Council – 7 July 2010

Fitness to Practise Annual Report 2009-10

Executive summary and recommendations

Introduction
Article 44(1)(b) of the Health Professions Order 2001 provides that the:-

The Council shall publish, by such date in each year as the Privy Council shall specify a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1)(b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council's observations on the report.
'Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements it has put in place to protect the public from persons whose fitness to practise is impaired, together with the Council's observations on the report.'

At its meeting in June 2010, the Fitness to Practise Committee recommended that subject to some editorial amendments which have been made, that the Council approve the 2009-10 Fitness to Practise Annual Report.

The attached appendix is the draft 2009-10 Fitness to Practise Annual report. The Executive also proposes that an appendix setting out data from previous years be added to the document.

Decision
The Council is asked to approve the 2009-10 Fitness to Practise Annual report (subject to editorial amendments)

Background information
None

Resource implications
Employee time in writing the report

Financial implications
Accounted for in 2010-11 budget

Appendices
Fitness to Practise Annual report

Date of paper
23 June 2010

[front cover]

1 April 2009 to 31 March 2010 [strapline]

Fitness to practise annual report 2010 [title]

Contents

Executive summary

Welcome to the seventh fitness to practise annual report of the Health Professions Council (HPC) covering the period 1 April 2009 to 31 March 2010. This report provides information about the HPC's work in considering allegations about the fitness to practise of our registrants.

Fitness to practise proceedings are about protecting the public. They are not a general complaints resolution process nor are they designed to resolve disputes between registrants and service users. Our fitness to practise processes are not designed to punish registrants for past mistakes they have made or harm they may have caused but to take appropriate action to protect the public from those who are not fit to practise either at all or on an unrestricted basis.

There are situations where a registrant has made an error but where the likelihood of it being repeated in the future is so remote that the registrant's fitness to practise is not impaired and no action is necessary to protect the public. We are required to determine whether the past behaviour of the registrant means that their ability to practise safely and effectively in the future is negatively affected.

This report details the ways in which our fitness to practise panels have dealt with the cases brought before them, as well as information about the number and types of cases and the outcomes of those cases.

On 1 July 2010, the HPC became responsible for the statutory regulation of practitioner psychologists. Complaints regarding practitioner psychologists amounted to approximately 19 per cent of the total allegations made in this year. We have also seen an increase in the number of complaints made by members of the public which now make up 31 per cent of complaints, just 2 per cent less than complaints made by employers.

499 cases were considered by panels of the Investigating Committee in 2009–10. This differs to the number of allegations received as not all cases received in a financial year are considered by a panel in that same year. The case to answer rate of cases considered by panels of the Investigating Committee is now 58 per cent. Panels decided in 80 per cent of cases where the complaint was made by an employer that there was a case to answer.

We concluded 256 cases at final hearing in 2009–10. This is an increase of 32 per cent from 2008-09. In 2009-10 we saw an increase in the number of cases were not well founded. This meant that the final hearing panel concluded that the case was not proven on the facts, the ground (i.e misconduct, lack of competence)or that the registrant's fitness to practise was not impaired. In many of these cases, the facts of the case were proven but, registrants were able to demonstrate that they had developed or changed and were able to practice their profession safely, lawfully and effectively in the future with no risk to the public.

The length of time taken for cases to conclude in 2009-10 has reduced slightly when compared to last year. We will continue to endeavour to ensure that cases are managed and listed for hearing in a timely manner and will further review our processes in 2010–11 to ensure that this remains the case.

Although this report demonstrates that we are continuing to see an increase in the number of cases and hearings that take place, this still only involves less than 1 per cent of HPC registrants.

We are continuing to look for ways to improve and develop our processes to ensure accessibility and clear information for all those that have cause to interact with us. In 2009–10, we commissioned IPSOS Mori Social Research Institute to undertake research into the expectations of complainants. This research as well as other initiatives has identified ways in which we can improve the work that we do. This work will form a key part of our activity for 2010–11 where we will further explore and explain the meaning of fitness to practise and the difference between a fitness to practise process and a complaints resolution process.

I hope you find this report of interest. If you have any feedback or comments please email me at ftp@hpc-uk.org.

Kelly Johnson
Director of Fitness to Practise

Introduction

About us (the Health Professions Council)

We are the Health Professions Council, a regulator set up to protect the public. To do this, we keep a register of professionals who meet our standards for their professional skills, behaviour and health.

In 2009–10 we regulated members of 14 professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Speech and language therapists

On 1 July 2009 we became responsible for the regulation of practitioner psychologists. Prior to this date, psychologists were not in statutory regulation and fitness to practise complaints were investigated by the British Psychological Society (BPS) and the Association of Educational Psychologists (AEP). On 1 July 2009 just over 15,000 practitioner psychologists were transferred to the HPC Register.

On 1 April 2010 we became responsible for the regulation of hearing aid dispensers. For an up-to-date list of the professions we regulate, please see our website at www.hpc-uk.org

Each of the professions we regulate has one or more ‘protected titles’ (protected titles include titles like ‘physiotherapist’ and ‘operating department practitioner’). Anyone who uses a protected title and is not registered with us is breaking the law, and could be prosecuted. For a full list of protected titles, please go to our website at www.hpc-uk.org. Registration can be checked either by logging on to www.hpcheck.org or calling +44 (0)20 7582 0866.

Our main functions

To protect the public, we:

- set standards for the education and training, professional skills, conduct, performance, ethics and health of registrants (the professionals who are on our Register);
- keep a register of professionals who meet those standards;
- approve programmes which professionals must complete before they can register with us; and
- take action when professionals on our Register do not meet our standards.

What is 'fitness to practise'?

When a registrant is described as 'fit to practise', this means that they have the health and character, as well as the necessary skills and knowledge, to do their job safely and effectively.

The behaviour and minimum levels of skills and knowledge we can expect from a registrant are set out in the standards of conduct, performance and ethics and the standards of proficiency.

The Fitness to Practise Department is responsible for handling complaints about a registrant's fitness to practise. These are also known as 'allegations'. Allegations question whether professionals who are registered with us are fit to practise.

Who can complain?

Anyone can make a complaint to us about a professional on our Register. This includes members of the public, employers, the police and other registrants.

We can only consider complaints about a registrant's fitness to practise. When considering cases, panels must determine whether the registrant's fitness to practise is currently impaired. When making this decision, the Panel's task is not to punish the registrant but to consider their past acts or omissions and how this may affect their future practice. The panel also considers the need to protect service users, declare and uphold proper standards of behaviour and maintain public confidence in the profession. The HPC has published a practice note, 'Finding that Fitness to Practise is Impaired' which explains this further and is available on our website.

The types of complaints we can consider are those that question whether a registrant's fitness to practise is 'impaired' (negatively affected) by:

- misconduct;
- a lack of competence;

- a conviction or caution for a criminal offence (or a finding of guilt by a court martial);
- their physical or mental health;
- a determination (a decision reached) by another regulator responsible for healthcare; or
- being barred under the vetting and barring schemes from working with vulnerable adults or children

We can also consider allegations about whether an entry to the Register has been made fraudulently or incorrectly.

We will consider individually each case that is referred to us. There is no time limit in which a complaint has to be made, but it should be made as soon as possible after the events that gave rise to the complaint occurred. We can also consider complaints when the matter being complained about occurred at a time that the registrant being complained about was not registered, or where the incident occurred in another country.

How can a complaint be made?

Complaints can be made in writing or by using our 'Reporting a Concern to the HPC' form which is available on the complaints section of the HPC website. We can also, in certain circumstances, take a statement of complaint over the telephone. The statement of complaint will still need to be signed by the complainant. We also have facilities to consider complaints which are made in another language. Please contact the Fitness to Practise Department for more information on this facility. We also have a free phone number for use by complainants which can be found on page X of this report with our full contact details.

We can only consider complaints that are about fitness to practise and can close cases that do not meet this criteria or where evidence to support the complaint has not been provided.

What happens when a complaint is received?

For more information about how to make a complaint and the process we follow when we receive a complaint about a professional registered with us, please contact us to request one of the following brochures:

- What happens if a complaint is made about me?;
- The fitness to practise process: information for employers;
- How to make a complaint about a registered professional; and
- Information for witnesses

You can also find this information at www.hpc-uk.org

Practice notes

The HPC has a number of practice notes in place for the various stages of the fitness to practise process. Practice notes are issued by the Council for the guidance of Practice Committee Panels and to assist those appearing before them. New practice notes are issued on a regular basis and all current notes are reviewed to ensure that they are fit for purpose. All of the HPC's practice notes are publicly available on our website at www.hpc-uk.org.

Partners and panels

The HPC uses the profession specific knowledge of partners to help carry out its work. Partners are drawn from a wide variety of backgrounds – including clinical practice, education and management. We also use lay partners to sit on our panels. At least one registrant and one lay partner sit on our panels to ensure that we have appropriate public input and professional expertise in the decision-making process.

At every public hearing there is also a legal assessor. The legal assessor does not take part in the decision-making process, but gives the panel and the others involved advice and information on law and legal procedure.

The HPC's Council Members do not sit on our Fitness to Practise Panels. This is to maintain separation between those who set Council policy and those who make decisions in relation to individual fitness to practise cases. This contributes to ensuring that our tribunals are fair, independent and impartial. Furthermore, employees of the HPC are not involved in the decision-making process. This ensures decisions are made independently and free from any appearance of bias.

Standard of proof

The HPC uses the 'civil standard of proof' in its fitness to practise cases. This means that panels consider, on the balance of probabilities, whether an allegation is proven. All nine UK health regulators are now using, or are moving towards using, the civil standard of proof.

Cases received in 2009–10

This section provides information on the number and type of fitness to practise allegations and enquiries received. A complaint will only be classified as an 'allegation' once it has met the Council's standard of acceptance for allegations. The standard of acceptance sets out the minimum information required for a case to be treated as an allegation, such as the name of the registrant and the nature of the complaint against the registrant. A complaint will be classified as an 'enquiry' when we do not have all of the information for it to meet the standard of acceptance for allegations and in these circumstances we will always seek further information. Many enquiries will go on to become allegations once further information is received. The Practice note 'Standard of acceptance for Allegations' sets out this process in more detail.

Table 1 shows the number of cases received since 2005–06 and the number of registrants registered by the HPC.

Table 1 Total number of cases

Year	Number of cases	Total number of registrants	% of registrants with complaints
2005–06	316	169,366	0.19
2006–07	322	177,230	0.18
2007–08	424	178,289	0.24
2008–09	483	185,554	0.26
2009–10	772	205,311	0.38

There was an increase of 37 per cent in the number of cases received by the HPC in 2009–10 compared to 2008–09. However, the number of registrants on the register has also increased by ten per cent. The number of cases as a percentage of the total number of registrants still remains less than one per cent of the register. It should be noted that in a small number of instances a registrant will be the subject of more than one complaint.

Graph 1 shows the number of cases received between 2005–06 and 2009–10 compared to the number of registrants.

Graph 1 Total numbers of cases and registrants

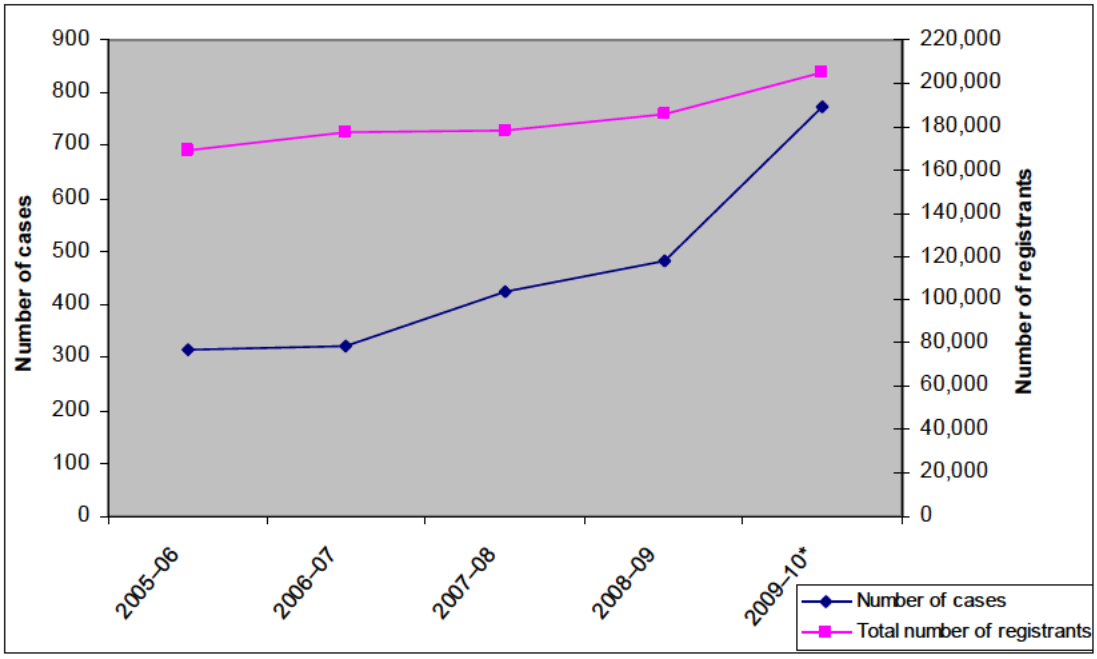


Table 2 provides details on the sources of complaints to the HPC. Information from the previous four years has been provided for comparison.

Table 2 Who makes complaints

Type of complainant	2005-06	% of cases	2006–07	% of cases	2007–08	% of cases	2008-09	% of cases	2009-10	% of cases
Article 22(6) / anon	58	18	35	11	63	15	64	13	108	14
BPS / AEP transfer*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	44	6
Employer	123	39	161	50	171	40	202	42	254	33
Other	15	5	1	0.3	5	1	16	3	30	4
Other registrant / professional	28	9	16	5	42	10	56	12	60	8
Police	24	8	31	10	35	8	36	7	39	5
Public	68	21	78	24	108	25	109	23	237	31
Total	**316**	**100**	**322**	**100**	**424**	**100**	**483**	**100**	**772**	**100**

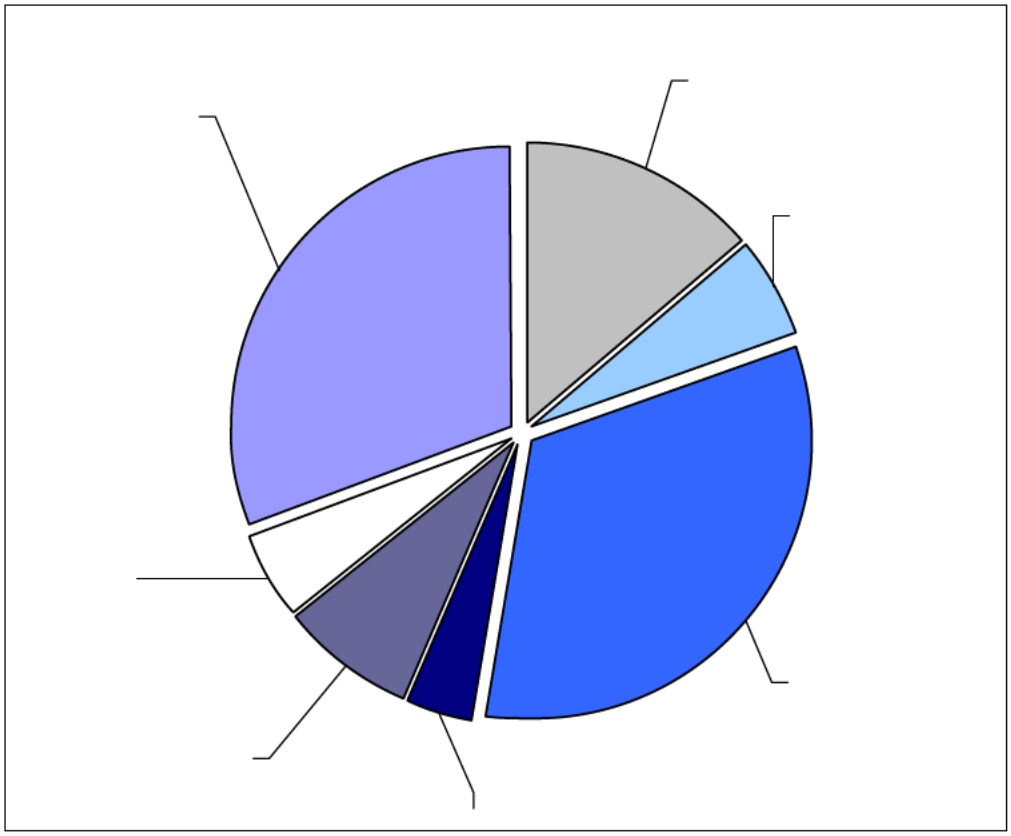
*** These are cases that were transferred from the British Psychological Society to the HPC on 1st July 2009**

Graph 2 shows the percentage of cases received from each type of complainant in 2009–10.

Employers continue to be the largest single complainant group making up 33 per cent of the complaints made, but in percentage terms this is lower than any other year (since 2005) and nine per cent less than in 2008–09 even though a higher number of complaints have been received from employers in 2009–10. Complaints from members of the public make up 31 per cent of

cases, the highest percentage since 2005 and eight per cent more than in 2008–09.

Graph 2 Who made complaints in 2009–10



The category ‘Other’ in Graph 2 and Table 2 includes universities, hospitals / clinics (when not acting in the capacity of employer) and students. For details about Article 22 (6) see page X.

Article 22(6) of the Health Professions Order 2001

Article 22(6) of the Health Professions Order 2001 allows us to investigate a matter even if a complaint is not made to us in the usual way (for example, media reports or information provided by a person who does not wish to make a formal complaint). This is an important way in which we use our powers to protect the public.

Article 22(6) is also important in cases of 'self-referral'. When an individual is on the Register, we encourage self-referral of any issue that may affect their fitness to practise. Standard 4 of the standards of conduct, performance and ethics published in July 2008 states that: 'You must provide (to us and any other relevant regulators) any important information about conduct and competence.'

When a self-referral is received, the case will initially be considered by a Registration Panel under the Council's Health and Character Policy (revised in December 2008.) The decision for the panel is whether the matter declared is sufficiently serious to be considered through the fitness to practise process. When a Registration Panel refers a matter to the fitness to practise process it is dealt with in the same way as an allegation under Article 22(6) and is part of the Article 22(6) category in Table 2 and Graph 2.

Cases by profession and complainant type

The following tables and graphs display information about the cases received against each profession. The total number of cases received in 2009–10 was 772 (Table 1, page X).

Table 3 shows the breakdown of cases that have been received by profession, and provides a comparison to the Register as a whole.

The largest number of cases were received about paramedics (163) and practitioner psychologists (149). Paramedics make up eight per cent of the Register and are the fifth largest profession. We received a high number of cases about practitioner psychologists due to the transfer of 44 cases from the British Psychological Society (BPS) on 01 July 2009 which is included in the total number of cases received.

The least number of cases concerned orthoptists, with two cases received, and clinical scientists with four. Orthoptists and clinical scientists are much smaller professions making up 0.6 per cent and two per cent of the Register respectively.

Table 3 Cases by profession

Profession	Number of cases	% of total cases	Number of registrants	% of the Register	% of registrants subject to complaints
Arts therapists	5	0.65	2,785	1.36	0.18
Biomedical scientists	39	5.05	21,894	10.66	0.18
Chiropodists / podiatrists	76	9.84	12,897	6.28	0.59
Clinical scientists	4	0.52	4,444	2.16	0.09
Dietitians	12	1.55	7,160	3.49	0.17
Occupational therapists	78	10.10	30,351	14.78	0.26
Operating department practitioners	38	4.92	10,085	4.91	0.38
Orthoptists	2	0.26	1,260	0.61	0.16
Paramedics	163	21.11	15,766	7.68	1.03
Physiotherapists	126	16.32	44,651	21.75	0.28
Practitioner psychologists	149*	19.30	15,583	7.59	0.96
Prosthetists / orthotists	7	0.91	869	0.42	0.81
Radiographers	47	6.09	25,195	12.27	0.19
Speech and language therapists	26	3.37	12,371	6.03	0.21
Total	**772**	**100**	**205,311**	**100**	**0.38**

*** this includes cases transferred from the British Psychological Society to the HPC on 1st July 2009**

Graph 3 displays the number of cases received for each profession between April 2005 and March 2010. Some professions have a higher number of complaints and there may be a number of reasons for this, such as the fact that the nature of some professions involves more patient contact or working within a higher risk environment.

Graph 3 Cases by profession, April 2005 to March 2010

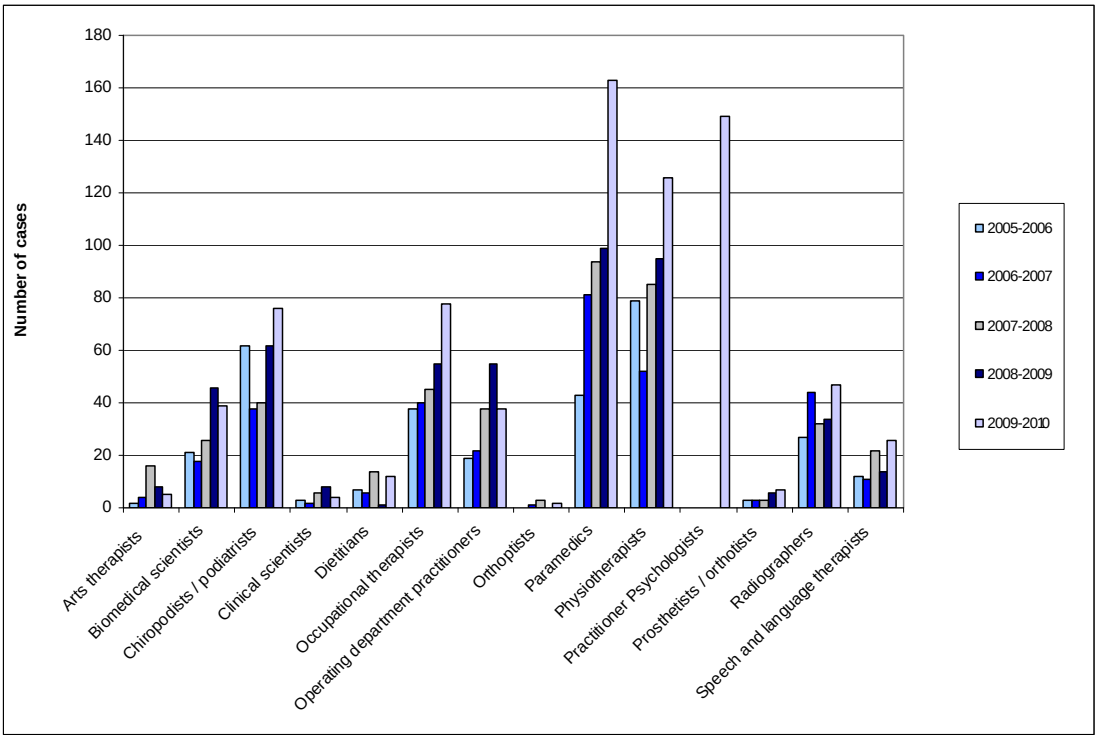


Table 4 shows a breakdown of allegations by profession and complainant type. Employers are the biggest complainant group with 33 per cent of complaints being made by them. Clinical scientists had the highest proportion of complaints made by the employer, 75 per cent. Paramedics had the highest number of complaints in total, with 36 per cent of cases referred to us by the employer.

The public were the source of 31 per cent of the cases received by the HPC in 2009–10. Cases about prosthetists/ orthotists had the highest proportion coming from members of the public, 57 per cent.

Table 4 Cases by profession and complainant type

Profession	Article 22(6) / anon	BPS / AEP transfer	Employer	Other	Police	Public	Registrant / professional	Total
Arts therapists	1	0	0	2	0	2	0	**5**
Biomedical scientists	5	0	22	2	1	2	7	**39**
Chiropodists / podiatrists	4	0	15	4	7	37	9	**76**
Clinical scientists	1	0	3	0	0	0	0	**4**
Dietitians	2	0	8	0	0	1	1	**12**
Occupational therapists	12	0	36	2	0	21	7	**78**
Operating department practitioners	7	0	22	3	3	2	1	**38**
Orthoptists	1	0	1	0	0	0	0	**2**
Paramedics	49	0	58	4	5	35	12	**163**
Physiotherapists	6	0	42	3	17	46	12	**126**
Practitioner psychologists	8	44	9	7	1	74	6	**149**
Prosthetists / orthotists	1	0	1	1	0	4	0	**7**
Radiographers	8	0	25	2	5	4	3	**47**
Speech and language therapists	3	0	12	0	0	9	2	**26**
Total	**108**	**44**	**254**	**30**	**39**	**237**	**60**	**772**

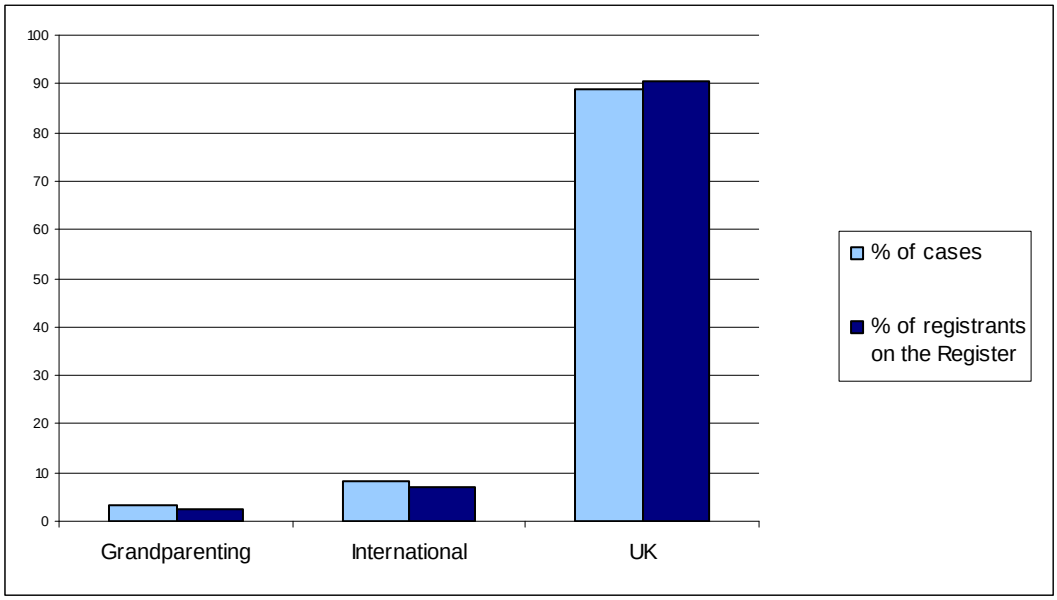
Cases by route to registration

Table 5 and Graph 4 show the number of cases by route to registration and they clearly indicate that there is consistency between the percentage of registrants who entered the Register by a particular route, and the registrants about whom complaints are made.

Table 5 Cases by route to registration

Route to registration	2005–06 cases	% of cases	2006–07 cases	% of cases	2007–08 cases	% of cases	2008–09 cases	% of cases	2009–10 cases	% of cases	% of registrants on the Register
Grandparenting	35	11	15	5	15	3.5	21	4	24	3	2
International	30	9.5	29	9	36	8.5	35	7	63	8	7
UK	242	77	278	86	373	88	425	88	685	89	91
Not Known	9	2.5	0	0	0	0	2	0	0	0	0
Total	316	100	322	100	424	100	483	100	772	100	100

Graph 4 Cases by route to registration 2009–10



Cases by UK home country

Table 6 provides information about where registrants who have had a complaint made against them live within the UK. The majority of the cases we receive are about professionals whose registered address is in England (88.9%). The distribution of cases by home country is similar to that in previous years.

Table 6 Cases by UK home country

UK home country	2005–06	2006–07	2007–08	2008–09	2009–10	% of cases in 2009–10
England	281	279	358	414	686	88.9
Northern Ireland	10	7	9	3	9	1.2
Scotland	10	19	24	26	43	5.6
Wales	3	13	17	25	21	2.7
Address outside UK	12	4	16	15	13	1.7
Total	**316**	**322**	**424**	**483**	**772**	**100**

Cases by gender

Fourty six per cent of cases are about female registrants and 54 per cent are made about male registrants. The Register is made up of 75 per cent female registrants and 25 per cent male registrants. A higher number of complaints are made against males compared to the percentage on the Register. Fourty six per cent of complaints received were about female registrants and 54 per cent were about male registrants. This is consistent with 2008–09 where a similar pattern occurred (41 per cent female and 59 per cent male). Table 7 sets out the percentage of cases according to profession and the percentage of men and women on the Register.

Table 7 Cases by gender

	Cases					Registrants	
Profession	**Female**		**Male**			**Female**	**Male**
	Number of cases	**% of cases**	**Number of cases**	**% of cases**	**Total**	**% of the Register**	**% of the Register**
Arts therapists	3	60	2	40	5	82	18
Biomedical scientists	12	31	27	69	39	65	35
Chiropodists / podiatrists	35	46	41	54	76	72	28
Clinical scientists	1	25	3	75	4	51	49
Dietitians	12	100		0	12	95	4
Occupational therapists	57	73	21	27	78	92	8
Operating department practitioners	10	26	28	74	38	51	48
Orthoptists	1	50	1	50	2	89	10
Paramedics	28	17	135	83	163	28	72
Physiotherapists	61	48	65	52	126	79	21
Practitioner psychologists	86	58	63	42	149	74	26
Prosthetists / orthotists	2	29	5	71	7	36	61
Radiographers	22	47	25	53	47	80	20
Speech and language therapists	25	96	1	4	26	97	3
Total	**355**	**46**	**417**	**54**	**772**	**75**	**25**

Convictions

The professions regulated by the HPC are exempt from the Rehabilitation of Offenders Act. This means that convictions are never regarded as ‘spent’ and can be considered in relation to a registrant’s character. Home Office Circular 6/2006 provides that the HPC must be notified when a registrant is convicted or cautioned of an offence and also when the offence is disposed of via a conditional discharge.

The types of offences we have been informed about in 2009–10 have included:

- common assault;
- possession of class A drugs;
- sexual assault;
- possession of child pornography;
- fraud;
- harassment; and
- indecent exposure.

Investigating Committee panels

If a case reaches this stage of the fitness to practise process, it is referred to as an 'allegation' as the case will now meet the Council's standard of acceptance for allegations which is explained on page X.

The role of an Investigating Committee Panel (ICP) is to consider allegations made against our registrants and to decide whether there is a 'case to answer' in respect of those allegations.

An ICP meets in private to conduct a paper-based consideration of the allegations. The registrant and complainant do not appear before the ICP. The purpose of this process is to determine whether there is a 'realistic prospect' that the Council will be able to establish that the registrant's fitness to practise is impaired. In cases where an ICP considers that the 'realistic prospect test' has not been met, the file is closed. This prevents a registrant from having to undergo a full public hearing where it is considered unlikely that the HPC could successfully prove its case at a final hearing.

The purpose of the fitness to practise process is to protect the public. It is not intended to punish registrants. Therefore, only cases where a panel is satisfied that there is a realistic prospect that the HPC will be able to establish its case will proceed to a full hearing. In some cases it may be possible to prove the facts of the case, but the panel may find that there is no realistic prospect that a registrant's current fitness to practise will be found to be impaired as a result. This would result in a 'no case to answer' decision and the case would not proceed. Examples of case to answer decisions are provided on page x.

Some cases are closed by the Fitness to Practise Department before being considered by an ICP. This can be for a number of reasons, such as the complaint not meeting the Council's standard of acceptance for allegations or where a complainant wishes to withdraw their complaint against a registrant. All cases are investigated and further information sought before a decision is made to close the case. In 2009–10, 164 cases were closed before being considered by an Investigating Committee. This means that the number of allegations considered by a panel of the Investigating Committee is not the same as the total number of cases received by the Fitness to Practise Department.

ICPs meet in private and consider all the available documentary information, including any information sent to us by the registrant in response to the allegation. The HPC has developed a Practice Note for Investigating Committee Panels, outlining the 'realistic prospect test' and the purpose of the ICP stage in the fitness to practise process. The 'realistic prospect test' is the test that panels use to determine whether a matter should be referred for a final hearing. Firstly, panels must be satisfied that there is prima facie

evidence to support the facts of what is being alleged; secondly, panels must agree that the facts (if proven) would amount to the grounds of the allegation (i.e. misconduct, lack of competence, conviction/caution, incorrect/fraudulent entry, health etc). Finally, panels must then decide whether the matters alleged are capable of impairing a registrant's current fitness to practise. ICPs must answer in the affirmative to all three stages of the realistic prospect test before a matter can be referred for a final hearing.

The HPC recognises that some matters that are referred to the Fitness to Practise Department may be proved on the basis of the documents submitted in support of the complaint, however, that does not necessarily indicate that a registrant's current fitness to practise may be impaired. In requiring panels to consider the third element of the realistic prospect test, the HPC recognises that registrants may have learnt from the incident giving rise to the complaint and taken steps to adjust their practise to ensure that such matters are unlikely to recur. Similarly, panels may be satisfied that an incident that is the subject of a fitness to practise complaint was isolated or a 'one off' error on the part of a registrant. It would not be considered fair or proportionate to refer a matter for a final hearing when there is little or no evidence available to indicate that the registrant's current fitness to practise is impaired.

ICPs are required to give detailed reasons for their decisions. ICP decisions are provided to registrants and complainants and therefore, a panel must explain how it reached its decision and outline the evidence that it relied on when making its decision.

If a panel decides that there is a case to answer, information about the particulars of the allegations enters the public domain. This means we have to inform the four government departments of health (or equivalents) for the UK. We can also provide information about the allegation to members of the public and employers or any other persons if it is requested.

In 2009–10 panels of the Investigating Committee met six times per month and considered 499 allegations to determine whether there was a case to answer in respect of the allegations made. This number includes ten allegations that were considered at ICP twice as panels had requested further information. Not all of the 772 cases received in 2009–10 (see Table 1, page X) were considered by an ICP. In some cases, investigations were not completed. These cases will be considered in 2010–11, once the case investigations have been completed. This means that the number of allegations considered by an ICP in 2009–10 is not reflective of the total number of cases received by the Fitness to Practise Department.

In 2009–10 there was an increase in the number of allegations considered by an ICP. In 2008–09, 363 cases went to ICP, compared to 499 in 2009–10. Table 8 and Graph 5 show the percentage of case to answer decisions reached in 2009–10. The number of allegations where a panel determined that there was a case to answer has risen by only one per cent from 2008–09.

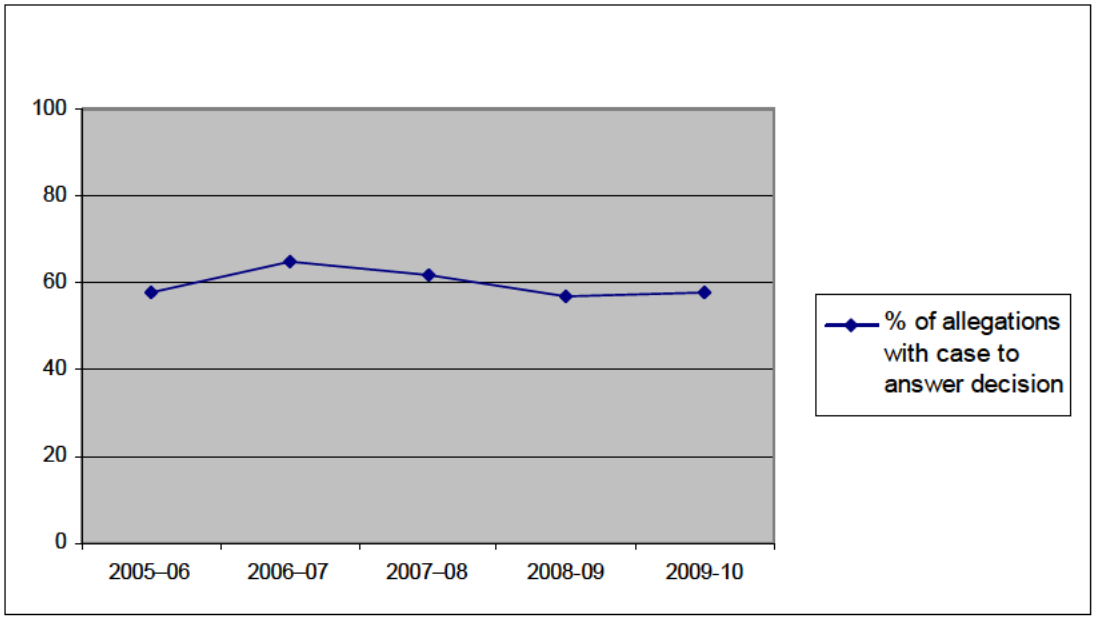
Table 8 shows the percentage of 'case to answer' decisions made in respect of allegations received for the period 2005–06 to 2009–10. The case to answer rate for 2009–10 was 58 per cent. With the exception of 2004–05, the percentage of 'case to answer' decisions made by ICPs has remained stable. For the period 2005–06 to 2009–10, on average, 60 per cent of allegations considered by an ICP resulted in a 'case to answer' decision.

Table 8 Allegations where a case to answer decision was reached

Year	% of allegations with case to answer decision
2005–06	58
2006–07	65
2007–08	62
2008–09	57
2009–10	58

Graph 5 highlights the percentage of 'case to answer' decisions each year from 2005–06 to 2009–10.

Graph 5 Case to answer rate



Decisions by panels

ICPs have a number of options open to them when considering allegations. It is open to an ICP to determine that there is a case to answer in relation to all or part of the allegation that is put before it.

Specific allegations that resulted in a case to answer decision included the following issues:

- sexual misconduct;
- use of controlled drugs;
- attending work under the influence of alcohol;
- bullying & harassment;
- general competency issues;
- failure to provide adequate care;
- poor record keeping;
- failure to provide treatment to patients;
- theft from a patient; and
- failure to adequately assess patients.

The overall case to answer rate for 2009–10 was 58 per cent. Table 9 shows the number of case to answer decisions for each profession. The table indicates that there are eight professions where this rate was higher than the average. The highest percentage of case to answer decisions were made in relation to arts therapists, although only four allegations were heard by an ICP in respect of this profession. The table also shows that 281 of the 291 case to answer decisions were for matters relating to conduct and competence concerns.

We are working to further explain the 'realistic prospect test' that ICPs apply when considering allegations. We have also developed a working definition of what the HPC considers impairment of fitness to practise to mean, providing clearer guidance to ICPs and stakeholders as to the types of issues that should not form the basis of a fitness to practise investigation.

If an ICP considers that there is insufficient information before it to enable it to make a decision as to whether there is a case to answer, an ICP can refer the matter back for further investigation, with directions as to the specific information required. In 2009–10, ICPs referred 10 cases back for further investigation.

Table 9 Investigating Committee Panel decisions

Profession	Total allegations heard	No case to answer	Further information	Case to answer				
				Conduct and Competence Committee	Health Committee	Investigating Committee	Total case to answer	% Case to answer
Arts therapists	4	1	0	3	0	0	3	75
Biomedical scientists	26	6	1	18	0	1	19	73
Chiropodists / podiatrists	53	30	0	22	1	0	23	43
Clinical scientists	3	1	0	2	0	0	2	67
Dietitians	7	6	0	1	0	0	1	14
Occupational therapists	60	27	0	31	2	0	33	55
Operating department practitioners	49	10	2	33	4	0	37	76
Orthoptists	0	0	0	0	0	0	0	0
Paramedics	115	30	3	80	1	1	82	71
Physiotherapists	92	47	1	44	0	0	44	48
Practitioner Psychologists	38	24	3	11	0	0	11	29
Prosthetists / orthotists	5	2	0	3	0	0	3	60
Radiographers	34	9	0	25	0	0	25	74
Speech and language therapists	13	5	0	8	0	0	8	62
Total	**499**	**198**	**10**	**281**	**8**	**2**	**291**	**58**

Allegations that have resulted in a no case to answer decision have involved the issues set out in table ten.

Table 10 Examples of 'no case to answer' decisions

Type of issue	Reason for no case to answer
Making inappropriate comments about fellow healthcare professionals to patients	No credible evidence to support the allegation.
Falsifying records and patient notes	Not sufficient evidence to support all of the particulars. One incident was considered to be isolated and an error of judgement for which the Registrant demonstrated insight and remorse. No evidence to indicate that the Registrant's current fitness to practise is impaired.
Police Caution for Damage to Property	Although the facts were proven, the Panel had regard for the submissions of the Registrant and was satisfied that the offence was not serious in nature and that there were mitigating circumstances. The Panel did not consider that the fact of the Police Caution indicated that the Registrant's fitness to practise was impaired.
Failure to provide adequate/accurate report	No credible evidence to support allegation - not capable of supporting impairment of fitness to practise.
Bringing the profession into disrepute by providing partner with airport staff car park access pass for personal use	No evidence to demonstrate that the Registrant did provide their partner with the car park access pass.
Failure to provide adequate care to ensure that a wound was appropriately dressed following the removal of a corn	There was insufficient evidence to demonstrate that the registrant's actions/inaction led to the patient developing an infection. Therefore, the evidence did not meet the realistic prospect test.
Failure to refer a patient for further treatment within a reasonable timeframe	The Panel found that the evidence was not capable of proving impairment of fitness to practise.
Unsafe clinical practise	The Panel found that the evidence demonstrated that the Registrant's

	assessment, diagnosis and notes were all of a high standard.
Altercation with work colleagues	One-off incident.
Possession of class A drugs	No evidence to indicate impairment of fitness to practise.

Case to answer by complainant

Table 11 shows the number of 'case to answer' decisions by complainant type. The highest percentage of 'case to answer' decisions relates to cases where the complainant is an employer. Employers also represent the largest complainant category, with 206 allegations having been received from employers for 2009–10. Employers often conduct their own investigations into conduct and competence matters, prior to, or at the time of referring the matter to the HPC and are therefore able to provide copies of witness statements and evidence gathered from the workplace (for example medical records, minutes from supervision sessions etc.) in support of the allegation(s) made. The lowest percentage of 'case to answer' decisions (other than for cases referred to us by the BPS, see page X) were those allegations received from members of the public. However, members of the public also represent the second highest complainant category. In 2009–10, 130 of the allegations considered by an ICP were received from members of the public yet only 22 per cent of those complaints resulted in a case to answer decision being made. There has been no change in the percentage of case to answer decisions made in respect of complaints received from members of the public since 2008–09.

We are working to ensure that our fitness to practise processes are clear and accessible and that any barriers to investigating complaints from certain complainant groups can be overcome. To this end, we have recently reviewed and updated our processes around taking complaints over the telephone to ensure that English language and literacy difficulties do not prevent members of the public from pursuing a complaint against a registrant. We have also commenced work on reviewing our standard letters, brochures and website to ensure that they provide clear information about the fitness to practise process to members of the public and others.

In addition to this, the HPC commissioned research by IPSOS Mori to help us better understand the expectations of complainants in terms of the fitness to practise process. The results of that research have highlighted the areas in which the Fitness to Practise Department can improve the information that is provided to complainants (employers, members of the public, police and professional bodies) to enable them to better understand the fitness to practise process in addition to the scope and limits of the HPC's remit to investigate complaints. The results of the research are being used to enable us to better direct the information that we provide to internal and external

stakeholders. We are confident that this will result in improved communication and will help to ensure that the complaints that we receive relate to fitness to practise matters.

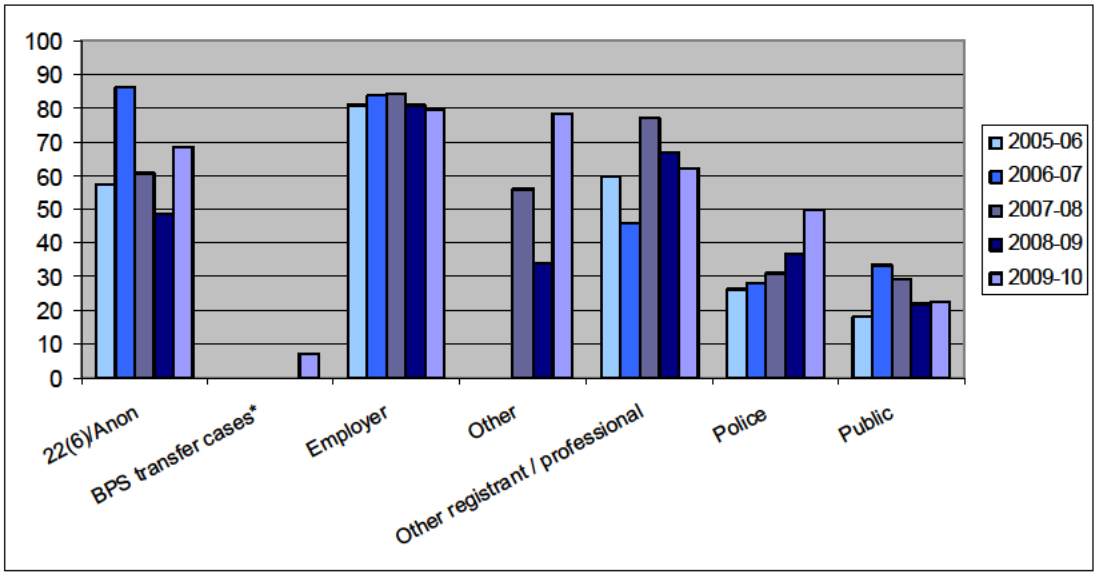
Table 11 Case to answer by complainant

Complainant	Number of case to answer	Number of no case to answer	Further information requested	Total	% case to answer
Article 22(6)	48	22	0	70	69
BPS transfer cases*	1	12	1	14	7
Employer	167	39	4	210	80
Other	11	3	0	14	79
Police	18	11	0	29	62
Professional body	1	1	0	2	50
Public	29	97	4	130	22
Registrant / professional	16	13	1	30	53
Total	**291**	**198**	**10**	**499**	**58**

***These cases were transferred from the British Psychological Society on 1 July 2009**

Graph 6 provides a comparison of case to answer decisions by complainant type, year on year, from 2005–06 to 2009–10. The case to answer rate for allegations made by members of the public has remained unchanged since 2008–09. However, for complaints received from the police and Article 22(6) category complaints, there has been an increase in the case to answer rate compared with 2008–09.

Graph 6 Percentage case to answer, comparison of 2005–06, 2006–07, 2007–08, 2008–09 and 2009–10



*** These are cases that were transferred from the British Psychological Society to the HPC on 1st July 2009**

Case to answer and route to registration

Table 12 shows that there is consistency between the percentage of registrants who entered the Register by a particular route and the decision made at ICP. It should be noted that this table does not include the eight cases where further information was requested by the Investigating Committee. Data regarding the percentage of the Register as a whole and the route to registration can be found on Table 5 and Graph 4 on page X.

Table 12 Case to answer and route to registration

Route to registration	Number of no case to answer	% of allegations	Number of case to answer	% of allegations
Grandparenting	6	3	9	3
International	12	6	26	9
UK	179	90	256	88
Not Known	1	1	0	0
Total	**198**	**100**	**291**	**100**

Case to answer and representation

Table 13 provides data on the relationship between case to answer and no case to answer decisions and representations. In 2009–10, responses were received from either the registrant or their representative in 401 of the 499 cases that were put to a panel of the Investigating Committee. A total of 198 cases resulted in a 'no case to answer' decision. Of this number, 184 were cases where representations were provided. By contrast, in cases where the registrant did not provide any representations, 14 cases resulted in no case to answer decisions. The Fitness to Practise Department is currently developing guidance for registrants on the information they can provide at ICP stage which may assist panels in making a decision as to whether the case meets the 'realistic prospect test' referred to earlier. This is important in helping panels make better informed decisions at ICP stage. We anticipate that this will have an affect on the types of complaints that get referred to a final hearing stage in the future.

Table 13 Representations provided to Investigating Panel by profession

	Case to answer				No case to answer			
Profession	**No response**	**Response from registrant**	**Response from representative**	**Total case to answer**	**No response**	**Response from registrant**	**Response from representative**	**Total no case to answer**
Arts therapists	0	3	0	3	0	1	0	1
Biomedical scientists	10	8	1	19	2	4	0	6
Chiropodists / podiatrists	3	20	0	23	0	28	2	30
Clinical scientists	0	2	0	2	0	1	0	1
Dietitians	0	1	0	1	0	6	0	6
Occupational therapists	8	24	1	33	2	22	3	27
Operating department practitioners	12	24	1	37	0	10	0	10
Orthoptists	0	0	0	0	0	0	0	0
Paramedics	16	56	10	82	8	21	1	30
Physiotherapists	12	29	3	44	1	46	0	47
Practitioner Psychologists	1	10	0	11	0	24	0	24
Prosthetists / orthotists	0	2	1	3	0	2	0	2
Radiographers	6	16	3	25	1	8	0	9
Speech and language therapists	2	5	1	8	0	4	1	5
Total	**70**	**200**	**21**	**291**	**14**	**177**	**7**	**198**

Time taken from receipt of allegation to Investigating Panel

Table 14 shows the length of time taken for allegations to be put before an ICP in 2009–10. The table shows that 92 per cent of allegations were considered by a panel within eight months of receipt. This demonstrates an improvement compared with last year when 75 per cent of allegations were put before an ICP within eight months of receipt, despite an increase in the number of complaints received.

Table 14 Length of time from receipt of allegation to Investigating Panel

Number of months	Number of allegations	Cumulative number of allegations	% of allegations	Cumulative % of allegations
1–4	260	260	52	52
5–8	155	415	83	83
9–12	42	457	92	92
13–16	22	479	96	96
17–20	14	493	99	99
21–24	1	494	99	99
25–28	1	495	99	99
29–32	1	496	99	99
33–36	1	497	100	100
over 36	2	499	100	100
Total	**499**	**499**	**100**	**100**

Tables 15 and 16 show the length of time taken for cases to progress through the ICP stage by complainant type. Complaints received from employers and the police can sometimes take the longest to get to ICP stage, because these cases often involve ongoing disciplinary or court proceedings.

Table 15 Length of time by complainant type - case to answer

Number of months	Article 22(6)	BPS / AEP transfer cases*	Employer	Other	Police	Professional body	Public	Registrant / professional	Total cases
0–4	33	0	72	4	10	0	16	5	**140**
5–8	10	1	58	6	3	0	7	6	**91**
9–12	2	0	17	0	3	1	2	2	**27**
13–16	2	0	10	0	1	0	4	1	**18**
17–20	1	0	6	1	1	0	0	2	**11**
21–24	0	0	1	0	0	0	0	0	**1**
25–28	0	0	0	0	0	0	0	0	**0**
29–32	0	0	1	0	0	0	0	0	**1**
33–36	0	0	1	0	0	0	0	0	**1**
over 36	0	0	1	0	0	0	0	0	**1**
Total cases	**48**	**1**	**167**	**11**	**18**	**1**	**29**	**16**	**291**

*** These cases were transferred from the British Psychological Society on 1 July 2009**

Table 16 Length of time by complainant type - no case to answer

Number of months	Article 22(6)	BPS / AEP transfer cases*	Employer	Other	Police	Professional body	Public	Registrant / professional	Total cases
1–4	18	7	18	1	8	1	53	9	**115**
5–8	3	5	13	2	3	0	32	3	**61**
9–12	1	0	4	0	0	0	7	1	**13**
13–16	0	0	1	0	0	0	3	0	**4**
17–20	0	0	2	0	0	0	1	0	**3**
21–24	0	0	0	0	0	0	0	0	**0**
25–28	0	0	1	0	0	0	0	0	**1**
29–32	0	0	0	0	0	0	0	0	**0**
33–36	0	0	0	0	0	0	0	0	**0**
over 36	0	0	0	0	0	0	1	0	**1**
Total cases	**22**	**12**	**39**	**3**	**11**	**1**	**97**	**13**	**198**

* These cases were transferred from the BPS to the HPC on 1 July 2009

On receipt of an allegation, the case is allocated to a Case Manager. The Case Manager will investigate the matter further. This usually involves gathering relevant information from, for example, the police or the employer. In some instances we may need to take witness statements.

We will write to the registrant and provide them with the information we have received. We will allow the registrant 28 days to respond, before we present the case to an Investigating Panel. There may, however, be some delay in this process. Delay can occur in instances where the registrant has requested an extension of time in which to respond to the allegation; or delays in receiving information that we have requested in the course of our investigations.

It is important to note that the HPC has powers to demand information if it is relevant to the investigation of a fitness to practise issue. We use this power to obtain information from, for example, employers. Delays can also occur if we put our investigations on hold pending the conclusion of any ongoing court or disciplinary proceedings. A practice note has been produced to provide guidance to panels in this area.

It may also be necessary to defer our processes when we receive another allegation about the same registrant, or the same allegation about more than one registrant. However, every case will be treated on its own merits. If the allegation is so serious as to require immediate public protection we can consider applying for an interim order. More information about interim orders is provided later in this report.

We are obliged to conduct our fitness to practise investigations expeditiously. However, we also have to ensure that our investigations are thorough and complete.

The average length of time taken for a case to reach an Investigating Panel in 2009–10 is seven months (mean average) and the median average is six months. This average length of time has remained the same as last year. At the end of March 2010, there were 303 cases that were being actively investigated.

Incorrect entry to the Register

The HPC can consider allegations about whether an entry to the Register has been made fraudulently or incorrectly. Decisions about such cases are within the remit of the Investigating Committee. If a panel decides that an entry to the Register has been made fraudulently or incorrectly they can remove or amend the entry or take no further action.

During 2009–10 the Investigating Committee considered five cases of incorrect/fraudulent entry onto the HPC Register.

One case in particular provided important learning points for the HPC in dealing with future fraudulent entry cases. The allegation was that the registrant's entry onto the HPC Register had been procured fraudulently in that the registrant provided a false list of subjects that they purported to have undertaken in the course of their tertiary studies. The registrant was a European Economic Area (EEA) applicant and provided a falsely translated academic record in support of their application for registration. There was evidence from the Dean of the university where the registrant studied which showed that the registrant had not, in fact, completed the subjects outlined in the academic transcript provided with the registrant's application for registration.

A Panel of the Investigating Committee considered the case and adjourned it, following advice from the legal assessor, that the HPC needed to demonstrate that the registrant would not have gained entry to the HPC Register on the basis of the subjects actually undertaken by the registrant.

The HPC requested that a registration assessor 're-assess' the registrant's application on the basis of the subjects actually undertaken. The registration assessor gave evidence in a statement to the effect that the registrant did not meet the minimum requirements necessary for entry onto the biomedical scientist part of the HPC Register.

When the Investigating Committee Panel reconvened to consider the evidence of the registration assessor, it was satisfied that the registrant's entry to the HPC Register had been fraudulently procured. The registrant was removed from the HPC Register.

Interim orders

In certain circumstances, panels of our practice committees may impose an ‘interim conditions of practice order’ or an ‘interim suspension order’ on registrants subject to a fitness to practise investigation. This power is used when the nature and severity of the allegation is such that, if the registrant remains free to practice without restraint, they may pose a risk to the public or to themselves. Panels will only impose an interim order when they feel that the public or the registrant involved require immediate protection. Panels will also consider the potential impact on public faith in the regulatory process should a registrant be allowed to continue to practise without restriction whilst subject to an allegation. An interim order takes effect immediately and its duration is set out in the order but cannot be for more than 18 months.

A practise committee panel may make an interim order, to take effect either before a final decision is made in relation to an allegation or pending an appeal against such a final decision.

Case Managers from the Fitness to Practise Department acting in their capacity of Presenting Officers present the majority of applications for interim orders and reviews of interim orders. This is done so as to ensure resources are used to their best effect.

Tables 17 and 18 shows the number of interim orders granted prior to a final hearing and indicate the number of cases where an interim order has been reviewed or revoked. We are obliged to review an interim order six months after it is first imposed and every three months thereafter. A review must also be made if new evidence becomes available after the order was imposed. In some cases an interim suspension order may be replaced with an interim conditions of practice order if the panel consider this will adequately protect the public. In six cases in 2009 –10 the interim order was revoked by a review panel.

In 2009–10 there were 49 applications for interim orders made, and all 49 cases were granted. In five of the cases the panel considered that an interim ‘conditions of practice order’ would sufficiently protect the public. In the other 44 cases it was decided that an interim suspension order was the only option that would adequately protect the public.

In two of the cases where an interim order was imposed, the substantive cases proceeded to a final hearing and were concluded. In one case the allegations related to the registrant having a sexual relationship with a patient in which the registrant was struck off the Register. The other case related to a fraudulent or incorrect entry on to the HPC Register. The registrant in this case passed the required education program and was placed back onto the Register.

The HPC applied to the High Court for an extension of an interim order in three cases as the maximum length of time a panel can impose an interim order is 18 months. The applications were granted and extended for a period of twelve months.

Table 17 Number of interim orders by profession

Profession	Applications considered	Applications granted	Applications rejected	Orders reviewed	Orders revoked
Arts therapists	1	1	0	1	0
Biomedical scientists	3	3	0	5	0
Chiropodists / podiatrists	4	4	0	9	0
Clinical scientists	0	0	0	0	0
Dietitians	0	0	0	0	0
Occupational therapists	1	1	0	8	0
Operating department practitioners	9	9	0	10	1
Orthoptists	0	0	0	0	0
Paramedics	14	14	0	29	3
Physiotherapists	6	6	0	13	1
Practitioner psychologists	3	3	0	0	0
Prosthetists / orthotists	0	0	0	0	0
Radiographers	7	7	0	5	0
Speech and language therapists	1	1	0	6	1
Total	**49**	**49**	**0**	**86**	**6**

Since 2005–06 the percentage of cases where an interim order has been granted has remained at a similar level, although the total number of orders has increased (Table 18).

Table 18 Interim orders 1 April 2004 to 31 March 2010

Year	Applications granted	Applications reviewed	Orders revoked on review	Number of cases	% of allegations where interim order was imposed
2004–05	15	0	0	172	9
2005–06	15	12	1	316	5
2006–07	17	38	1	322	5
2007–08	19	52	3	424	4
2008–09	27	55	1	483	6
2009–10	49	86	6	772	6
Total	127	243	12	2,489	5

Types of cases where an interim order was imposed

Fifteen cases where an interim order was imposed concerned police charges or convictions for serious sexual offences including rape and sexual assault. There were also two applications granted in cases involving either accessing or distributing child pornography, and a further two concerning cautions for theft from an employer

In one case the registrant faced allegations of inappropriate behaviour towards a colleague.

Four cases had interim orders imposed due to serious concerns regarding the competence of the registrant, including the failure to act in an emergency. In one particular case the outcome resulted in the death of a patient.

Eight cases where an interim order was imposed related to the misuse of drugs, both in and out of the work environment.

Other cases where an interim order was imposed related to allegations of sexual abuse of patients, inappropriate relationships with patients and unsafe clinical practise.

Final hearings

Two hundred and fifty six cases were concluded in 2009–10, involving 244 registrants (six registrants had more than one complaint considered at their hearing). Hearings where the allegations were well founded concerned only 0.09 per cent of registrants on the HPC Register.

Most hearings are heard in public, as required by legislation. Occasionally a hearing, or part of it, may be heard in private in certain circumstances. Decisions of panels and their reasons for them are always announced in public and published on the HPC website.

Hearings took place in Belfast, Cardiff, Edinburgh, Exeter, London Manchester and Wrexham amongst other places. The HPC is obliged to hold hearings in the UK home country of the registrant concerned, with the majority of proceedings taking place in London at the HPC's offices. Where appropriate, proceedings are held in other locations rather than regional centres, for example, to accommodate attendees with mobility problems.

Table 19 displays the number of hearings that have taken place in 2009–10, including cases that were adjourned or did not conclude. The total number of cases concluded at final hearing in 2009–10 was 256 (of the 331 panels held). Some cases will have been considered at more than one hearing in the same year, eg if proceedings run out of time and a new date has to be arranged. Further sections of this report deal specifically with cases that were concluded.

Table 19 Number of public hearings

Type of hearing	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10
Interim order and review	25	28	55	71	85	141
Final hearing	66	86	125	187	219	331
Review hearing	11	26	42	66	92	95
Total	**102**	**140**	**222**	**324**	**396**	**567**

Time taken from receipt of allegation to final hearing

Table 20 shows the length of time it took for cases to conclude, measured from the date of the receipt of the allegation. The table also shows the number and percentage of allegations cumulatively as the length of time increases.

The length of time taken for cases that were referred for a hearing to conclude was a mean average of 18 months and median average of 16 months from the receipt of the allegation. Twenty per cent of cases were concluded within 16 months. In 2008–09 cases also took 16 months on average to conclude.

The length of hearings can be extended for a number of reasons. Protracted investigations, availability of all parties in the case, requests for adjournments and outstanding criminal proceedings can all delay proceedings. Criminal investigations can often be lengthy in nature and extend the time it takes for a case to reach a hearing.

We work hard to ensure that cases are heard expeditiously and look for new ways to make time efficiencies wherever possible. We appreciate that hearings are stressful for parties involved in a case and that keeping delays to a minimum is essential.

Table 20 Length of time from receipt of allegation to final hearing

Number of months	Number of cases	Cumulative number of cases	% of cases	Cumulative % cases
0–4	1	1	0	0
5–8	23	24	9	9
9–12	56	80	22	31
13–16	53	133	21	52
17–20	45	178	18	70
21–24	33	211	13	82
25–28	19	230	7	90
29–32	12	242	5	95
33–36	5	247	2	96
over 36	9	256	4	100
Total	256	256	100	100

Days of hearing

Panels of the Investigating Committee, Conduct and Competence Committee and Health Committee met on 585 days in 2009–2010 to consider substantive cases. This number includes cases that went part heard and adjourned. Panels may also consider more than one case on one day in some cases to make best use of time available. Of the 256 cases that concluded in 2009–10, it took an average of 1.7 days to conclude, down from 1.8 days last year. The Investigating Committee panels heard cases where incorrect or fraudulent entries to the Register had been alleged.

Details of hearings are published on the HPC website four weeks in advance of proceedings. This is done to strike a reasonable balance between the rights of the registrant and the HPC's overriding duty to protect the public.

What powers do panels have?

The purpose of fitness to practise proceedings is to protect the public, not to punish registrants. Panels carefully consider all of the individual circumstances of each case and take into account what has been said by all those at the hearing before making their decision.

Panels must first consider whether allegations against a registrant are proven. They have to decide whether the incident, as alleged, amounts to the 'grounds' set out in the allegation, for example misconduct or lack of competence, and if, as a result the registrant's fitness to practise is impaired.

If the panel decide a registrant's fitness to practise is impaired they will then consider whether to impose a sanction.

In hearings of the Health Committee or where the allegation relates to lack of competence, the panel does not have the option to make a striking off order at the substantive hearing. It is recognised that in cases where ill-health has impaired fitness to practise or where competence has fallen below expected standards, it may be possible for the situation to be remedied over time. The registrant is provided with the opportunity to seek treatment or training and may be able to return to practice if the panel is satisfied that this is a safe option.

A number of options (known as 'sanctions') are available to substantive hearing panels. They are as follows;

- Impose a caution order – this means that the word 'caution' will appear against the registrant's name on the Register.
- Impose some sort of restriction or condition on the registrant's registration, known as a 'conditions of practice order' – this might include, for example, requiring the registrant to work under supervision or to undertake further training.

- Order the removal of the registrant's name from the Register, which is known as a 'striking off order'.
- Send the case for mediation.
- Suspend registration, for no longer than one year.
- Take no further action.

In cases of incorrect or fraudulent entry to the Register, the options available to the panel are to take no action, to amend the entry on the Register (eg change the modality or remove rights to prescribe medicines) or to remove the person from the Register.

Suspension or conditions of practice orders must be reviewed before they expire. At the review a panel can continue or vary the original order. For health and competence cases, registration must have been suspended, or had conditions, or a combination of both, for at least two years before the panel can make a striking off order. Registrants can also request early reviews of any order if circumstances have changed and they are able to demonstrate this to the panel.

Action taken at final hearings

Table 21 is a summary of the outcomes of hearings that concluded in 2009–10 and the type of allegation that was considered. It does not included cases that were adjourned or part heard. Decisions from all cases where fitness to practise is considered to be impaired are published on our website at www.hpc-uk.org. Details of cases that are considered to be not well found are not published on the HPC website unless the registrant concerned specifically requests it. A list of cases that were well founded can be found in Appendix one of this report.

Table 21 Outcome by type of allegation

Type of allegation	Amended	Caution	Conditions of Practice	No further action	Not well found	Removed (incorrect / fraudulent entry)	Struck off	Suspension	Voluntary removal	Total
Conviction/ caution	0	13	2	2	3	0	10	4	0	**34**
Conviction / caution / misconduct	0	5	0	0	0	0	1	0	0	**6**
Determination by another regulator	0	0	0	0	0	0	0	1	0	**1**
Health	0	0	1	0	2	0	0	4	0	**7**
Incorrect / fraudulent entry	1	0	0	1	0	3	0	0	0	**5**
Lack of competence	0	2	6	0	10	0	0	14	5	**37**
Misconduct	0	26	5	0	45	0	44	12	2	**134**
Misconduct / lack of competence	0	0	1	0	16	0	10	5	0	**32**
Grand Total	**1**	**46**	**15**	**3**	**76**	**3**	**65**	**40**	**7**	**256**

Outcome by profession

Table 22 shows what sanctions were made in relation to the different professions the HPC regulates. In some cases there was more than one allegation against the same registrant - unusually one registrant had seven different allegations made against them in 2009–10. Table 22 sets out the sanctions imposed per case rather than per registrant.

Table 22 Sanctions imposed by profession

Profession	Amended	Caution	Conditions of practice	No further action	Not well found	Removed	Struck off	Suspension	Voluntary removal	Total
Arts therapists	0	0	0	0	3	0	11	0	0	**14**
Biomedical scientists	0	6	2	1	3	2	4	5	1	**24**
Chiropodists / podiatrists	1	3	2	0	10	0	0	1	0	**17**
Clinical scientists	0	0	0	0	1	0	3			**4**
Dietitians	0	0	0	0	1	0	0	0	0	**1**
Occupational therapists	0	2	1	0	11	1	7	5	4	**31**
Operating department practitioners	0	6	0	2	10		9	4		**31**
Orthoptists	0		0	0	0	0	0	1	0	**1**
Paramedics	0	17	1	0	11	0	22	8	0	**59**
Physiotherapists	0	5	5	0	13	0	5	10	0	**38**
Practitioner psychologists	0	0	1	0	2	0	0	0	0	**3**
Prosthetists / orthotists	0	0		0	0	0	0	0	1	**1**
Radiographers	0	6	2	0	8	0	4	4	1	**25**
Speech and language therapists	0	1	1	0	3	0	0	2	0	**7**
Total	**1**	**46**	**15**	**3**	**76**	**3**	**65**	**40**	**7**	**256**

Outcome and representation of registrants

All registrants are provided with the opportunity to attend their final hearing should they choose. Some attend and represent themselves whilst others bring professional representation, for example, solicitor, lawyer, Union or Professional Body representative. Some registrants choose not to attend, but they can submit written representations for the panel to consider in their absence. The HPC encourages registrants to participate in their proceedings where possible. It aims to make information about hearings and their procedures accessible and transparent in order to maximise participation.

Panels may proceed in a registrant's absence if they are satisfied that the HPC has served them with notice of the hearing in line with legislative requirements. Panels cannot draw any adverse conclusion from a registrant who chooses not to attend their hearing. They will receive independent legal advice in relation to this consideration. The panel must also be satisfied that in all the circumstances, it would be appropriate to go ahead in the registrant's absence. A practice note has been produced explaining what factors the Panel may take into account when making this decision.

Table 23 shows the attendance and representation at final hearings. In 2009–10 the number of registrants who attended the hearing to represent themselves or be represented by a professional was 62 per cent, a rise from 54 per cent in 2008–09.

Table 23 Representation at final hearings

Representation	2006–2007	2007–2008	2008–2009	2009–2010
Registrant	13	17	21	44
Representative	46	80	74	114
None	43	59	80	98
Total	**102**	**156**	**175**	**256**

Table 24 details outcomes of final hearings and whether the registrant attended alone, with a representative or was absent from proceedings.

Table 24 Outcome and representation at final hearings

Outcome	Registrant	Representative	None	Total
Amended	0	0	1	1
Caution	15	24	7	46
Conditions of practice	1	14	0	15
No further action	1	1	1	3
Not well found	12	52	12	76
Removed	0	1	2	3
Struck off	11	8	46	65
Suspension	3	11	26	40
Voluntary removal	1	3	3	7
Total	**44**	**114**	**98**	**256**

Table 25 illustrates the representation at final hearing by profession. The profession with the highest level or representation were chiropodists and podiatrists. Dietitians, prothestists and orthotists and practitioner psychologists were represented at all their hearings, but these consituted only a very small number of cases. Of the larger groups of professions the paramedics had the lowest level of representation at proceedings.

Table 25 Representation by profession

Profession	Registrant	Representative	None	Total	% of representation
Arts therapists	7	3	4	14	71
Biomedical scientists	6	9	9	24	63
Chiropodists / podiatrists	3	12	2	17	88
Clinical scientists	0	2	2	4	50
Dietitians	0	1	0	1	100
Occupational therapists	7	10	14	31	55
Operating department practitioners	7	9	15	31	52
Orthoptists	0	0	1	1	0
Paramedics	4	25	30	59	49
Physiotherapists	2	24	12	38	68
Practitioner Psychologists	0	3	0	3	100
Prosthetists / orthotists	0	1	0	1	100
Radiographers	6	12	7	25	72
Speech and language therapists	2	3	2	7	71
Total	**44**	**114**	**98**	**256**	**62**

Outcome and route to registration

Table 26 shows the correlation between the routes to registration with the outcomes of the final hearings. As with the case to answer decisions at ICP, the percentage of hearings where fitness to practise is found to be impaired broadly correlates with the percentage of registrants on the Register and their route to registration. The number of hearings concerning registrants who entered the Register via the UK approved route was 90 per cent.

Table 26 Outcome and route to registration

Route to registration	Amended	Caution	Conditions of Practice	No further action	Not well found	Removed	Struck off	Suspension	Voluntary Removal	Total
Grandparenting	1	0	1	0	1	0	1	0	0	**4**
International	0	2	1	0	4	1	7	7	0	**22**
UK	0	44	13	3	71	2	57	33	7	**230**
Total	**1**	**46**	**15**	**3**	**76**	**3**	**65**	**40**	**7**	**256**

Types of allegations

This section of the report looks in more detail at the different types of allegations that the Conduct and Competence Committee consider. The majority of cases, 80 per cent, concerned issues of misconduct.

Conduct and Competence Committee Panels

Allegations made can be that a registrant's fitness to practise is impaired by reason of misconduct, lack of competence, a conviction or caution or a determination by another regulator.

Misconduct

In 2009–10 110 cases concerned allegations where it was alleged that fitness to practise was impaired by reason of a registrant's misconduct. Some cases also alleged other types of allegations, made on the grounds of lack or competence and convictions.

Some of the cases considered included the following issues;

- attended work under the influence of alcohol;

- engaged in sexual relations with a service user.

-failed to provide adequate patient care;

-fraudulent claims for paid sick leave; and

- self administration of medication

Case studies 1 and 2 below give an illustration of the types of issues that are considered for allegations relating to misconduct. They are based on real cases that have been anonymised.

Case study 1

A paramedic was suspended from the Register after being found to have self-administered Entonox on two separate occasions, in 2003 and 2008.

The Panel found that the Registrant's fitness to practice was impaired as the registrant's actions had put at risk paramedic services to the public. Not only had the registrant incapacitated themselves by self-administering Entonox, the registrant had created a risk that Entonox might not have been available to a member of the public were it needed.

The Panel accepted that the registrant's clinical skills were not in question but determined that given the gravity of the misconduct a conditions of practice order was not appropriate and, short of striking-off, the only appropriate sanction was to suspend the registrant for a period of one year. That would also give the registrant the opportunity to demonstrate that they were fit to return to practice by producing evidence that their substance abuse and any associated health issues had been satisfactorily addressed.

Case Study 2

A radiographer was cautioned after having been found to have carried out work at two other hospitals while on sick leave from their normal employment.

The Panel found that the registrant's fitness to practice was impaired as serious misconduct on their part had occurred over a period of several months which had the potential to bring the profession into disrepute as the public expected registrants to behave with honesty and integrity.

In determining the appropriate sanction for the misconduct the Panel took into account the fact that the registrant had worked as a radiographer for many years without any problems and believed that they had been given authority to work on those days when the registrant did not ordinarily work for their employer but felt well enough to do so. The registrant had shown full insight into the misconduct. Nevertheless the Panel concluded that given the gravity of the misconduct to take no further action would not be appropriate and determined that the proportionate sanction given all the circumstances sanction was for the registrant to be cautioned for a period of three years.

Lack of competence

The types of competence issues that were considered in 2009–10 included the following:

- inadequate clinical knowledge;
- poor record keeping; and
- failure to provide adequate service user care.

Lack of competence allegations were the second most frequently alleged ground of allegation after misconduct. The case study below is an example of a hearing that considered an allegation made on the ground of lack of competence.

Case study

The registrant, a speech and language therapist, was suspended for a number of clinical failings.

The Panel found that the registrant's fitness to practise was impaired by reason of lack of competence as the registrant had failed in a number of clinical areas. These included the ability to carry out and analyse appropriate assessments, a failure to apply knowledge to provide accurate diagnoses, a failure to independently complete annual review and statement reports, and poor communication with colleagues and parents.

In determining the appropriate sanction the Panel noted that the registrant was not currently working as a speech and language therapist. However, there was no evidence that the shortcomings in the registrant's competence had been identified had been addressed and therefore if the registrant were to do so the lack of competence would remain and the registrant would therefore continue to be a risk to the public. In the circumstances the only appropriate sanction available which reflected the gravity of the failings and to protect the public was to the suspend the registrant for one year.

Convictions / cautions

Thirty seven cases were considered by panels where the registrant had been convicted or cautioned for a criminal offence. Criminal convictions and cautions were the third most frequent ground of allegation for cases considered in 2009–10. The HPC's registrants are included on the notifiable occupations scheme which means that police should notify the HPC of any criminal proceedings. A practice note is available setting out how panels should deal with conviction and caution cases.

The case study below is an example of a case concerning a criminal conviction.

Case Study

A radiographer received a 1 year HPC Caution order against their name on the HPC Register after accepting a police caution for possession of ecstasy and ketamine controlled drugs.

The Panel determined that although the incident appeared to be an isolated one, they were of the view that it amounted to a serious departure from the standards expected of a registered professional. The Panel noted that the registrant reported the police caution to both the employing Trust and the HPC. The Panel also noted that the registrant's employer had already

imposed stringent conditions on their employment. The Panel took into account that the HPC's sanctions are not intended to be punitive and applied the principle of proportionality, striking an appropriate balance between the interests of the public and the registrant's interests. The Panel was satisfied that this sanction adequately protected the public and was proportionate to the circumstances of the case.

Health Committee panels

Panels of our Health Committee consider allegations that registrants' fitness to practise is impaired by reason of their physical or mental health. Many registrants manage a health condition effectively and work within any limitations their condition may present. However, the HPC can take action when the health of a registrant is judged to be affecting their ability to practice safely and effectively.

The HPC's representative at a Health Committee hearing will usually make an application for proceedings of the health committee to be heard in private. Often sensitive matters regarding the registrant's health may have to be discussed and it may not be appropriate for that information to be discussed in public session.

Panels cannot strike someone from the Register in cases concerning ill health unless the registrant concerned has been suspended, subject to a conditions of practice order or a combination of both, for a period of two or more years.

The sanctions available are intended to provide an opportunity for registrants to overcome health problems. For example a suspension may allow a registrant to receive treatment before returning to practice.

The Health Committee considered five cases in 2009–10. Of those cases, four registrants were suspended from the Register and in the final case, a conditions of practice order was imposed. The conditions were imposed for 18 months and were that any relevant work undertaken should be supervised and that the registrant must remain under the care of a medical professional and comply with prescribed treatment. The Panel requested medical reports every three months and the order will be reviewed by a panel before its expiry.

Not well-founded

Once a panel of the Investigating Committee has determined that there is a 'case to answer' in relation to the allegation that is made, the HPC is obliged to proceed with the case. In 2009–10 there were 76 cases considered to be not well founded.

The onus is on the HPC to prove its case that the registrant's fitness to practise is impaired. If the HPC are unable to prove the facts of the case, a

'ground' of the allegation or that fitness to practise is impaired, then the allegation is considered not be 'well founded' and no further action is taken. Table 27 indicates the number of cases considered to be not well founded in 2009–10.

Table 27 Cases not well-founded

Year	Number of not well-founded cases	Total number of concluded cases	% of cases not well founded
2005–06	1	51	2
2006–07	18	96	19
2007–08	26	156	17
2008–09	40	175	23
2009–10	76	256	30

In the majority of cases considered to be not well founded, registrants had demonstrated to panels that their fitness to practise was not impaired. If registrants are able to demonstrate insight and can show that any shortcomings have been overcome, panels may not find that fitness to practise is currently impaired. In some cases a lack of competence or misconduct is found, but where it is a relatively minor or an isolated incident where reoccurrence is regarded as unlikely and will not amount to an impairment of a registrant's fitness to practise.

It can also be that registrants do not involve themselves in proceedings until a case comes to a final hearing stage.

The following case studies are examples where panels found that the facts/ grounds/ impairment of fitness to practise were not proved by the HPC and therefore the cases were not well founded.

Case Study 1

Registrant A was present at the hearing and was represented. The allegation was one of misconduct and there were two elements: the first related to registrant A taking x-rays of their partner without medical need or referral; the second element related to registrant A giving their partner door access codes to the X-Ray Department of the hospital in which Registrant A worked, thereby breaching patient confidentiality.

The Panel carefully considered the written and oral evidence provided by both parties, which included one witness on behalf of the HPC.

The Panel noted that the evidence given by the HPC witness was in complete conflict with the evidence given by registrant A. The Panel reminded itself

that the burden of proof rests with the HPC and that it is for the HPC to prove its case. The Panel took into account the circumstances in which the allegation was made by the HPC witness and concluded that the oral and written evidence given by the HPC witness, on balance, was less persuasive than the evidence that was given by registrant A, which the Panel found to be consistent. The Panel found that the HPC had not discharged the burden placed on it to prove the allegations to the civil standard (i.e. on the balance of probabilities). Accordingly, the Panel determined that the facts were not proved and that the allegation was not well found.

Case Study 2

Registrant B attended the hearing and was represented.The allegation was one of misconduct, specifically in relation to accessing websites of a pornographic nature on work computers whilst on duty.

The Panel, having regard for the documentary evidence and the admissions of registrant B, considered the facts of the case were proven. The Panel also found that the facts amounted to misconduct. However, the Panel had to also be satisfied that the HPC had proven that the registrant's fitness to practise was currently impaired by virtue of the matters set out in the particulars of the allegation. In this case, the Panel found that registrant B's current fitness to practise was not impaired. In reaching this decision, the Panel had regard for the personal and health issues affecting registrant B at the time that they accessed the restricted websites whilst at work. The Panel also noted that the nature of the websites accessed by registrant B, although they could be described as 'adult', did not constitute extreme pornography, nor did the content involve children in any way. The Panel was satisfied that the evidence demonstrated that no colleagues or patients were exposed to inappropriate images or that registrant B's clinical activities were adversely affected by his actions.

The Panel found the evidence presented by registrant B as to his professional competence and character both before and since the misconduct occurred demonstrated that he was acting out of character at the time of incidents. The Panel found that the personal factors which had contributed to the behaviour had been removed. Having registrant B give evidence, and having heard the evidence of registrant B's senior manager, the Panel was satisfied that registrant B had substantially re-gained the confidence and ability to manage stressful situations in an appropriate manner. The Panel was satisfied that there was no significant risk of registrant B repeating behaviour of the sort previously engaged in. Therefore, the Panel determined that the allegation was not well found.

Case Study 3

Registrant C, an occupational therapist, was present at the hearing and was represented. The allegations against the registrant related to registrant C's failure to gain consent for the release of information from a Local Authority regarding Mr X, which was requested in the course of registrant C's duties as an expert witness. Registrant C's fitness to practise was alleged to have been impaired by reason of misconduct and/or lack of competence.

The Panel found that registrant C did request information from a Local Authority in respect of Mr X, without his explicit consent, but that the registrant's actions did not amount to either misconduct and/or lack of competence.

In reaching its decision, the Panel heard from one witness on behalf of registrant C. The Panel found the evidence given by the witness was of assistance in determining what registrant C's obligations were, as an expert witness, in respect of gaining Mr X's consent for the release of information pertaining to him from a Local Authority.

The Panel found that the HPC evidence only established that registrant C made enquiries from third parties in the context of being formally instructed as an expert witness with authority from Mr X to assess him. The request to make enquiries from a third party came from registrant C's instructing Solicitors. The Panel found that registrant C was entitled to assume that the authority to make the said enquiries was in place. There was no evidence before the Panel from which it could conclude that the registrant's enquiries constituted misconduct or lack of competence. Accordingly the Panel acceded to the application made by registrant C's representative that there was no case to answer and it concluded the case at this stage. Therefore, the Panel decided that the allegations were not well found.

Costs

The HPC is funded by registration fees. The budget for the Fitness to Practise Department in 2009–10 was approximately £6million which is about 40 per cent of the HPC's operating costs. We are continuing to use Case Managers to present final hearing cases in their capacity of Presenting Officers and hold multiple cases on the same day wherever possible. We also continue to review the suitability of disposing of certain cases via consent if the registrant concerned admits to the allegation and the proposed course of action would adequately protect the public.

For each hearing, the HPC is obliged to cover the cost of:

- a legal assessor (fee and expenses);
- a shorthand writer to take a transcript of the proceedings;
- administration and photocopying costs.
- legal services (costs incurred in preparing and presenting cases);

- panel members (fees and expenses);
- venue hire (and associated costs); and
- witness travel and associated expenses.

The cost of holding a hearing (excluding legal services) is approximately £4000. For legal services, we have a ‘capped hours’ arrangement in place with the firm of solicitors that we use to prepare and present fitness to practise hearings. This is a mechanism by which we can effectively manage the cost of fitness to practise hearings.

Suspension and conditions of practice review hearings

Any suspension or conditions of practice order that is imposed must be reviewed by a further panel prior to its expiry date. A review will also take place at the request of the registrant concerned. Registrants may request reviews if they are experiencing difficulty complying with any condition imposed by the original panel, or when new evidence relating to the original order comes to light. The HPC can request a review of an order if, for example, it has evidence that the registrant concerned has breached any condition imposed by a panel.

When a panel is reviewing a conditions of practice order, it is looking for evidence to demonstrate that the registrant concerned has complied with the conditions that were imposed under the order.

If a suspension order was imposed, a review panel will look for evidence to satisfy it that the issues that led to the imposition of the suspension order have been addressed and that the registrant concerned no longer poses a risk to the public.

If a review panel is not satisfied that the registrant concerned is fit to practise, it is open to the panel to:

- extend an existing conditions of practice order;
- further extend the suspension order;
- remove the registrant concerned from the Register (issue a striking off order).

In 2009–10, 95 review hearings were held. Table 28 shows that the number of review hearings has increased each year.

Table 28 Number of review hearings

Year	Number of review hearings
2005–06	26
2006–07	42
2007–08	66
2008–09	92
2009–10	95

The HPC has continued to use Case Managers to act as Presenting Officers for review hearings. This has proved to be an effective use of resources, which has helped us to reduce the amount of spending associated with instructing external solicitors whilst ensuring we use our resources to their best effect.

Table 29 shows the decisions that were made by review panels for 2009–10.

Table 29 Review hearing decisions

Review Hearing Outcome	Number of cases
Conditions continued*	7
Conditions revoked	5
Conditions revoked, suspension imposed	1
Conditions revoked, caution imposed	1
Suspension continued	35
Suspension revoked, caution imposed	1
Suspension revoked, conditions imposed	4
Suspension revoked	8
Struck Off	31
Voluntary removal from the Register	2
Total	95

*** 3 cases were transferred from the British Psychological Society with conditions which were reviewed by an HPC panel**

The HPC has also disposed of two cases by consent, allowing the registrant concerned to voluntarily remove themselves from the Register.

Details of all review hearings can be found in appendix two of this document at page X.

The role of the Council for Healthcare Regulatory Excellence and High Court cases

The Council for Healthcare Regulatory Excellence (CHRE) is the body that promotes best practice and consistency in the regulation of healthcare professionals for the nine UK healthcare regulatory bodies.

The CHRE can refer a regulator's final decision in a fitness to practise case to the High Court (or in Scotland, the Court of Session). They can do this if it is felt that a decision by the regulatory body is unduly lenient and that such a referral is in the public interest.

In 2009–10, no cases were referred to the High Court by CHRE.

Registrants can also appeal the decisions made by panels to the High Court, or the Court of Session. In 2009–10 five registrants appealed decisions made by panels of the Conduct and Competence Committee. Ten appeal cases (including five appeals received in previous years), were concluded in 2009–10. Two registrants withdrew their appeals, four cases were remitted back via consent for reconsideration by panels of the Conduct and Competence Committee, one case was considered by the Court of Appeal with the decision of the High Court to quash the registrant's appeal being upheld, in one case the registrant's appeal was upheld and in the final case the appeal was quashed.

Developments for 2009–10

Expectations of complainants

In June 2009 the HPC's Fitness to Practise Department commissioned a piece of research by IPSOS Mori Social Research Institute into the expectations of complainants of the fitness to practise process.

The potential need for research into the expectation of complainants when they make a complaint to a regulatory body was highlighted in October 2007 when the HPC commissioned Jackie Gulland to undertake a scoping exercise on existing complaint mechanisms.

The overall aim of the Ipsos MORI research was to determine the expectations of complainants in terms of:

- the role of the regulator;
- initial expectations;
- case handling; and
- outcome.

The research also aimed to inform the future development of the HPC's fitness to practise process information and the management of complainant expectations.

The final report was published in January 2010 and a number of key issues have been highlighted and recommendations were made which the Fitness to Practise Department will be working on over the coming year.

Regulation of practitioner psychologists

On 1 July 2009 the HPC became the regulator of practitioner psychologists following The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009. As a result eight psychologist domains became protected titles and the majority of psychologists who were in those domains and on the voluntary registers of the Association of Educational Psychologists (AEP) and the British Psychological Society (BPS) automatically transferred to the HPC Register.

The Fitness to Practise Department assumed responsibility for investigating existing complaints or referrals which were being considered by the AEP or BPS at the time of transfer as well as those recent cases which were put on hold pending the HPC assuming the role of regulator of practitioner psychologists.

The transfer of the Hearing Aid Dispensers to the Health Professions Council

Preparations continued for the HPC to take over the regulation of hearing aid dispensers, a role that was fulfilled by the Hearing Aid Council (HAC). The successful transfer of hearing aid dispensers took place on 1 April 2010 and the HAC has now been abolished.

Protection of Function

The regulation of hearing aid dispensers means that the HPC not only protects the title hearing aid dispenser but, uniquely among the 15 professions that it regulates, also protects the function of this profession. This is because, unlike the other professions that the HPC regulates, hearing aid dispensers were previously statutorily regulated with a protected function. That means that it is a criminal offence for an unregistered person to assess a person's hearing or prescribe a hearing aid with a view to providing a hearing aid to the individual for sale or hire. The same sanctions are available as apply with the misuse of a protected title.

Practice Notes

A number of new practice notes came into force including Barring Allegations, Competence and Compellability of Witnesses, Conviction and Caution Allegations, Drafting Fitness to Practise Decisions and Health. We will ensure all practice notes are kept up to date, remain fit for purpose and take account of relevant High Court or Court of Appeal Decisions. All practice notes are available on the HPC website at: www.hpc-uk.org/publications/practicenotes

Guidance on Health and Character

Guidance on the Health and Character process was published in January 2010. It provides guidance on how we assess the health and character of people who apply to, or are on, our Register. The document includes separate sections for students, education providers and registrants.

CHRE Audit

The CHRE audited Fitness to Practise cases in 2009. It found that the HPC dealt with fitness to practice cases efficiently and effectively and that the vast majority of decisions taken on cases were reasonable and protected the public.

Fitness to Practise Committees

The Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009 came into force on 1 July 2009. That resulted in the previous Health, Investigating and Conduct and Competence Committees with oversight and policy making roles now existing as panels whose only role it is to hear fitness to practise cases.

A Fitness to Practise Committee made up of Council members has been established to oversee the work of the Fitness to Practise Department, taking decisions on policy and strategy.

Training for panel members and legal assessors

Refresher training for existing panel members took place in May and June 2009 with 63 partners receiving the training. The training comprised a legal refresher, sessions on equality and diversity, and an update on issues relating to the different types of panel that panel members sit on. Training for new panel members took place in June 2009 and January 2010 and new panel Chairs in June 2009. Legal Assessor training was held in September 2009. A programme of training is planned for 2010–11 for existing and new panel members and legal assessors.

Vetting and Barring Scheme

The Fitness to Practise Department has been liasing with the Independent Safeguarding Authority (ISA) and Disclosure Scotland to establish which matters should be referred to them and at what point during the fitness to practice process that referral should take place. Discussions are ongoing with the ISA and Disclosure Scotland with a view to concluding a Memorandum of Understanding to clarify and formalise the process to be followed.

Developments for 2010–11

Expectations of Complaints Research

We will be implementing the recommendations that came out of the expectations of complainant's research conducted by IPSOS Mori. This includes reviewing and updating existing publications and producing new publications where necessary. We will also be working on updating the HPC's reporting a concern form, beginning work on a referral form for employers and self referral form for registrants. There will also be a review of the structure and content of the fitness to practise section of the HPC website and review of witness contact.

HPC Employer Events

The Fitness to Practise Department will continue to attend and participate in the continuing series of employer events held around the country in 2010–11.

Case Management system

Following a tendering process, a vendor has been engaged to develop the new fitness to practise integrated case management system. Detailed scoping work has been undertaken throughout the year in preparation for the development for the new system.

Qualitative review of decisions

We have implemented mechanisms to quality assure decisions reached. Any learning points will be fed back to registrants and stakeholders and will be incorporated into any relevant policy documents. We will continue to ensure that all decisions made by the HPC's Practice Committees are of a high quality.

Alternative mechanisms to resolve disputes

This is a piece of work which will look broadly at alternative ways of resolving disputes or complaints between registrants and the public, including, but not limited to, exploring processes for mediation and Alternative Dispute Resolution. This work will explore whether such arrangements have a place in the fitness to practise process or whether there are other steps that the HPC could take in order to help 'resolve' issues and concerns about registrants which fall short of impairment of fitness to practise.

Drink drive and drug convictions

We will undertake a review of our mechanisms for dealing with drink drive or drug convictions. We will work with other organisations to assess whether any other information is required in cases where registrants have been convicted of drink drive or drug related offences

How to make a complaint

If you would like to make a complaint about a professional registered by the HPC, please write to our Director of Fitness to Practise at the following address:

Fitness to Practise Department
The Health Professions Council
Park House
184 Kennington Park Road
London SE11 4BU

If you need advice, or feel your complaint should be taken over the telephone, you can also contact a member of the Fitness to Practise Department on:

tel +44 (0)20 7840 9814
freephone 0800 328 4218 (UK only)
fax +44 (0)20 7582 4874

You may also find our ‘Reporting a concern’ form useful, available at www.hpc-uk.org

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