GOC now plans to continue engagement activity throughout 2019, including a public consultation on the proposed changes. At the end of 2018, the GOC also commissioned research into the risks in the professions to inform further development of the CET scheme. It proposes to launch the new standards framework for CET providers in 2020/21.
- 5.41 Whilst the delivery plan for the CET has been problematic, the GOC appears to have established a clear and achievable timetable for development. We are satisfied that this Standard is met and will continue to monitor this programme of work.

6. Fitness to Practise

- 6.1 The GOC has met nine of the 10 Standards of Good Regulation for Fitness to Practise during 2017/18. Examples of how it has demonstrated this are indicated below each individual Standard.
- 6.2 As we set out in section 2 of this report, we conducted a targeted review of Standards 1, 4 and 6. The information we obtained in the targeted review raised questions which led to us also carrying out a targeted check of Standard 1. We concluded that Standard 6 was not met. The reason for our judgement is set out below.

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

- 6.3 The standard was not met last year. There were two areas that we explored as part of our targeted review, following which we concluded that this standard is now met.

Acceptance criteria

- 6.4 During last year's performance review the GOC explained that it was proposing to develop criteria by refining and formalising the principles under which it currently accepts a complaint as a fitness to practise allegation called 'Acceptance Criteria'. From 14 December 2017 to 9 March 2018 the GOC

consulted on the Acceptance Criteria which were subsequently launched on 13 November 2018.

- 6.5 The Acceptance Criteria are a case management tool for the GOC fitness to practise team to help decide whether or not to accept a complaint as an allegation of impaired fitness to practise. If a complaint does not meet the Acceptance Criteria, the GOC will not open an investigation. The Criteria apply to all complaints relating to individual registrants.
- 6.6 The GOC states that in accordance with the Acceptance Criteria, it takes the complaint at its highest and decides whether it passes the seriousness and harm tests set out in the criteria;⁶ that is:
- first whether there may have been a breach of the relevant standards. If so, then consider;
 - whether the breach would amount to an allegation under section 13D of the Opticians Act 1989.⁷
- 6.7 The GOC also assesses risk in respect of the complaint received to determine whether the level of risk to the public, to maintaining public confidence in the profession and to declaring and upholding standards of conduct and behaviour. If the complaint presents a serious or immediate risk to public protection, referral for an interim order may be required.
- 6.8 The GOC has said it intends to carry out an audit of the application of its Acceptance Criteria.⁸ The GOC audit report is due to be completed towards the end of summer 2019 and we will comment on this in the next performance review cycle.

Triage process

- 6.9 The GOC implemented a new triage process described as the 'initial screening process that all new referrals go through to determine whether a full investigation should be opened' in January 2017.
- 6.10 In the last performance review we identified a number of concerns about the new triage process, including:
- not being able to identify a formal triage decision
 - triage decisions not being sufficiently reasoned
 - triage decisions not evidencing consideration of all aspects of the complaint.
- 6.11 As part of the targeted review this year, we carried out a targeted check of a sample of 25 cases closed at the triage stage to identify whether the concerns we identified during the last performance review had been addressed.

⁶ Acceptance Criteria 2.3 and 2.4, available to download from:

www.optical.org/en/Investigating_complaints/fitness-to-practise-guidance/index.cfm.

⁷ Section 13D stipulates that the allegation must relate to the fitness to practise of a GOC registrant.

⁸ This has been incorporated within the independent audit of fitness to practise decisions referenced at paragraph 6.15 below.

- 6.12 In all 25 cases we reviewed, we did not identify examples where we considered that the triage decision was insufficiently reasoned, nor did we identify that significant aspects of the complaint were not considered when taking the decision to close the case.
- 6.13 In four cases we noted that the triage decision was not formally recorded on the Triage Assessment Form as required in accordance with the GOC's Fitness to Practise Manual,⁹ although in all four instances there was a record on file of the triage decision in email correspondence. We also found in a further four cases that although the decision to close the case was formally recorded on the Triage Assessment Form, the complainant was notified that the GOC would not be taking any further action before the decision to close the case at triage was approved by a senior caseworker/manager.¹⁰ In none of these cases did we identify concerns about the decision to close, nor did the manager's comments on approval change anything about the decision. Overall, although we had some concerns, we considered that these were not so serious as to impact on this Standard.
- 6.14 The information the GOC has provided and the findings from our targeted check evidence that the GOC has made a number of changes to its triage process, for instance the GOC has:
- recruited a dedicated Triage Officer and Senior Triage Officer
 - made changes to its triage process 'case plan'
 - implemented Acceptance Criteria, which include for both complainants and registrants a right to request a review (by the Director of Casework and Resolutions) of a triage decision
 - changed the wording of the consent section in the referral form with the aim of reducing the number of occasions the form is returned to the complainant for full completion.¹¹
- 6.15 In addition, the GOC has developed the following quality assurance measures for the triage process when making a decision as to whether to open or close a case at the triage stage:
- Recommendation by the Triage Officer
 - Decision by the Senior Triage Officer
 - Right to request a review (to be reviewed by the Director of Casework)
 - Review by an Investigations Manager when opening a full investigation
 - Sample control checking of decisions not to open a case, by a Triage Manager
 - Independent audit of a sample of decisions, to commence for the 2018/19 audit year.

⁹ GOC Fitness to Practise Manual v1.2 paragraph 2.17 and v.1.3 at paragraph 2.16.

¹⁰ In accordance with the GOC Triage Assessment Form and GOC Fitness to Practise Manual v1.2 and v1.3 at paragraph 2.18.

¹¹ Referral Form – see page 5 Consent Form, available to download from:

https://www.optical.org/en/Investigating_complaints/How_to_make_a_complaint/index.cfm.

- 6.16 The above measures were put in place after the GOC failed to meet this standard last year. This demonstrates that the GOC has taken on board the concerns we had in relation to its triage decision-making and recording processes. Following our findings from our target check, it is clear the GOC has improved its processes. When we shared our findings following our targeted check the GOC said that it accepted our findings as it seeks to improve its processes further, and noted that it has put measures in place to strengthen communication between teams.
- 6.17 Turning to the case plan, there are sections where decisions and reasons need to be recorded. Whilst we have been unable to compare this revised case plan to the one we assessed as part of our audit of triage decisions at the last performance review, we noted that staff are prompted to provide reasons at the different stages and, given the quality assurance measures now in place, demonstrates the GOC has put mechanisms in place to limit the risk of decisions not being recorded in the future.
- 6.18 In practice, the majority of forms we reviewed were completed appropriately with all decisions recorded accurately. There is still room for improvement, but it is encouraging that the GOC has put measures in place to reduce the risks we identified in our last performance report from happening again in future. Furthermore, the GOC reports that, since January 2018, it has not received any corporate complaints about a refusal to open an investigation, it has received no formal requests for a review of its triage decisions and since implementing the Acceptance Criteria, when referring a complaint onto the Optical Consumer Complaints Service (OCCS) the GOC has received no referrals back from the OCCS recommending the GOC ought to have opened an investigation.
- 6.19 The Authority also has not received any complaints about the GOC's triage process since it has implemented the above changes. Based on the GOC's response and the findings of our targeted check we can conclude that the changes the GOC has put in place have had a positive impact.
- 6.20 The GOC has made considerable changes to its triage process since the last performance review, including developing Acceptance Criteria, making changes to the triage case plan, allocating dedicated staff to make and assess triage decisions and creating a robust quality assurance mechanism, as well as providing a right for both the complainant and registrant to request a review of a triage decision. We have seen the outcomes of these changes when undertaking our targeted check and the positive steps the GOC has taken to deal with the concerns we identified in our last performance review. We have seen evidence that these changes have had a positive impact and therefore are satisfied that this Standard is met. We will however continue to monitor this to ensure it is maintained

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

- 6.21 We have seen no evidence to suggest that the GOC is failing to share information with relevant parties.

- 6.22 The GOC has a statutory duty to notify a registrant's employer of an investigation under section 13C of the Opticians Act 1989. In our last performance review, we mentioned that the GOC amended its fitness to practise guidance in March 2017 to ensure that the definition of employer captured all those with whom a registrant has an agreement for the provision of services, including locum services. As part of the GOC's disclosure policy, it will also notify a registrant's employer(s) if the registrant is subject to an interim order by the Fitness to Practise Committee (FTPC).
- 6.23 We have received no concerns or other information to suggest that the GOC is failing to share information with relevant parties and are satisfied that this Standard is met.

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

- 6.24 In the last performance review we carried out a targeted review of this Standard to seek assurance that the introduction of Case Examiners in April 2014 (replacing the Investigating Committee as the case to answer decision-maker) was resulting in proper decisions being made and the process being followed was appropriate and enabled good decision-making.
- 6.25 In the majority of the cases we reviewed we found that the decisions made by the Case Examiners clearly demonstrated both appropriate application of the relevant test for referral to a final fitness to practise hearing (the realistic prospect test) and that Case Examiners had properly considered the information before them. We did not consider any decisions to close were not properly made or gave rise to a public protection concern.
- 6.26 However, we did identify a concern about the quality assurance of Case Examiner decisions process operated by the GOC. We were concerned that there was a conflict of interest in the Head of Case Progression – who had responsibility for investigating fitness to practise cases – quality assuring the decisions made at the end of the investigation stage, and that a perception might arise that Case Examiner decisions were not made independently of the GOC staff. We raised our concerns with the GOC which told us that it was considering changes to the quality assurance process in light of our concerns.
- 6.27 The GOC has changed its process so that the Head of Case Progression no longer undertakes quality assurance of Case Examiner decisions. The GOC said that it has undertaken a full review of its approach to quality assurance of Case Examiner decisions. There is a policy in place (from January 2019) which directs that, save for a few exceptional cases where the GOC must ensure that it is compliant with the law (for example, ensuring that whistleblowers are not identifiable in protected disclosure cases), Case Examiner decisions are not subject to any form of quality assurance prior to being issued. Quality assurance will be undertaken retrospectively, with any points arising being used primarily as anonymised learning points for all Case Examiners. The GOC addressed the concern we had surrounding conflict of

interests regarding the quality assurance of Case Examiner decisions and we will continue to monitor developments in this area. We are satisfied that this Standard is met.

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

6.28 We carried out a targeted review of this Standard following the concerns we raised in our last performance report about the GOC's interim order timeliness and the risk assessment processes.

Interim orders – timeliness

6.29 In our last performance review we raised concerns surrounding interim order timeliness. The period of last year's review covered quarters three and four of 2016/17 and quarters one and two of 2017/18 which showed a marked increase in the time taken from receipt of a complaint to the interim order committee decision in the final two quarters of the reporting period.

6.30 For this performance review period, the data shows a reduction in the median times, albeit not down to the same levels as in quarters three and four of 2016/17.

6.31 The GOC imposes relatively few interim orders and therefore the quarterly medians are likely to fluctuate. The annual medians are therefore arguably more reliable. According to the GOC, the median annual figure for 2018/19 has improved and stands at 17 weeks compared to last year's 24 weeks. Whilst this is not as low as the 2016/17 of figure of 13 weeks, we acknowledge that the GOC has seen a significant increase in the number of cases received, from 343 in 2015/16 to 388 in 2016/17 to 471 in 2017/18 and 354 in the first three quarters of 2018/19.¹² As a result, its processing times for interim order applications would be expected to be slightly longer.

6.32 The GOC explained that many of its interim order applications relate to clinical matters. As such it needs to obtain all relevant optical and medical records as well as receiving clinical and legal advice before making an interim order application. To improve the timeliness of this process the GOC has said it has made, or is in the process of making, the following changes:

- Restructuring the Case Progression Team – bringing in additional investigation officer and administration resource which reduced the case load per investigation officer from 50 cases down to 30
- Creating a dedicated interim order officer responsible for managing interim order applications
- Contracting a second Optometrist Clinical Advisor to obtain clinical risk opinions more efficiently, refreshed the expert witness pool and increased the number of experts available

¹² GOC Performance Report Data to Council.

- Securing an agreement with ACRO Criminal Records Office regarding Police National Computer checks with requests to be turned around within seven days
- Establishing single points of contact with main 'multiple' optical businesses and key hospitals.

6.33 From the data, we can see that there has been some improvement in performance. We are satisfied that our concerns in relation to interim order timeliness are being addressed and will keep this under review.

Risk assessments

6.34 The GOC informed us in last year's performance review that risk is assessed at triage stage, at regular intervals thereafter and on receipt of new information, and that high risk cases were reviewed every two weeks. This approach was not evident in the cases we reviewed as part of our audit last year and we raised these findings in our report last year.

6.35 During this performance review period, aside from the changes the GOC made to interim order timeliness, the GOC said it has also improved the functionality of its case management system. This, the GOC said, has helped case officers and managers manage/monitor high-risk cases by monitoring the completion of interim order risk assessments. For example, this new function helped confirm that all 435 of the GOC's open cases have been the subject of an interim order risk assessment within the past eight weeks (four weeks for triage cases). The GOC informed us that the main page of high-risk cases on its case management system will shortly display a high-visibility automated alert to ensure that risk is reviewed effectively and efficiently.

6.36 The GOC therefore now appears to have mechanisms in place to identify if cases have not had an interim order risk assessment.

6.37 During this performance review the GOC has also completed a risk process review which included proactive discussions with other healthcare regulators such as the NMC, HCPC and GOsC about their approach to risk management as well as reviewing our findings on risk management detailed in our reviews of the other healthcare regulators. We welcome this proactive step. In addition, the GOC obtained input from its own fitness to practise staff. Key findings of the review found:

- Although the interim order risk assessment form is fit for purpose, the GOC should seek to move this to an auditable electronic assessment on its case management system
- The GOC should create a risk profile section on the main page of each case on the GOC's case management system. This profile will show both the interim order risk level and other categories of high risk attached to the case
- The GOC should change its minimum interim order risk assessment period from six to eight weeks
- The GOC should introduce a new case management form to be used in cases that are referred to the FTPC.

- 6.38 The review also identified a range of other risk types that the GOC might potentially need to assess such as: risk to witnesses; risk to GOC staff; risk to the registrant; high profile cases; reputational risk; operational risk; financial risk; compliance risk; and legal risk.
- 6.39 The GOC also found that it should continue to manage risk to the public separately to these other risk types. The GOC explained that although the other risk types should form part of the overall profile of a case, they should be flagged and managed independently of the risk to the public, which the GOC states falls under its interim order consideration. The information the GOC provided to us surrounding interim order risk assessments specifically mentions the assessment of risk to the public. The GOC said this is a general heading which directs staff to its interim order assessment process, which is clear about the other two grounds upon which an IO application can be made: the public interest and the registrant's own interests.
- 6.40 Finally, the GOC has said it has also made a number of process changes to its case management strategy and developed a handling strategy, a witness care strategy, and a registrant care strategy. It hosted staff workshops in January and February 2019 to aid staff training in the new processes and said it will be embedding these processes into the Fitness to Practise Manual this year.
- 6.41 The GOC has made a number of changes to improve its interim order timeliness which have produced some positive results. The GOC has also been looking to make improvements to its risk assessment processes and has made a number of changes since the last performance review. We have not seen evidence during this performance review of failures by the GOC to identify high-risk cases and we are satisfied that this Standard is met. We will continue to monitor this in future performance reviews to ensure the GOC applies risk appropriately in accordance with its legislation when considering an interim order.

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

This Consensual panel disposal

- 6.42 In May 2018 the GOC published its policy on Consensual Panel Disposal. This policy will shortly be re-named Agreed Panel Disposal (APD). The GOC consulted on the policy from August to September 2017 and received responses from 11 stakeholders including ourselves.
- 6.43 We supported the GOC's proposals, with some comments. We considered the proposals relatively low risk and were assured that:
- APD cases would still be fully investigated
 - final fitness to practise decisions would still be made at a public hearing
 - panels would be presented with the full evidence bundle.
- 6.44 We suggested the GOC should provide greater detail regarding the types of cases suitable for APD and the circumstances under which a contested

public hearing would need to be held in the public interest. We were concerned that discussions held 'without prejudice' might encourage plea bargaining and mean the GOC cannot act on additional concerns. We suggested outlining the role of the referrer's comments in the guidance, and that a new panel should be convened on all stages of decision-making should the panel disagree with the proposed consensual disposal. The GOC appears to have addressed our suggestions and concerns when it published its final APD policy in May 2018 following its consultation process.

- 6.45 The GOC has not yet disposed of any cases by way of APD and we will continue to monitor this.

Management of conflicts of interest

- 6.46 During the performance review period, some matters came to our attention which were relevant to the GOC's approach to conflicts of interest among those who sit on its committees and, more generally, its involvement in external organisations. We shared these matters with the GOC, which advised us that it has commissioned internal auditors to review its management of interests policy and related organisational processes.
- 6.47 We note that this review and any outcomes fall outside this review period and as such, we will comment on this in more detail in the next performance report. We are satisfied that this Standard is met.

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

- 6.48 This Standard was not met in 2014/15, 2015/16 or 2016/17 and it is not met again this year.
- 6.49 Last year, the GOC told us that it had made a number of changes and confirmed this in its response to this targeted review. These included:
- expanding and restructuring the Case Progression Team, which the GOC expects to reduce timescales at triage and investigation stages
 - streamlining the functions of Investigation Officers so they are solely tasked with progressing substantive cases
 - changing the way teams use case management systems
 - additional in-house advocates
 - expanding the expert witness pool
 - introducing Acceptance Criteria
 - APD of cases.
- 6.50 The GOC introduced APD in May 2018 and according to the data received from the GOC during this review period, no cases have yet been dealt with by way of this method of disposal. We will continue to monitor this to see if

there have been any changes when we review the GOC’s performance in our 2018/19 review.

- 6.51 In addition to the above changes, the GOC informed us that it is:
- working with the Department of Health and Social Care to change its legislation on lifting the cap on the number of members it can have in its FTPC pool (currently 40), thereby increasing the number of final fitness to practise hearings it can list
 - holding meetings with GOsC and the GCC to potentially share resources and generate financial efficiencies whilst identifying best practice
 - expecting to manage up to 50 per cent of substantive FTPC hearings in-house. This is expected to improve the quality of frontloading, as well as improving efficiency in terms of the information/evidence gathering
 - working to improve forecasting capabilities and reviewing the oldest cases in the system.
- 6.52 We recognise the efforts the GOC is making to facilitate change, including proactive engagement with other regulators and the ongoing dialogue with the Department to reform its legislation. We also note the outcomes the GOC expects to see in the future as a result of the work it has undertaken. However, we have not seen evidence of improvement during this performance review period. We will continue to monitor the GOC’s efforts to implement the above changes in our next review.

Dataset

- 6.53 As noted in section 2 of this report, the period of review (1 October 2017 to 31 December 2018) covers quarters three and four of 2017/18 and quarters one, two and three of 2018/19. The following tables set out the GOC’s quarterly and annual performance against the key timeliness measures we collect in the dataset. As the reporting period covers two reporting years, we have set out both the quarterly and annual data below:

Key timeliness indicators (quarterly)	17/18 Q1	17/18 Q2	17/18 Q3	17/18 Q4	18/19 Q1	18/19 Q2	18/19 Q3	18/19 Q4
Median time from receipt of complaint to CE decision	47	45	41	54	42	60	77	47
Median time from CE decision to final hearing	62	96	61	62	71	64	69	69
Median time from receipt of complaint to final hearing or decision	96	138	124	111	117	103	104	120

Key timeliness indicators (annual)	2015/16	2016/17	2017/18	2018/19
Median time from receipt of complaint to CE decision	44	39	47	51
Median time from CE decision to final hearing	38	66	70	67
Median time from receipt of complaint to final hearing or decision	82	121	124	112

- 6.54 The data records in the tables above highlight that all timeliness measures declined in 2017/18 compared to 2016/17 (which was the last full year on which we reported). Performance since 2017/18 is mixed with some signs of improvement in the end-to-end measure, although we need to consider this in light of the lack of progress in closing old cases (see below for more detail).
- 6.55 The GOC has set itself key performance indicator (KPI) targets for each stage of the fitness to practise process. Meeting these KPIs would require significantly improved performance in timeliness. The GOC has said that it expects to be able to achieve these targets by 2020/21, provided it is able to lift the cap on the fitness to practise panel pool. This in turn, the GOC contends, will allow it to list more hearings, thereby reducing case numbers and timescales. This is a matter outside its own control but we would support the GOC's ambitions in this respect and would urge the DHSC to implement these changes as a matter of urgency.
- 6.56 Last year the GOC told us that timeliness measures would show improvement by the second half of 2018/19 when it had closed all the 'legacy cases' (the backlog of cases received prior to August 2016). It is not clear if the GOC has closed its legacy cases; we discuss this in more detail below. Notwithstanding what the GOC told us last year, the table outlining the quarterly key timeliness indicators above shows that the end to end median time has reduced during the performance review period. The GOC accepts that there is still room for improvement and accepts that the initiatives implemented over the past couple of years have not yet resulted in significant improvements.

Dataset clarification and old cases

- 6.57 Our dataset includes details of how many old cases each regulator has open. We ask each regulator to confirm the number of open cases it has older than one, two and three years since receipt. We think it is helpful to know how many old cases a regulator has open, and in particular whether this is increasing or decreasing over time. An increasing number of old cases on hand might indicate that a regulator is finding it difficult to keep up with its caseload.
- 6.58 During this review, we have become aware of a misunderstanding affecting the way we have presented some of the data from the GOC in previous reviews. We had understood that the GOC would give us the numbers of

cases older than one, two and three years separately; the GOC had understood that it would provide these figures cumulatively – that is, with cases older than two or three years included in the figure given for cases older than one year, and so on. As a consequence, some cases will have been double-counted when we calculated how many old cases the GOC had open. The following table confirms the accurate figures for the number of old cases the GOC had open from Q1 2017/18 onwards.

Number of open cases (at the end of the quarter) which are aged:	2016/17	Q1 17/18	Q2 17/18	Q3 17/18	Q4 17/18	Q1 18/19	Q2 18/19	Q3 18/19	Q4 18/19
52-103 weeks	79	82	84	105	102	113	119	122	114
104-155 weeks	25	29	31	34	39	41	41	38	36
156 weeks and over	16	15	16	20	18	20	28	28	28
Total	120	126	131	159	159	174	188	188	178

- 6.59 The table shows that there has been a marked increase in the total number of old cases since 2015/16 and in the current performance review period. In our last performance report we expressed concern regarding the length of time taken for cases to reach a final hearing and were told that this would improve once legacy cases have been completed. The data we have seen in this performance review shows that the number of old cases has increased by 44 per cent; a significant rise. The GOC accepts it has some way to go before it is able to show signs of sustained improvement in an area which has been steadily worsening since 2014/15.
- 6.60 Taking all the above into account, it is evident that, for the fourth consecutive year, there are significant concerns about the GOC’s timeliness in its fitness to practise case handling, and although the GOC has advised that it has a number of projects underway with the aim of improving timeliness, these have not yet had a positive impact on all of the measures we assess.
- 6.61 The GOC did not meet this Standard in the last three performance reviews and, from the available evidence, the overall performance has not improved, therefore this Standard is not met. We will continue to monitor the GOC’s performance against this Standard.

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

- 6.62 In our last performance review, through our audit we identified delays in progressing cases and failures to chase information. We mentioned that these delays had a significant impact on the customer service provided.

Parties to a complaint were not always kept up to date, and correspondence and queries were not always responded to in a timely manner. In a small number of cases closed at triage, we found that the decision was not communicated to all relevant parties. However, we decided that the Standard was met because overall the communication with parties and the information provided to them were appropriate.

- 6.63 During this performance review period, the GOC has put measures in place to improve customer service. These include:
- Introducing an end-to-end caseworker – cases will stay with the original caseworker throughout the process and will provide complainants, witnesses and registrants with a single point of contact. Case officers will also attend hearings to provide additional witness support
 - Looking to review communications to complainants, witnesses and registrants as the GOC develops a new process for in-house advocacy for substantive cases
 - Designing an online virtual tour of the GOC hearings suite for witnesses, registrants, members of the public to see what the venue looks like and understand the role of participants
 - Implementing a system of undertaking consensual interim order reviews ‘on the papers’, meaning registrants and their representatives do not have to attend review hearings if they do not wish to.
- 6.64 The GOC appears to be taking steps to address the concerns we outlined in the previous report. We have not seen any further evidence to suggest that this Standard is not met; for example, we have not received any concerns about the adequacy of updates or customer service in fitness to practise cases. We are satisfied that this Standard is met.

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

- 6.65 We addressed the introduction of the new Acceptance Criteria and triage process and its impact on whether cases are investigated or closed at Standard 1 and 4 for Fitness to Practise, above. We have not raised concerns about these.
- 6.66 In addition, as noted above in Standard 5 for Fitness to Practise, the GOC has introduced APD as a way of closing fitness to practise cases. However, no cases were disposed of in this way during the period under review. We will continue to monitor data about the GOC’s use of its new powers, but we have seen no evidence that negatively impacts on the GOC’s performance against this Standard during this performance review period.
- 6.67 The Authority did not appeal any final fitness to practise decisions made by the GOC during the period under review. We are satisfied that this Standard is met.

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

- 6.68 Fitness to practise decisions, apart from matters relating to the registrant's health, are published on the GOC website. We have seen no evidence to suggest that the GOC is failing to publish or communicate fitness to practise decisions. Although we raised concerns in relation to errors we identified during our check of a sample of entries on the register, this is dealt with at Registration Standard 3. We have not identified any further issues about the communication of fitness to practise decisions and we are satisfied that this Standard is met.

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

- 6.69 In our last performance review we noted the GOC has submitted details of its revisions to information governance policies, processes and staff training since 2017 to the ICO. The GOC also developed and launched information governance training.
- 6.70 The GOC met this standard last year having reported one data breach to the ICO. This year the GOC's performance has improved as it has not reported a single data breach to the ICO. We are satisfied that this Standard is met.

Professional Standards Authority for Health and Social Care

157-197 Buckingham Palace Road
London SEW 9SP

Telephone: **020 7389 8030**

Fax: **020 7389 8040**

Email: info@professionalstandards.org.uk

Web: www.professionalstandards.org.uk

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Snapshot

Annual review of performance 2017/18



Regulator reviewed: **General Optical Council**

Key facts & figures:

- regulates the practice of **optometrists** and **dispensing opticians** in the **United Kingdom**
- **27,976** professionals on register; **2,740** optical businesses (as at 30/12/2018)
- **£340** annual fee for registration

Standards of good regulation

Core functions

Annual performance review 2017/18

Met

(number of Standards)

Guidance & Standards

4/4

Education & Training

4/4

Registration

5/6

Fitness to Practise

9/10

Find out more about our performance reviews at:
www.professionalstandards.org.uk/performancereviews

Focus on: **Activities and actions demonstrating how the GOC is meeting the Standards**

The GOC has met 22 out of 24 of our Standards of Good Regulation. Standard 6 for Fitness to Practise remains unmet as the GOC is still taking too long to progress cases. The GOC did not meet Standard 3 for Registration as we identified some issues around the accuracy of its register entries in relation to final fitness to practise decisions.

EDUCATION AND TRAINING: STANDARDS ARE LINKED TO STANDARDS FOR REGISTRANTS AND PRIORITISE PATIENT SAFETY

Since our last review the GOC has carried out further work on the Education Strategic Review (ESR), which is one of the GOC's key priorities of its Strategic Plan 2017-2020. During this performance review period the GOC has carried out a number of consultations, most recently on the new education standards and learning outcomes. The GOC continues to engage with stakeholders to inform its work on the new education standards. We will comment further on any developments in the next performance review period.

FITNESS TO PRACTISE: ANYBODY CAN RAISE A CONCERN

This Standard was not met in our last performance report due to concerns we had regarding the GOC's decision-making at the triage stage. Since then the GOC made a number of changes to its triage process and developed quality assurance measures for the triage process when making a decision as to whether to open or close a case at the triage stage. Therefore, as part of the targeted review this year, we carried out a targeted check of a sample of 25 cases closed at the triage stage. We wanted to see whether:

- there was a formal triage decision recorded;
- the triage decision was sufficiently reasoned; and
- the triage decision evidenced consideration of all aspects of the complaint.

We found a formal triage decision recorded in all 25 cases we reviewed. We did not identify examples where we considered that the triage decision was insufficiently reasoned, nor did we identify that significant aspects of the complaint were not considered when taking the decision to close the case. Following our findings from our targeted check, it is clear the GOC has made changes which have had a positive impact and therefore we are satisfied that this Standard is now met.

REGISTRATION: EVERYONE CAN EASILY ACCESS INFORMATION ABOUT REGISTRANTS

We carried out an accuracy check of the GOC's register in October 2018 and identified errors which related to seven separate register entries.

The GOC accepted that these errors were a result of human error and said that they have been rectified. The GOC has met this Standard over the last two performance reviews. Last year we did not find any errors in our accuracy check of the GOC register and only one error in the previous year. However, in 2014/15 we identified six errors and concluded that the Standard was not met. Seven errors were identified during this review period, which is a concern.

The GOC has taken a number of steps to mitigate any future errors from occurring. However, these measures were taken after this review period ended so we have not seen evidence of the outcomes following the steps the GOC has taken. As a result, we are not satisfied that this Standard is met and we will continue to monitor this in the next performance review cycle.

FITNESS TO PRACTISE: CASES ARE DEALT WITH AS QUICKLY AS POSSIBLE

This Standard was not met in 2014/15, 2015/16 or 2016/17 and it is not met again this year. We recognise the efforts the GOC is making to facilitate change, including proactive engagement with other regulators and the ongoing dialogue to reform its legislation. We also note the outcomes the GOC expects to see in the future as a result of the work it has undertaken. However, we have not seen evidence of improvement during this performance review period. There are significant concerns about the GOC's timeliness in its fitness to practise case handling, and although the GOC has advised that it has a number of projects underway with the aim of improving timeliness, these have not yet had a positive impact on all of the measures we assess. The overall performance has not improved and therefore this Standard remains not met.

You can read the full report on our website
[www.professionalstandards.org.uk/
performance-reviews](http://www.professionalstandards.org.uk/performance-reviews)