**Agenda Item 6**

**Enclosure 4**

# Health and Care Professions Council
# 22 September 2016

# Fitness to Practise 2015-16 Annual Report

## For discussion and approval

**From John Barwick, Head of Fitness to Practise Operations**

Council, 22 September 2016

# Fitness to Practise Annual Report 2015-16

## Executive summary and recommendations

### Introduction

Article 44(1)(b) of the Health and Social Work Professions Order 2001 provides that the Council shall publish an annual report describing the range of fitness to practise activity undertaken in the previous year.

The text for the 2015-16 Fitness to Practise Annual Report is attached as appendix 1. The report includes a range of statistical information alongside explanatory narrative. The report provides a factual summary of fitness to practise activity for the period 1 April 2015 to 31 March 2016. The report includes the same data sets, and follows a similar format, to previous reports. It also reflects the decision made by Council last year to no longer include a list of final hearing decisions.

After consideration by Council, the report will undergo final proofing, will be edited and formatted in HCPC house style and will be sent for printing. The publication schedule should allow for receipt of printed copies by November 2016. The report will also be available on the HCPC website at the following page: http://www.hcpc-uk.org/publications/reports/

### Decision

The Council is asked to approve the text for the 2015-16 Fitness to Practise Annual Report (subject to any necessary editorial or stylistic amendments).

### Background information

As in previous years, a separate, shorter document, Fitness to Practise – key information 2016, will be published alongside the Fitness to Practise Annual Report 2015-16.

### Resource implications

Production costs (design and printing).

### Financial implications

The production costs have been accounted for in 2016-17 budget.

## Appendices

Appendix 1 Fitness to Practise Annual Report 2015-16

## Date of paper

30 August 2016

[front cover]

1 April 2015 to 31 March 2016 [strapline]

# Fitness to practise annual report 2016 [title]

## Contents

**Executive summary**

Welcome to the thirteenth fitness to practise annual report of the Health and Care Professions Council (HCPC) covering the period 1 April 2015 to 31 March 2016. This report provides information about the work we do in considering allegations about the fitness to practise of our registrants.

In 2015–16, the number of individuals on our Register increased by 3.2 per cent. The number of new fitness to practise concerns we received decreased from 2,170 to 2,127, a percentage decrease of 1.98 per cent from the year before. The proportion of the Register affected still remains low, with only 0.62 per cent of registrants (or one in 162) being subject to a new concern in 2015–16.

Members of the public continue to be the largest complainant group, making up 43 per cent of the total number of concerns raised, although this has decreased slightly on the previous year when members of the public made up 46 per cent of the concerns raised. Employers continue to be the second largest source of complaints, contributing 25 per cent of the concerns raised. We have also seen an increase in the number of cases resulting from a self-referral made by a registrant, with 429 cases resulting from a self-referral received in 2015–16 compared to 353 cases in 2014–15. This is an increase of 21 per cent.

In terms of the cases we progressed through the fitness to practise process in 2015–16:

- 1,661 cases were closed without being considered by an Investigating Committee Panel (ICP);
- 787 cases were considered by an ICP;
- 320 final hearings were concluded; and
- 202 review hearings were held.

We have seen an increase in the number of cases closed without being considered by an ICP, with 619 more cases being closed in 2015–16. An increase of 59 per cent. 62 fewer cases were considered by an ICP in 2015–16 compared with the previous year, which is a seven per cent decrease. This decrease reflects the increase in cases that were closed at the first stage of the fitness to practise process. Although fewer cases have been considered by an ICP, there has been an increase in the proportion of cases where the ICP has decided there is a ‘case to answer’. The ‘case to answer’ decision rate in 2015–16 is 63 per cent compared to 53 per cent in 2014–15.

Although concerns raised by members of the public represent the largest proportion of concerns received, cases which go on to be considered by an ICP are less likely to have a ‘case to answer’ decision compared to other complainant categories. 33 per cent of cases where the complainant was a member of the public received a case to answer decision in 2015–16 compared to 73 per cent where the complainant was an employer.

In terms of hearing activity, 31 fewer final hearings were concluded in 2015–16 compared to 2014–15, an eight per cent decrease. There was also a 14 per cent decrease in the number of review hearings heard in 2015–16. Although fewer hearings were held there has been an increase in the total number of days of hearing activity with 1,785 days of hearing in 2015–16 compared with 1,672 days in 2014–15, a seven per cent increase. This increase reflects the complexity of cases being considered by Panels.

Other activities in 2015–16 have seen us complete a review of our Standard of acceptance policy which was published in June 2015. The purpose of the review was to ensure the policy reflected the changing nature of the cases we receive, as well as feedback from participants within the fitness to practise process, to ensure the policy remains accessible and fit for purpose. Revisions to the policy include:

- additional information about factors taken into account when deciding whether a matter has been resolved locally;
- new sections about complaints relating to professional decisions as well as service and linked complaints; and
- an updated section on internet social networks.

We have continued to focus on providing information which is accessible and relevant to individuals and organisations that are involved or have an interest in the fitness to practise process. Initiatives undertaken in 2015–16 include developing a Standard of acceptance explained factsheet. The factsheet is primarily for members the public. The factsheet is intended to be easy to understand and has received the Plain English Campaign's Crystal Mark. We have also continued our review of the 'tone of voice' of our correspondence.

Ensuring complainants understand what concerns to raise with us, at what time and what information to provide is central to us being able to assess risk and ensure ongoing public protection. We have updated our referral forms, which complainants are encouraged to use to raise a fitness to practise concern, to provide more guidance on the information that should be provided by the complainant. We have also updated our How to raise a concern brochure which is available on our website and in hard copy.

We have continued to undertake our programme of work to develop the information sources we have available to employers. We have revised our brochure for employers and developed our fitness to practise specific website content to include: an interactive flowchart which explains the different stages of the fitness to practise process; case studies based on real life fitness to practise cases, as well enhanced signposting guidance. We also continue to meet with employers to support their understanding of the fitness to practise process and facilitate the timely progression of cases.

In 2016–17 we plan to continue to develop our case study material as well as updating our What happens if a concern is raised about me? brochure. This brochure provides helpful guidance for both registrants and their employers

We continue to identify organisations where we have a common objective of ensuring the safety and well-being of members of the public and there is a mutual benefit of having a Memorandum of Understanding. In 2015–16 we signed new Memoranda of Understanding with NHS Protect and the Regulation and Quality Improvement Authority in Northern Ireland. We will continue this type of engagement in 2016–17 and will work with other stakeholders on similar agreements.

In January 2016 we acquired a new building which now provides a dedicated hearings centre for fitness to practise hearings. The new hearings centre, which is physically separate from the rest of the HCPC, provides enhanced facilities for all hearing participants, including separate waiting rooms for registrants and witnesses and improved video link facilities. We have also been developing proposals for further enhancing the independence of the adjudications which will be considered by HCPC's Council in 2016–17.

There has been an increase in the mean and median length of time it takes to progress and conclude cases at a final hearing from the date the allegation was first received. This is in part the result of our focus over the past year on concluding our oldest cases. Measures implemented last year to support the timely progression of cases included piloting a specialist case team which focuses on the management and progression of cases to conclusion once an ICP has made a case to answer decision. Following a successful trial, we have also rolled out the use of pre-hearing teleconferences to assist in identifying and resolving preliminary issues prior to a hearing.

Ensuring the continued timely progression and conclusion of cases, whilst ensuring ongoing public protection, will be a strategic focus for 2016–17. The primary focus of our workplan for 2016–17 will be the introduction of greater specialisation in the management of cases through the fitness to practise process. This will include establishing a dedicated team responsible for the initial receipt and risk assessment of fitness to practise concerns and a dedicated team responsible for the preparation of cases for a final hearing following a case to answer decision.

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

**Kelly Holder**
**Director of Fitness to Practise**

## Introduction

### About us (the Health and Care Professions Council)

We are the Health and Care Professions Council (HCPC), a regulator set up to protect the public. To do this, we keep a register of those who meet our standards for their training, professional skills and behaviour. We can take action if someone on our Register falls below our standards.

In the year 1 April 2015 to 31 March 2016 we regulated the following 16 professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

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. It is also an offence for a person who is not a registered hearing aid dispenser to perform the functions of a dispenser of hearing aids.

For a full list of protected titles and for further information about the protected function of hearing aid dispensers, please visit website at www.hcpc-uk.org. Registration can be checked either by logging on to www.hcpc-uk.org/check or calling +44(0)300 500 6184.

**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.

For an up-to-date list of the professions we regulate, or to learn more about the role of a particular profession, see www.hcpc-uk.org

**What is 'fitness to practise'?**

When we say that a professional is 'fit to practise' we mean that they have the skills, knowledge and character to practise their profession safely and effectively. However, fitness to practise is not just about professional performance. It also includes acts by a professional which may affect public protection or confidence in the profession. This may include matters not directly related to professional practice.

**What is the purpose of the fitness to practise process?**

Our fitness to practise process is designed to protect the public from those who are not fit to practise. If a professional's fitness to practise is 'impaired,' it means that there are concerns about their ability to practise safely and effectively. This may mean that they should not practise at all, or that they should be limited in what they are allowed to do. We will take appropriate actions to make this happen.

Sometimes professionals make mistakes that are unlikely to be repeated. This means that the person's overall fitness to practise is unlikely to be 'impaired.' People sometimes make mistakes or have a one-off instance of unprofessional conduct or behaviour. Our processes do not mean that we will pursue every isolated or minor mistake. However, if a professional is found to fall below our standards, we will take action.

**What to expect**

If a concern about a professional is raised with us, we will treat everyone involved in the case fairly and explain what will happen at each stage of the process. Our processes are designed to protect members of the public from those who are not fit to practise, but they are also designed to ensure that we balance the rights of the registrant during any investigation or hearing. We will keep everyone involved in the case up-to-date with the progress of our investigation. We allocate a case manager to each case. They are neutral and do not take the side of either the registrant or the person who makes us aware of concerns.

Their role is to manage the case throughout the process and to gather relevant information. They act as a contact for everyone involved in the case. They cannot give legal advice. However, they can explain how the process works and what panels consider when making decisions.

**Raising a fitness to practise concern**

Anyone can contact us and raise a concern about a registered professional. This includes members of the public, employers, the police and other professionals. Further information about how to tell us about a fitness to practise concern is in our brochure How to raise a concern, which is available on our website at www.hcpc-uk.org/publications/brochures

**What types of case can the HCPC consider?**

We consider every case individually. However, a professional's fitness to practise is likely to be impaired if the evidence shows that they:

- were dishonest, committed fraud or abused someone's trust;
- exploited a vulnerable person;
- failed to respect service users' rights to make choices about their own care;
- have health problems which they have not dealt with, and which may affect the safety of service users;
- hid mistakes or tried to block our investigation;
- had an improper relationship with a service user;
- carried out reckless or deliberately harmful acts;
- seriously or persistently failed to meet standards;
- were involved in sexual misconduct or indecency (including any involvement in child pornography);
- have a substance abuse or misuse problem;
- have been violent or displayed threatening behaviour; or
- carried out other, equally serious, activities which affect public confidence in the profession.

We can also consider concerns about whether an entry to the HCPC Register has been made fraudulently or incorrectly. For example, the person may have provided false information when they applied to be registered or other

information may have come to light since that means that they were not eligible for registration.

**What can't the HCPC do?**

We are not able to:

- consider cases about professionals who are not registered with us;
- consider cases about organisations (we only deal with cases about individual professionals);
- get involved in clinical or social care arrangements;
- reverse decisions of other organisations or bodies;
- deal with customer-service issues;
- get involved in matters which should be decided upon by a court, including dissatisfaction with evidence given at court;
- get a professional or organisation to change the content of a report;
- arrange refunds or compensation;
- fine a professional;
- give legal advice; or
- make a professional apologise.

**Practice notes**

The HCPC has a number of practice notes in place for the various stages of the fitness to practise process. Practice notes are issued by the HCPC's 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.

In 2015–16 we reviewed seven practice notes: Review of striking off orders: New evidence and Article 30(7); Conviction and Caution allegations; Interim Orders; Postponement and Adjournment of proceedings; Preliminary Hearings; Concurrent Court proceedings and Restoration to the Register.

All of the HCPC's practice notes are publicly available on our website at www.hcpc-uk.org/publications/practicenotes

**Partners and panels**

The HCPC uses the profession-specific knowledge of HCPC 'partners' to help carry out its work. Partners are drawn from a wide variety of backgrounds – including professional practice, education and management. We also use lay partners to sit on our panels. Lay panel members are individuals who are not, and have never been, eligible to be on the HCPC Register. At least one registrant partner 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 on law and legal procedure, ensuring that all parties are treated fairly. Any advice given to panels is stated in the public element of the hearing. At HCPC hearings, the legal assessor does not sit with the panel. This step has been taken to signify their independence from the panel and their role in giving advice to all those who are in attendance at the hearing.

The HCPC'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 hearings are fair, independent and impartial. Furthermore, employees of the HCPC are not involved in the decision-making process. This ensures decisions are made independently and are free from any bias.

**About this report**

The data in this report covers the period 1 April 2015 to 31 March 2016. Please note that due to rounding to one or two decimal points, some percentage totals do not amount to exactly 100 per cent.

**Cases received in 2015–16**

This section contains information about the number and type of fitness to practise concerns received about registrants. It also provides information about who raised these concerns. A concern is only classed as an 'allegation' when it meets our Standard of acceptance for allegations.

The Standard of acceptance policy sets out the information we must have for a case to be treated as an allegation. As a minimum this information:

- must be in writing (fitness to practise concerns may also be taken over the telephone if a complainant has any accessibility difficulties);

- must include the professional's name; and

- must give enough detail about the concerns to enable the professional to understand those concerns and to respond to them.

The Policy also recognises that, while concerns are raised about only a small minority of HCPC registrants, investigating them takes a great deal of time and effort. So it is important that HCPC's resources are used effectively to protect the public and are not diverted into investigating matters which do not give cause for concern. Where cases are closed we will, wherever we can, signpost complainants to other organisations that may be able to help with the issues they have raised.

Any case which does not yet meet the Standard of acceptance is classed as an 'enquiry'. In these circumstances we will always seek further information. Many enquiries then become allegations once we have this additional information. The Policy explains our approach more fully. If additional information is not found to meet the Standard of acceptance, we have an authorisation process to close the case.

A revised version of the Policy was published in June 2015. The amendments to the Policy came from a review of the changing nature of cases; seeking feedback from those involved in the Fitness to Practise process and a review of our audit and complaints data to identify where further clarification and detail would assist.

Key amendments to the Policy include:

- further emphasis that the fitness to practise process is not a general complaints process;
- further detail about what is meant by credible evidence;
- further explanation of what 'fitness to practise' means in line with the HCPC document Fitness to Practise: What does it mean? and emphasising the seriousness of a fitness to practise allegation;

- additional information about factors that can be taken into account when deciding whether a matter has been resolved locally;
- a new section has been added about complaints relating to professional decisions, setting out the circumstances in which cases of this nature may meet the standard of acceptance and where it would not be appropriate for HCPC to intervene;
- a new section about service and linked complaints; and
- revisions to the section about internet social networks.

For the first time, we have also produced a factsheet which explains the standard of acceptance policy in language which is easy to understand. This is primarily aimed at complainants and has received the Plain English Campaign's Crystal Mark.

For further information, please see the Standards of acceptance for allegations policy on our website at www.hcpc-uk.org/publications/policy

Table 1 shows the number of cases received in 2015–16 compared to the total number of professionals registered by the HCPC (as of 31 March 2016).

**Table 1 Total number of cases received in 2014–15**

| | Number of cases | Total number of registrants | % of registrants subject to complaints |
|---|---|---|---|
| 2015–16 | 2,127 | 341,745 | 0.62 |

The proportion of HCPC registrants who have had a fitness to practise concern raised about them has decreased slightly, from 0.66 per cent of all professionals on the Register in 2014–15 to 0.62 per cent in 2015–16. This means that only about one in 162 registrants were the subject of a new concern about their fitness to practise. It should be noted that in a few instances a registrant will be the subject of more than one case.

Compared to 2015–16 the number of cases received in 2015–16 decreased by 1.98 per cent (in actual numbers, a decrease of 43 cases). The number of professionals registered by the HCPC increased over the same period by 3.28 per cent (in actual numbers, an increase of 10,858 registrants).

Graphs 1a and 1b shows the number of fitness to practise concerns received between 2011–12 and 2015–16 compared to the total number of HCPC registrants.

**Table 2 Total numbers of cases and percentage of Register**

| Year | Number of cases | Number of registrants | % of Register |
|---|---|---|---|
| 2011–12 | 925 | 219,162 | 0.42 |
| 2012–13 | 1,653 | 310,942 | 0.52 |
| 2013–14 | 2,069 | 322,021 | 0.64 |
| 2014–15 | 2,170 | 330,887 | 0.66 |
| 2015–16 | 2,127 | 341,745 | 0.62 |

**Graph 1a Number of fitness to practise cases received by year 2011–12 to 2015–16**

Commented [SK1]: This data to be shown in a graph.

| Year | Number of cases | % of Register |
|---|---|---|
| 2011–12 | 925 | 0.42 |
| 2012–13 | 1,653 | 0.52 |
| 2013–14 | 2,069 | 0.64 |
| 2014–15 | 2,170 | 0.66 |
| 2015–16 | 2,127 | 0.62 |

**Graph 1b Number of registrants on HCPC Register by year from 2011–12 to 2015–16**

Commented [SK2]: This data is to be shown in a graph.

| Year | Number of registrants |
|---|---|
| 2011–12 | 219,162 |
| 2012–13 | 310,942 |
| 2013–14 | 322,021 |
| 2014–15 | 330,887 |
| 2015–16 | 341,745 |

## Cases by profession and complainant type

The following tables and graphs show information about who raised fitness to practise concerns in 2015–16 and how many cases were received for each of the professions the HCPC regulates. The total number of cases received in 2015–16 was 2,127.

Table 3 provides information about the source of the concerns which gave rise to these cases. Members of the public continue to be the largest complainant group, making up 43 per cent of the total number of concerns received. This has decreased from 2014–15 when the proportion was 46 per cent.

Similarly employers continue to be the second largest source of concerns, comprising 25 per cent of the total. This compares to 26 per cent in 2014–15. The proportion of cases which were the result of a self-referral by the registrant has increased by 3.9 per cent in 2015–16.

**Table 3 Who raised concerns in 2015–16?**

| Who raised a concern | Number | % |
|---|---|---|
| Article 22(6) / anon | 57 | 2.7 |
| Employer | 535 | 25.2 |
| Other | 115 | 5.4 |
| Other registrant / professional | 51 | 2.4 |
| Professional body | 10 | 0.5 |
| Police | 20 | 0.9 |
| Public | 910 | 42.8 |
| Self-referral | 429 | 20.2 |
| **Total** | **2,127** | **100** |

**Article 22(6) of the Health and Social Work Professions Order 2001**

Article 22(6) of the Health and Social Work Professions Order 2001 enables the HCPC to investigate a matter even where a concern has not been raised with us in the normal way (for example, in response to a media report or where information has been provided by someone who does not want to raise a concern formally). This is an important way we can use our legal powers to protect the public.

**Table 4a Cases by profession and complainant type**

| Profession | Article 22(6)/Anon | % | Employer | % | Other | % | Other registrant | % | Police | % | Professional body | % | Public | % | Self referral | % | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Arts therapists** | 0 | 0.0 | 2 | 0.4 | 1 | 0.9 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 4 | 0.4 | 1 | 0.2 | 8 |
| **Biomedical scientists** | 3 | 5.3 | 22 | 4.1 | 5 | 4.3 | 1 | 2.0 | 0 | 0.0 | 0 | 0.0 | 1 | 0.1 | 15 | 3.5 | 47 |
| **Chiropodists / podiatrists** | 2 | 3.5 | 16 | 3.0 | 2 | 1.7 | 1 | 2.0 | 1 | 4.8 | 0 | 0.0 | 25 | 2.7 | 9 | 2.1 | 56 |
| **Clinical scientists** | 0 | 0.0 | 1 | 0.2 | 1 | 0.9 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 1 | 0.1 | 4 | 0.9 | 7 |
| **Dietitians** | 0 | 0.0 | 4 | 0.7 | 4 | 3.5 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 3 | 0.3 | 6 | 1.4 | 17 |
| **Hearing aid dispensers** | 0 | 0.0 | 3 | 0.6 | 1 | 0.9 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 12 | 1.3 | 2 | 0.5 | 18 |
| **Occupational therapists** | 2 | 3.5 | 33 | 6.2 | 4 | 3.5 | 2 | 4.0 | 0 | 0.0 | 0 | 0.0 | 31 | 3.4 | 21 | 4.9 | 93 |
| **Operating department practitioners** | 5 | 8.8 | 25 | 4.7 | 2 | 1.7 | 2 | 4.0 | 0 | 0.0 | 0 | 0.0 | 4 | 0.4 | 17 | 4.0 | 55 |
| **Orthoptists** | 0 | 0.0 | 1 | 0.2 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 1 |
| **Paramedics** | 10 | 17.5 | 56 | 10.5 | 9 | 7.8 | 5 | 10.0 | 1 | 4.8 | 0 | 0.0 | 22 | 2.4 | 136 | 31.7 | 239 |
| **Physiotherapists** | 3 | 5.3 | 41 | 7.7 | 10 | 8.7 | 3 | 6.0 | 8 | 38.1 | 1 | 10.0 | 55 | 6.0 | 18 | 4.2 | 139 |

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Practitioner psychologists** | 4 | 7.0 | 14 | 2.6 | 16 | 13.9 | 5 | 10.0 | 2 | 9.5 | 3 | 30.0 | 90 | 9.9 | 12 | 2.8 | 146 |
| **Prosthetists / orthotists** | 0 | 0.0 | 2 | 0.4 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 | 2 | 0.5 | 4 |
| **Radiographers** | 4 | 7.0 | 36 | 6.7 | 2 | 1.7 | 5 | 10.0 | 2 | 9.5 | 1 | 10.0 | 10 | 1.1 | 27 | 6.3 | 87 |
| **Social workers in England** | 24 | 42.1 | 266 | 49.7 | 57 | 49.6 | 23 | 46.0 | 7 | 33.3 | 5 | 50.0 | 639 | 70.2 | 153 | 35.7 | 1,174 |
| **Speech and language therapists** | 0 | 0.0 | 13 | 2.4 | 1 | 0.9 | 3 | 6.0 | 0 | 0.0 | 0 | 0.0 | 13 | 1.4 | 6 | 1.4 | 36 |
| | 57 | 100.0 | 535 | 100.0 | 115 | 100.0 | 50 | 100.0 | 21 | 100.0 | 10 | 100.0 | 910 | 100.0 | 429 | 100.0 | 2,127 |

Article 22(6) is important in 'self-referral' cases. We encourage all professionals on the HCPC Register to self-refer any issue which may affect their fitness to practise. Standard 9 of the HCPC's revised Standards of conduct, performance and ethics which were published in January 2016 states that "You must tell us as soon as possible if:

- you accept a caution from the police or if you have been charged with, or found guilty of, a criminal offence;
- another organisation responsible for regulating a health or social-care profession has taken action or made a finding against you; or
- you have had any restriction placed on your practice, or been suspended or dismissed by an employer, because of concerns about your conduct or competence".

All self-referrals are assessed to determine if the information provided suggests the registrant's fitness to practise may be impaired and whether it may be appropriate for us to investigate the matter further using the Article 22(6) provision.

**Graph 2 Who raised concerns in 2015–16?**

| Who raised concern | Number | % |
|---|---|---|
| Article 22(6) / anon | 57 | 2.7 |
| Employer | 535 | 25.2 |
| Other | 115 | 5.4 |
| Other registrant / professional | 51 | 2.4 |
| Professional body | 10 | 0.5 |
| Police | 20 | 0.9 |
| Public | 910 | 42.8 |
| Self-referral | 429 | 20.2 |
| **Total** | **2,127** | **100** |

**Commented [SK3]:** This data to be shown in a pie chart

The category ‘Other’ in Table 4a and Graph 2 includes solicitors acting on behalf of complainants, hospitals / clinics (when not acting in the capacity of employer), colleagues who are not registrants and the Disclosure and Barring Service, which notifies us of individuals who have been barred from working with vulnerable adults and / or children.

Table 4b provides information on the breakdown of cases received by profession and gives a comparison to the Register as a whole.

**Table 4b Cases by profession**

| Profession | Number of cases | % of total cases | Number of registrants | % of the Register | % of registrants subject to concerns |
|---|---|---|---|---|---|
| Arts therapists | 8 | 0.38 | 3,897 | 1.14 | 0.21 |
| Biomedical scientists | 47 | 2.21 | 22,154 | 6.48 | 0.21 |
| Chiropodists / podiatrists | 56 | 2.63 | 13,121 | 3.84 | 0.43 |
| Clinical scientists | 7 | 0.33 | 5,376 | 1.57 | 0.13 |
| Dietitians | 17 | 0.80 | 8,986 | 2.63 | 0.19 |
| Hearing aid dispensers | 18 | 0.85 | 2,442 | 0.71 | 0.74 |
| Occupational therapists | 93 | 4.37 | 36,272 | 10.61 | 0.26 |
| Operating department practitioners | 55 | 2.59 | 12,811 | 3.75 | 0.43 |
| Orthoptists | 1 | 0.05 | 1,385 | 0.41 | 0.07 |
| Paramedics | 239 | 11.24 | 22,380 | 6.55 | 1.07 |
| Physiotherapists | 139 | 6.54 | 51,662 | 15.12 | 0.27 |
| Practitioner psychologists | 146 | 6.86 | 21,470 | 6.28 | 0.68 |
| Prosthetists / orthotists | 4 | 0.19 | 1,005 | 0.29 | 0.40 |
| Radiographers | 87 | 4.09 | 30,244 | 8.85 | 0.29 |
| Social workers in England | 1,174 | 55.20 | 93,341 | 27.31 | 1.26 |
| Speech and language therapists | 36 | 1.69 | 15,199 | 4.45 | 0.24 |
| **Total** | 2,127 | 100 | 341,745 | 100 | 0.62 |

### Cases by route to registration

Graph 3 shows the number of cases by route to registration and demonstrates a close correlation between the proportion of registrants who entered the HCPC Register by a particular route and the percentage of fitness to practise cases. In 2015–16, 17 cases were received against 'grandparented' registrants and 79 cases received involved international registrants, which accounts for four per cent of cases received.

**Graph 3 Cases by route to registration 2015–16**

**Commented [SK4]:** This data to be shown in graph.

| Route | % of cases | % of Register |
|---|---|---|
| Grandparenting | 0.8 | 1.4 |
| International | 3.7 | 5.6 |
| UK | 95.5 | 93.0 |

## Case closure

Where a case does not meet the Standard of acceptance, even after we have sought further information, or the concerns that have been raised do not relate to fitness to practise, the case is closed.

In 2015–16, 1,661 cases were closed without being considered by a panel of the HCPC's Investigating Committee, a 59 per cent increase compared to 2014–15 (where 1,042 cases were closed in this way). In 2015–16, 984 cases (59.2 per cent) that were closed in this way came from members of the public. This compares to 56 per cent in 2014–15.

In 2015–16, the average length of time for cases to be closed at this first closure point was a median average of five months and a mean average of six months. The mean average is the same as the previous year however the median average has increased by one month. This reflects the proportion of complaints received from the public and the requirement to request further information in order to assess whether the complaint meets the Standard of acceptance.

**Table 5 Length of time from receipt to closure of cases that are not considered by Investigating Committee**

| Number of months | Number of cases | Cumulative number of cases | % of cases | Cumulative % of cases |
|---|---|---|---|---|
| 0 to 4 | 750 | 750 | 45.2 | 45.2 |
| 5 to 8 | 501 | 1,251 | 30.2 | 75.3 |
| 9 to 12 | 266 | 1,517 | 16.0 | 91.3 |
| 13 to 16 | 89 | 1,606 | 5.4 | 96.7 |
| 17 to 20 | 35 | 1,641 | 2.1 | 98.8 |
| over 20 | 20 | 1,661 | 1.2 | 100.0 |
| **Total** | **1,661** | | **100.0** | |

Table 6 provides information about the variation across the professions for cases that are closed without consideration by an Investigating Committee Panel.

There is a wide range of variation in these patterns of referral. For instance, social workers are the largest profession on the Register, and have the most concerns raised. This profession also has the largest number of cases that are raised by members of the public. 70.2 per cent of the cases received in relation to social workers were received from members of the public. However, this profession has the largest number of cases that are closed because the concerns did not meet the Standard of acceptance.

Paramedics are the profession with the second largest number of concerns raised. Concerns about this group are the second largest to be closed because they do not reach the Standard of acceptance.

Physiotherapists are the second largest profession, yet have a much lower rate of concerns raised than paramedics or social workers in England, and also have a lower rate of closure due to not meeting the Standard of acceptance.

**Table 6 Cases closed by profession before consideration at Investigating Committee**

| Profession | Number of cases | % of total cases |
|---|---|---|
| Arts therapists | 6 | 0.4 |
| Biomedical scientists | 27 | 1.6 |
| Chiropodists / podiatrists | 34 | 2.0 |
| Clinical scientists | 5 | 0.3 |
| Dietitians | 11 | 0.7 |
| Hearing aid dispensers | 10 | 0.6 |
| Occupational therapists | 69 | 4.2 |
| Operating department practitioners | 30 | 1.8 |
| Orthoptists | 0 | 0.0 |
| Paramedics | 162 | 9.8 |
| Physiotherapists | 79 | 4.8 |
| Practitioner psychologists | 156 | 9.4 |
| Prosthetists / orthotists | 3 | 0.2 |
| Radiographers | 49 | 3.0 |
| Social workers in England | 1,006 | 60.6 |
| Speech and language therapists | 14 | 0.8 |
| **Total** | 1,661 | 100 |

## Investigating Committee panels

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

An ICP can decide that:

- more information is needed;
- there is a 'case to answer' (which means the matter will proceed to a final hearing); or
- there is 'no case to answer' (which means that the case does not meet the 'realistic prospect' test).

An ICP meets in private to conduct a paper-based consideration of the allegation. Neither the registrant nor the complainant appears before the ICP. The Panel must decide whether or not there is a 'case to answer' based on the documents before it. The test that the Panel applies when making its decision is the 'realistic prospect' test. The Panel must be satisfied that there is a realistic or genuine possibility that the HCPC, which has the burden of proof, will be able to prove the facts alleged and, based upon those facts, that the Panel hearing the case would conclude that:

- those facts amount to the statutory ground (ie misconduct, lack of competence, physical or mental health, caution or conviction or a decision made by another regulator responsible for health and social care); and
- the registrant's fitness to practise is impaired.

Only cases that meet all three elements of the 'realistic prospect' test can be referred for consideration at a final hearing. Panels must consider the allegation as whole. Examples of 'no case to answer' decisions can be found on page X.

In some cases there may be information which proves the facts of a case. However, the panel may consider that there is no realistic prospect of establishing that the facts amount to the ground(s) of the allegation. Likewise, panels may consider that there is sufficient information to provide a realistic prospect of proving the facts and establishing the ground(s) of the allegation but there is no realistic prospect of establishing that the registrant's fitness to practise is impaired. This could be because the incident that gave rise to the concern was an isolated lapse that is unlikely to recur, or there is evidence to show the registrant has taken action to correct the behaviour that led to the allegation being made. Such cases would result in a 'no case to answer' decision and the case would not proceed.

In these 'no case to answer' decisions, if there are matters arising which the Panel considers should be brought to the attention of the registrant, it may include a learning point. Learning points are general in nature and are for guidance only. They assist with proportionality in the fitness to practise process as they allow ICPs to acknowledge that a registrant's conduct or

competence may not have been of the standard expected and that they should be advised on how they may learn from the event. While ensuring that only matters which meet all three elements of the 'realistic prospect' test are referred to a final hearing. In 2015–16 ICPs issued learning points in 56 cases. This is an increase from 50 cases in 2014–15.

There were 787 cases considered by an ICP in 2015–16, of which 48 were considered by an ICP twice as panels had requested further information. This is a decrease of seven per cent from 2014–15 when 849 cases were considered by an ICP. The decrease in the number of cases being considered by an ICP in 2015–16 reflects the increase in the number of cases that have been closed for not meeting the Standard of acceptance, and that there was a higher volume of cases going to an ICP in 2014–15 following a 25 per cent increase in the number of concerns received in 2013–14.

Graph 4 shows the percentage of 'case to answer' decisions each year from 2011–12 to 2015–16. The 'case to answer' rate for 2015–16 is 63 per cent, an increase of ten per cent from 2015–16.

**Graph 4 Percentage of allegations with a case to answer decision**

Commented [SK5]: This data to be shown in a graph.

| Year | % of cases with no case to answer |
|---|---|
| 2011–12 | 51 |
| 2012–13 | 58 |
| 2013–14 | 53 |
| 2014–15 | 53 |
| 2015–16 | 63 |

**Decisions by Investigating Committee Panels**

**Table 7 Examples of no case to answer decisions**

This table shows a range of cases that were considered by an Investigating Committee Panel in 2015–16. The examples describe the allegation and a brief rationale of the Panel's decision of no case to answer.

| **Type of issue** | **Reason for no case to answer decision** |
|---|---|
| A biomedical scientist was alleged to have worked outside of their scope of practice by conducting a particular specimen test without approval from their employer to do so. | The panel noted that the registrant admitted part of the facts, and considered that the evidence provided was sufficient to give a realistic prospect of proving the facts, and that if proved those facts would amount to misconduct and / or lack of competence.<br><br>However, the panel did not find that there was a realistic prospect of establishing that the registrant's fitness to practice was impaired. The panel took into account that the registrant had demonstrated insight into their actions, had been designated as competent to perform the procedure at their previous place of work, and that the incident appeared to be a one-off error of judgement on the part of the registrant. The panel also noted that no service users had been put at risk by the registrant's actions. In making its no case to answer decision, the panel decided to issue the registrant with a learning point, and reminded them of the requirement not to practise outside the scope of their position, as stated in the specific terms and conditions of their employment. |
| The allegations related to a chiropodist who did not refer a service user for further investigation and treatment. | The panel found that the admission by the registrant and the documentation provided by the registrant's employer was sufficient to prove the facts, and that those facts amounted to the statutory |

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|---|---|
| | grounds of misconduct and / or lack of competence.<br><br>The panel noted that the registrant accepted that they should have referred the service user at an earlier stage, and had taken steps to remediate this area of practise and ensure future patients were referred in accordance with NICE guidelines. The registrant had also undertaken further relevant training and provided positive references from other clinicians who they worked with. The panel therefore considered that there was no realistic prospect of a final panel finding that the registrant's fitness to practice was currently impaired. |
| It was alleged that a social worker had failed to ensure that vulnerable children were adequately safeguarded. | The panel considered that the realistic prospect test was satisfied in relation to all but one of the facts; they did not consider that the registrant could have prevented a service user from visiting a particular location.<br><br>Whilst the panel acknowledged that the alleged failings were serious, they decided that there was not a realistic prospect that the facts would amount to a lack of competence. This was a complex case that had been assigned to the registrant shortly after qualifying as a social worker, and the panel noted that the registrant was carrying a high caseload and was not provided with sufficient levels of supervision. The panel found that, in those circumstances, this particular matter did not represent a fair sample of the registrant's work on which a finding of a lack of competence could be based. |

| | |
|---|---|
| An operating department practitioner self-referred a caution for common assault. | There was a realistic prospect of establishing the facts and the grounds of misconduct by virtue of the copy of the caution and the registrant's acceptance of the facts.<br><br>The panel did not consider, though, that there was a realistic prospect of finding that the registrant's fitness to practice was impaired. The panel took into account that the registrant had made a self-referral to the HCPC and full disclosure to their employer, and that the incident appeared to be a one-off lapse of behaviour. The registrant had shown insight and remorse into their behaviour, which was unlikely to be repeated. |
| A paramedic was alleged to have failed to secure a controlled drugs store, which was left unattended. | The panel noted that the registrant admitted part of the allegation and considered that, along with the information provided by their employer, there was a realistic prospect of proving the facts of the allegation.<br><br>But the panel did not consider that there was a realistic prospect that the facts would amount to misconduct. In making their decision the panel noted that this was an isolated incident which was a genuine mistake and posed no risk to patients. The panel took into account that the registrant was present at all times in the building, and that controlled drugs were continuously locked in a safe, although the drugs store itself remained open. |
| The allegations related to a dietitian who had not stored confidential patient records securely and who had claimed for expenses they were not entitled to. | The panel found sufficient evidence from the employer's investigation and the registrant's own admissions to support the facts in relation to the storage of records, but did not consider that there was a realistic prospect of findings the facts in |

| | |
|---|---|
| | relation to the expenses claim on the basis of the information provided.<br><br>The panel considered the HCPC's standards and the employer's own policies in relation to the keeping of documents, and considered that there was a clear expectation on registrants to keep documents in accordance with those policies and to respect the confidentiality of service users. The panel noted that the registrant had acted contrary to those expectations, and consequently found there to be a realistic prospect that the registrant's actions would amount to misconduct. However, the panel decided this one instance of alleged misconduct alone was insufficient to provide a realistic prospect of impairment being found. The panel did, however, decide to issue the registrant with a learning point, reminding them of the importance of protecting information in records and of the need to treat the information of service users as confidential. |
| It was alleged that a radiographer had not responded appropriately when a patient was taken ill and had not made a record of their involvement with the patient. | In responding to the allegations the registrant denied the facts in relation to the treatment of the patient, but accepted that they did not make a written record of the incident. The panel took this into account along with the documentation from the registrant's employer.<br><br>The panel considered that the registrant's response to the patient's presentation was appropriate, timely and supportive to a colleague who required assistance. The panel was of the view that it was not necessary for the registrant to make a written record of his involvement with the patient, in the particular circumstances of the case, as the patient's care had been taken over |

| | |
|---|---|
| | by another team. As such the panel decided that there was not a realistic prospect that the facts of the allegation would be found proved by a final panel. |
| A physiotherapist was alleged to have exercised poor clinical judgement in relation to their management of a patient's physical limitations and their actions following the patient's fall. | The Panel considered documents produced by the registrant's former employer within its capability process and also the registrant's response to the allegations.<br><br>The panel was satisfied that the registrant's acceptance of the facts of the allegations and the information relating to the employer's investigation was sufficient to find a realistic prospect of proving the facts. They were satisfied too that given the seriousness of the concerns, those facts would amount to the grounds of misconduct and / or lack of competence.<br><br>However, the panel noted that the events occurred on a single day and involved one patient. The registrant had provided evidence that they had reflected on their failings and had undergone retraining, attended support sessions with a senior practitioner and expressed remorse. The panel also noted that the registrant had practiced prior to and since the incident without complaint. The panel considered that there was a low risk of repetition and that the registrant had taken considerable steps to remediate the concerns related to the facts of the allegation. They therefore concluded that there was not a realistic prospect of a future panel finding current impairment. |
| An occupational therapist self-referred a conviction for drink driving. | The conviction certificate satisfied the panel that there was a realistic prospect of proving the facts and the ground of misconduct. |

| | |
|---|---|
| | The panel was not satisfied, however, that there was a realistic prospect of a future panel finding impairment. In making its decision the panel noted that the registrant had self-referred the matter to the HCPC and their employer, and had shown insight and remorse in seeking support from addiction services. The offence was committed in the context of unusual personal circumstances and the panel was of the view that the incident was unlikely to be repeated. The panel also noted the supportive information provided by the registrant's employer, which indicated that there were no concerns about the registrant's capability. The panel concluded that there was not a realistic prospect of establishing that the registrant's fitness to practise was impaired. |
| A social worker was alleged to have posted inappropriate messages on a social media website. | The panel noted that the registrant accepted some of the facts of the allegation and, after reviewing screenshots of the relevant website pages, concluded that there was a realistic prospect of the facts being found proved by a later panel.<br><br>However, the panel decided that there was not a realistic prospect that the facts would amount to misconduct. Whilst the panel was of the view that the registrant had not kept high standards of personal conduct, which had the potential to bring the profession into disrepute, the panel accepted that the registrant had not intended her messages to be seen by a wider audience. |

### Case to answer decisions by complainant type

Table 8 shows the number of 'case to answer' decisions by complainant type. There continue to be differences in the case to answer rate, depending on the source of the complaint. Fitness to practise allegations received from other registrants and professionals had the highest percentage (93 per cent) of 'case to answer decisions' although this is a small complainant group.

Cases referred anonymously, or by article 22(6), have a case to answer rate of 79 per cent, and self-referrals a rate of 55 per cent, and increase of 26 and ten per cent respectively from 2014–15.

Employers are the second highest source of complaints. Of the 398 of these that were considered at ICP, 289 were judged to have a case to answer.

Members of the public are the largest complainant category but have the lowest 'case to answer' rate. Of the 98 cases that were considered at ICP, 33 per cent were judged to have a 'case to answer' decision. This represents a nine per cent increase in the number of 'case to answer' decisions made in respect of concerns raised by members of the public in 2014–15.

**Table 8 Case to answer by complainant**

| Complainant | Number of case to answer | Number of no case to answer | Total | % case to answer |
|---|---|---|---|---|
| Article 22(6) / anon | 11 | 3 | 14 | 79 |
| Employer | 289 | 109 | 398 | 73 |
| Other | 16 | 12 | 28 | 57 |
| Other registrant / professional | 13 | 1 | 14 | 93 |
| Police | 8 | 4 | 12 | 67 |
| Professional body | 8 | 3 | 11 | 73 |
| Public | 32 | 66 | 98 | 33 |
| Self-referral | 90 | 74 | 164 | 55 |
| **Total** | 467 | 272 | 739 | 63 |

### Case to answer decisions and route to registration

Table 9 shows the case to answer decisions for the different routes to registration.

**Table 9 Case to answer and route to registration**

| Route to registration | Number of case to answer | % of allegations | Number of no case to answer | % of allegations | Total allegations | % of allegations |
|---|---|---|---|---|---|---|
| Grandparenting | 2 | 0.43 | 5 | 1.84 | 7 | 0.95 |

| | | | | | | |
|---|---|---|---|---|---|---|
| International | 25 | 5.34 | 10 | 3.68 | 35 | 4.73 |
| UK | 440 | 94.23 | 257 | 94.49 | 697 | 94.32 |
| **Total** | 467 | 100 | 272 | 100 | 739 | 100 |

### Time taken from point of meeting the Standard of acceptance to Investigating Committee Panel

Table 10 shows the length of time taken for allegations to be put before an ICP in 2015–16. The table shows that 82 per cent of allegations were considered by an ICP within eight months of the point of meeting the Standard of acceptance. This is a slight decrease from 2014–15 when 88 per cent of allegations were considered by an ICP within eight months of the point of meeting the Standard of acceptance.

The mean length of time taken for a matter to be considered by an ICP was six months from receipt of the allegation and the median length of time was four months. This is an increase from 2014–15, when the mean and median were five and three months respectively.

### Table 10 Length of time from point of meeting Standard of acceptance to Investigating Committee Panel

| Number of months | Number of cases | Cumulative number of cases | % of cases | Cumulative % cases |
|---|---|---|---|---|
| 1–4 | 443 | 443 | 59.95 | 59.95 |
| 5–8 | 165 | 608 | 22.33 | 82.27 |
| 9–12 | 55 | 663 | 7.44 | 89.72 |
| 13–16 | 37 | 700 | 5.01 | 94.72 |
| 17–20 | 17 | 717 | 2.30 | 97.02 |
| 21–24 | 12 | 729 | 1.62 | 98.65 |
| 25–28 | 5 | 734 | 0.68 | 99.32 |
| 29–32 | 2 | 736 | 0.27 | 99.59 |
| 33–36 | 2 | 738 | 0.27 | 99.86 |
| Over 36 | 1 | 739 | 0.14 | 100.00 |
| **Total** | **739** | | | |

### Case to answer decisions and representations

Graph 5 provides information on ‘case to answer’ and ‘no case to answer’ decisions and representations received in response to allegations. In 2015–16, there was a decrease in representations being made to the ICP by either the registrant or their representative with representations being made in 77 per cent of the cases considered compared to 80 per cent in 2014–15.

A total of 272 cases considered by an ICP resulted in a 'no case to answer' decision. Of this number, 87 per cent were cases where representations were provided. By contrast, only 13 per cent resulted in a 'no case to answer' decision being made where no representations were provided by the registrant or their representative.

**Graph 5 Representations provided to Investigating Panel**

Commented [SK6]: Data to be shown in a graph.

| Representation provided by | Case to answer | No Case to answer |
|---|---|---|
| Registrant | 279 | 201 |
| Representative | 57 | 35 |
| None | 131 | 36 |
| **Total** | 467 | 272 |

## Interim orders

In certain circumstances, panels of our practice committees may impose an 'interim suspension order' or an 'interim conditions of practice order' on registrants subject to a fitness to practise investigation. These interim orders prevent the registrant from practising or places limits on their practice, while the investigation is ongoing. This power is used when the nature and severity of the allegation is such that, if the registrant remains free to practise without restraint, they may pose a risk to the public or to themselves. Panels will only impose an interim order if they are satisfied that the public or the registrant involved require immediate protection. Panels will also consider the potential impact on public confidence 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 will remain until the case is heard or the order is lifted on review. The duration of an interim order is set by the Panel however it cannot last for more than 18 months. If a case has not concluded before the expiry of the interim order, the HCPC must apply to the relevant court to have the order extended. In 2015–16 we applied to the High Court for an extension of an interim order in 19 cases.

A practice 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 to ensure resources are used to their best effect.

Table 11 shows the number of interim orders by profession and the number of cases where an interim order has been granted, reviewed or revoked. These interim orders are those sought by the HCPC during the management of the case processing. It does not include interim orders that are imposed at final hearings to cover the registrant's appeal period.

In 2015–16, 89 applications for interim orders were made, accounting for four per cent of the allegations being investigated. 78 (88%) of those applications were granted and nine (12%) were not. In 2014–15, 80 applications were made and 89 per cent of those applications were granted. Although there was an eleven per cent increase in the number of applications made in 2015–16 compared the previous year, the proportion of applications granted has remained broadly the same.

Social workers in England and paramedics had the highest number of applications considered. These professions also had the highest number of applications considered in 2014–15. We have commissioned research to take an in-depth look at why we receive more fitness to practise concerns about paramedics and social workers than other professions.

The legislation we are governed by provides that we have to review an interim order six months after it is first imposed and every three months thereafter. The regular review mechanism is particularly important given that an interim order will restrict or prevent a registrant from practising pending a final hearing decision. Applications for interim orders are usually made at the initial stage of the investigation; but a registrant may ask for an order to be reviewed at any time if, for example, their circumstances change or new evidence becomes available. 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, or either order may be revoked. In 2015–16 there were seven cases where an interim order was revoked by a review panel.

We risk assess all complaints on receipt to help determine whether to apply for an interim order. In 2015–16, the median time from receipt of a complaint to a Panel considering whether an interim order was necessary was 15.2 weeks. In 2014–15, this was 20.4 weeks.

Not all interim order applications are made immediately on receipt of the complaint. It may be that we receive insufficient information with the initial complaint or that during the course of the investigation the circumstances of the case change. We also risk assess new material as it is received during the lifetime of a case to decide if it indicates that an interim order application in the case is necessary.

In 2015–16, the average time from the risk assessment of the relevant information indicating an interim order may be necessary, to a Panel hearing the application was 17 days. In 2014–15, this was also 17 days.

Forty nine out of the 89 (55%) of the interim order applications made in 2015–16 were in cases where the complainant was the employer. The median time for these cases from receipt of complaint to a Panel considering whether an interim order was necessary was 13 weeks. We have enhanced our engagement with employers to ensure the timely provision of information to enable us to make informed risk assessments. Initiatives implemented in 2015–16 include:

- updating our referral form which employers are encouraged to use when raising a fitness to practise concern to provide more guidance on the information that should be provided in support of the concern;
- revised our brochure for employers so that it focuses on providing information which is directly relevant to employers; and
- updating our web content for employers to include case studies based on actual fitness to practise case studies.

**Table 11 Number of interim orders by profession**

| Profession | Applications considered | Applications granted | Applications not granted | Orders reviewed | Orders revoked on review |
|---|---|---|---|---|---|
| Arts therapists | 1 | 1 | 0 | 5 | 0 |
| Biomedical scientists | 5 | 4 | 1 | 11 | 0 |
| Chiropodists / podiatrists | 0 | 0 | 0 | 5 | 0 |
| Clinical scientists | 0 | 0 | 0 | 9 | 0 |
| Dietitians | 1 | 1 | 0 | 0 | 0 |
| Hearing aid dispensers | 2 | 1 | 1 | 1 | 0 |
| Occupational therapists | 4 | 2 | 2 | 8 | 1 |
| Operating department practitioners | 8 | 8 | 0 | 25 | 0 |
| Orthoptists | 0 | 0 | 0 | 0 | 0 |
| Paramedics | 17 | 15 | 2 | 45 | 1 |
| Physiotherapists | 14 | 14 | 0 | 38 | 1 |
| Practitioner psychologists | 2 | 2 | 0 | 7 | 0 |
| Prosthetists / orthotists | 0 | 0 | 0 | 0 | 0 |
| Radiographers | 8 | 7 | 1 | 18 | 0 |
| Social workers in England | 27 | 23 | 4 | 91 | 4 |
| Speech and language therapists | 0 | 0 | 0 | 0 | 0 |
| **Total** | 89 | 78 | 11 | 261 | 7 |

## Public hearings

Three hundred and twenty final hearing cases were concluded in 2015–16. This is 31 fewer cases from the previous year.

Hearings where allegations were well founded concerned only 0.02 per cent of registrants on the HCPC Register.

Hearings can be adjourned in advance administratively by the Head of Adjudication if an application is made more than 14 days before the hearing. If the application is made less than 14 days before the hearing, the decision on adjournment is made by a Panel. Hearings that commence but do not conclude in the time allocated are classed as part heard. In 2015–16, 81 cases which were listed for a hearing were either adjourned or concluded part heard.

Panels have the power to hold preliminary hearings in private with the parties for the purpose of case management. Such hearings allow for substantive evidential or procedural issues, such as the use of expert evidence or the needs of a vulnerable witness, to be resolved (by a Panel direction) prior to the final hearing taking place. This assists in final hearings taking place as planned. In 2015–16, 66 cases had a preliminary hearing.

Most hearings are held in public, as required by our governing legislation, the Health and Social Work Professions Order 2001. Occasionally a hearing, or part of it, may be heard in private in certain circumstances.

The HCPC is obliged to hold hearings in the UK country of the registrant concerned. The majority of hearings take place in London at the HCPC's offices. Where appropriate, proceedings are held in locations other than capitals or regional centres, for example, to accommodate attendees with restricted mobility. In January 2016 we acquired a new building which now provides a dedicated hearings centre for fitness to practise hearings.

Table 12 illustrates the number of public hearings that were held from 2011–12 to 2015–16. It details the number of public hearings heard in relation to interim orders, final hearings and reviews of substantive decisions. Some cases will have been considered at more than one hearing in the same year, for example, if a case was part heard and a new date had to be arranged.

**Table 12 Number of concluded public hearings**

| Year | Interim order and review | Final hearing | Review hearing | Restoration hearing | Article 30(7) hearing | Total |
|---|---|---|---|---|---|---|
| 2011–12 | 197 | 405 | 126 | 3 | 1 | 732 |
| 2012–13 | 194 | 228 | 141 | 1 | 1 | 565 |
| 2013–14 | 265 | 267 | 160 | 4 | 1 | 689 |
| 2014–15 | 337 | 351 | 236 | 5 | 0 | 929 |
| 2015–16 | 346 | 320 | 171 | 8 | 1 | 846 |

### Time taken from receipt of allegation to final hearing

Table 13 shows the length of time it took for cases to conclude, measured from the date of 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 of 22 months and a median of 21 months from receipt of the allegation.

The length of time for a hearing to conclude can be extended for a number of reasons. These include protracted investigations, legal argument, availability of parties and requests for adjournments, which can all delay proceedings. Where criminal investigations have begun, the HCPC will usually wait for the conclusion of any related court proceedings. Criminal cases are often lengthy in nature and can extend the time it takes for a case to reach a hearing.

The complexity of cases is reflected in the increasing requirement for preliminary hearings before a final hearing can take place. In 2015–16 there were 66 preliminary hearings. This compares to 48 in 2014–15, an increase of 37.5 per cent.

**Table 13 Length of time from receipt of allegation to final hearing**

| Number of months | Number of cases | Cumulative number of cases | % of cases | Cumulative % of cases |
|---|---|---|---|---|
| 0 to 4 | 0 | 0 | 0.0 | 0.0 |
| 5 to 8 | 4 | 4 | 1.3 | 1.3 |
| 9 to 12 | 22 | 26 | 6.9 | 8.1 |
| 13 to 16 | 68 | 94 | 21.3 | 29.4 |
| 17 to 20 | 66 | 160 | 20.6 | 50.0 |
| 21 to 24 | 43 | 203 | 13.4 | 63.4 |
| 25 to 28 | 47 | 250 | 14.7 | 78.1 |
| 29 to 32 | 31 | 281 | 9.7 | 87.8 |
| 33 to 36 | 18 | 299 | 5.6 | 93.4 |
| Over 36 | 21 | 320 | 6.6 | 100 |

**Table 14 Time taken to conclude cases at final hearing from 2010–11 to 2014–15.**

| Year | Number of concluded cases | Mean time from allegation to conclusion (months) | Median time from allegation to conclusion (months) |
|---|---|---|---|
| 2011–12 | 287 | 17 | 15 |
| 2012–13 | 228 | 16 | 14 |
| 2013–14 | 267 | 17 | 14 |
| 2014–15 | 351 | 16 | 14 |
| 2015–16 | 320 | 22 | 21 |

Table 15 sets out the total length of time to close all cases from the point the concern was received to case closure at different points in the fitness to practise process. In 2015–16, the total length of time for this combined group was a mean of 22 months and a median average of 21 months.

In 2015–16, there were 134 cases that took longer than 24 months to conclude, of which 117 were final hearing cases. This accounted for six per cent of the total closures at all stages.

**Table 15 Length of time to close all cases from receipt of complaint, including those closed pre-ICP, those where no case to answer is found and those concluded at final hearing**

| | Number of cases | Cumulative number of cases | % of cases | Cumulative % of cases |
|---|---|---|---|---|
| 0 to 4 | 780 | 780 | 34.6 | 34.6 |
| 5 to 8 | 608 | 1,388 | 27.0 | 61.6 |
| 9 to 12 | 356 | 1,744 | 15.8 | 77.4 |
| 13 to 16 | 192 | 1,936 | 8.5 | 85.9 |
| 17 to 20 | 120 | 2,056 | 5.3 | 91.3 |
| 21 to 24 | 63 | 2,119 | 2.8 | 94.1 |
| 25 to 28 | 54 | 2,173 | 2.4 | 96.4 |
| 29 to 32 | 35 | 2,208 | 1.6 | 98.0 |
| 33 to 36 | 20 | 2,228 | 0.9 | 98.9 |
| Over 36 | 25 | 2,253 | 1.1 | 100 |
| **Total** | 2,253 | 2,253 | 100 | 100 |

**Days of hearing activity**

Panels of the Investigating Committee, Conduct and Competence Committee and Health Committee met on 1,785 days in 2015–16 across the range of public and private decision making activities. Final hearings are usually held in public and are open to members of the public and other interested parties including the press. In certain circumstances, such as to protect confidential health issues of either the registrant or witnesses, an application can be made to hold some or all of the hearing in private. Table 16 sets out the types of hearing activity in 2015–16.

Of these, 1,194 hearing days were held to consider final hearing cases. This includes where more than one hearing takes place on the same day. This number includes cases that were part heard or adjourned. This is a one per cent increase from 1,180 hearings days in 2014–15.

Panels of the Investigating Committee hear final hearing cases concerning fraudulent or incorrect entry to the Register only. There were two cases in 2015–16 which resulted in both registrants being removed from the Register.

Panels may hear more than one case on some days to make the best use of the time available. Of the 320 final hearing cases that concluded in 2015–16, it took an average of 3.7 days to conclude cases. This is a slight increase compared to 2014–15, when it took an average of 3.4 days to conclude cases.

**Table 16 Breakdown of public and private committee activity in 2014–15**

| Private meetings | | Public hearings | |
|---|---|---|---|
| **Activity** | **Number of days** | **Activity** | **Number of days** |
| Investigating Committee | 123 | Final hearings | 1,194 |
| Preliminary meetings | 62 | Review of substantive sanctions | 159 |
| | | Interim orders | 247 |
| **Total** | **185** | | **1,600** |

**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 the individual circumstances of each case and take into account what has been said by all parties involved before making any decision.

Panels must first consider whether the facts of any allegations against a registrant are proven. They then have to decide whether, based upon the proven facts, the 'ground' set out in the allegation (for example misconduct or lack of competence) has been established and if, as a result, the registrant's fitness to practise is currently impaired. If the panel decide a registrant's fitness to practise is impaired they will then go on to consider whether to impose a sanction.

In cases where the ground of the allegations solely concerns health or lack of competence, the panel hearing the case does not have the option to make a striking off order in the first instance. It is recognised that in cases where ill health has impaired fitness to practise or where competence has fallen below expected standards, that it may be possible for the registrant to remedy the situation over time. The registrant may be provided the opportunity to seek treatment or training and may be able to return to practice if a panel is satisfied that it is a safe option.

If a panel decides there are still concerns about the registrant being fit to practise, they can:

- take no further action or order mediation (a process where an independent person helps the registrant and the other people involved agree on a solution to issues);
- caution the registrant (place a warning on their registration details for between one to five years);
- make conditions of practice that the registrant must work under;
- suspend the registrant from practising; or

- strike the registrant's name from the Register, which means they cannot practise.

These are the sanctions available to a Panel if the grounds of the allegation include misconduct.

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 or to remove the person from the Register.

In certain circumstances, the HCPC may enter into an agreement allowing a registrant to remove their name from the Register, this is known as voluntary removal agreement. The registrant must fully admit the allegation and by signing they agree to cease practising their profession. The agreement also provides that, if the person applies for restoration to the Register, their application will be considered as if they had been struck off. Agreements are approved by a Panel at a public, but not contested, hearing.

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 competency 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.

**Outcomes at final hearings**

Table 17 is a summary of the outcomes of hearings that concluded in 2015–16. It does not include cases that were adjourned or part heard. Decisions from all public hearings where fitness to practise is considered to be impaired are published on our website at www.hcpc-uk.org. Details of cases that are considered to be not well founded are not published on the HCPC website unless specifically requested by the registrant concerned.

An analysis of the impact on the registrant's registration status shows that:

- 26 per cent were not well found;
- 48 per cent had a sanction that prevented them from practising (including voluntary removal);
- 13 per cent had a sanction that restricted their practice; and
- 12 per cent had a sanction that did not restrict their practice (10% had a caution entry on the Register).

**Table 17 Outcome by type of committee**

| Committee | Caution | Conditions of practice | No further action | Not well founded / discontinued | Removed (incorrect / fraudulent entry) | Struck off | Suspension | Voluntary removal | Total |
|---|---|---|---|---|---|---|---|---|---|
| Conduct and Competence Committee | 33 | 38 | 5 | 82 | 0 | 69 | 53 | 20 | 300 |
| Health Committee | 0 | 4 | 0 | 2 | 0 | 0 | 7 | 5 | 18 |
| Investigating Committee (fraudulent and incorrect entry) | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 2 |

## Outcome by profession

Table 18 shows what sanctions were made in relation to the different professions the HCPC regulates. In some cases there was more than one allegation against the same registrant. The table sets out the sanctions imposed per case, rather than by registrant.

**Table 18 Sanctions imposed by profession**

| | Caution | Conditions of practice | No further action / not impaired | Not well founded | Discontinued | Register entry amended | Removed (fraudulent / incorrect) | Struck off | Suspended | Consent - removed | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Arts therapists** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 |
| **Biomedical scientists** | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 5 | 3 | 4 | 16 |
| **Chiropodists / podiatrists** | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 5 |
| **Clinical scientists** | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| **Dietitians** | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 |
| **Hearing aid dispensers** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 2 |
| **Occupational therapists** | 1 | 1 | 0 | 2 | 1 | 0 | 0 | 4 | 5 | 5 | 19 |
| **Operating department practitioners** | 5 | 0 | 1 | 2 | 1 | 0 | 0 | 6 | 3 | 1 | 19 |
| **Orthoptists** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Paramedics** | 6 | 8 | 1 | 7 | 6 | 0 | 0 | 18 | 6 | 6 | 58 |
| **Physiotherapists** | 1 | 3 | 0 | 5 | 2 | 0 | 0 | 2 | 2 | 1 | 16 |
| **Practitioner psychologists** | 0 | 1 | 0 | 1 | 1 | 0 | 2 | 2 | 3 | 0 | 10 |
| **Prosthetists / orthotists** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Radiographers** | 2 | 2 | 0 | 2 | 1 | 0 | 0 | 1 | 7 | 2 | 17 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Social workers in England** | 17 | 18 | 3 | 37 | 13 | 0 | 0 | 28 | 29 | 3 | 148 |
| **Speech and language therapists** | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 4 |
| **Total** | 33 | 42 | 5 | 58 | 26 | 0 | 2 | 69 | 60 | 25 | 320 |

NB: the sanctions of caution, conditions of practice and suspension above contain those where the registrant consented to the sanction. The table below shows the breakdown of the sanctions by profession. These are included within the totals in the table above.

| | Consent - caution | Consent - conditions | Consent - suspension | Total |
|---|---|---|---|---|
| **Arts therapists** | 0 | 0 | 0 | 0 |
| **Biomedical scientists** | 0 | 0 | 0 | 0 |
| **Chiropodists / podiatrists** | 0 | 1 | 0 | 1 |
| **Clinical scientists** | 0 | 0 | 0 | 0 |
| **Dietitians** | 0 | 1 | 0 | 1 |
| **Hearing aid dispensers** | 0 | 0 | 0 | 0 |
| **Occupational therapists** | 1 | 1 | 0 | 2 |
| **Operating department practitioners** | 1 | 0 | 0 | 1 |
| **Orthoptists** | 0 | 0 | 0 | 0 |
| **Paramedics** | 1 | 0 | 0 | 1 |
| **Physiotherapists** | 0 | 0 | 0 | 0 |
| **Practitioner psychologists** | 0 | 0 | 0 | 0 |
| **Prosthetists / orthotists** | 0 | 0 | 0 | 0 |
| **Radiographers** | 1 | 0 | 0 | 1 |

| | | | | |
|---|---|---|---|---|
| **Social workers in England** | 1 | 0 | 1 | 2 |
| **Speech and language therapists** | 0 | 2 | 0 | 2 |
| **Total** | 5 | 5 | 1 | 11 |

**Outcome and representation of registrants**

All registrants have the right to attend their final hearing. Some attend and represent themselves, whilst others bring a union or professional body representative or have professional representation, for example a solicitor or counsel. Some registrants choose not to attend, but they can submit written representations for the panel to consider in their absence.

The HCPC encourages registrants to participate in their hearings where possible. We make information about hearings and our procedures accessible and transparent in order to maximise participation, and to ensure any issues that may affect the organisation, timing or adjustments can be identified as early as possible. Our correspondence sets out the relevant parts of our process and includes guidance. We also produce practice notes, which are available on our website, detailing the process and how HCPC or the panels make decisions. This allows all parties to understand what is possible at each stage of the process.

Panels may proceed in a registrant's absence if they are satisfied that the HCPC has properly served notice of the hearing and that it is just to do so. Panels cannot draw any adverse inferences from the fact that a registrant has failed to attend the hearing. They will receive independent legal advice from the legal assessor in relation to choosing whether or not to proceed in the absence of the registrant.

The Panel must be satisfied that in all the circumstances, it would be appropriate to proceed in the registrant's absence. The HCPC's Practice Note, Proceeding in the absence of the registrant provides further information on this.

In 2015–16, 18 per cent of registrants represented themselves, with a further 31 per cent choosing to be represented by a professional. This combined figure of 49 per cent is a decrease from 2014–15, when registrants or representatives attended to represent in 52.7 per cent of cases. The revised registrant brochure 'What happens if a concern is raised about me?', which is due to be published in 2016, includes a specific section about representation and engaging with the fitness to practise process. Feedback from the registrants' representative bodies has also been incorporated into the brochure.

**Graph 6 Representation at final hearings**

Commented [SK7]: Data to be shown in pie chart.

| | | |
|---|---|---|
| Registrant | 56 | 18% |
| Representative | 100 | 31% |
| None | 164 | 51% |

Table 19 details outcomes of final hearings and whether the registrant attended alone, with a representative or was absent from proceedings. In cases where there is representation (either by self or by a representative), sanctions that prevent the registrant from working are less frequently applied. This also applies to removal by consent, but for a different reason, as registrants have signed a legal agreement with the HCPC to be removed from the Register, and so rarely attend the hearing.

**Table 19 Outcome and representation at final hearings**

| | Represented self | Represented | No representation | Total |
|---|---|---|---|---|
| **Caution** | 13 | 11 | 4 | 28 |
| **Conditions** | 4 | 26 | 7 | 37 |
| **No further action** | 1 | 4 | 0 | 5 |
| **Not well found** | 16 | 44 | 24 | 84 |
| **Register entry amended** | 0 | 1 | 1 | 2 |
| **Struck off** | 5 | 3 | 61 | 69 |
| **Suspended** | 15 | 6 | 38 | 59 |
| **Consent - removed** | 1 | 3 | 21 | 25 |
| **Consent - caution** | 0 | 2 | 3 | 5 |
| **Consent - suspension** | 0 | 0 | 1 | 1 |
| **Consent - conditions** | 1 | 0 | 4 | 5 |
| **Total** | 56 | 100 | 164 | 320 |



## Outcome and route to registration

Table 20 shows the relationship between routes to registration and the outcomes of final hearings. As with 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 95 per cent compared to 96 per cent in 2014–15.

**Table 20 Outcome and route to registration**

| Route to registration | Caution | Conditions of practice | No further action | Not well founded | Removed | Struck off | Suspension | Voluntary removal | Total cases | % of cases | % of registrants on the Register |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Grandparenting | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.0 | 1.40 |
| International | 0 | 4 | 0 | 3 | 0 | 7 | 1 | 0 | 15 | 4.7 | 5.60 |
| UK | 33 | 38 | 5 | 81 | 1 | 62 | 59 | 26 | 305 | 95.3 | 93 |
| **Total** | 33 | 42 | 5 | 84 | 1 | 69 | 60 | 26 | 320 | 100 | 100 |

Table 21 shows the source of the original complaint for cases that concluded at a final hearing in 2015–16. The table shows the sanction applied at that final hearing.

There is variation in the types of sanction imposed depending on the source of the complaint. In general, complaints from employers resulted in more restrictive sanctions such as striking off and suspension, in addition to conditions being imposed. This may be because of the support mechanisms available to registrants to fulfil the requirements of any conditions.

Ten of the 17 hearings (59 per cent) where the source of the original complaint was a member of the public were not well founded. This is compared to the 23 per cent where the source of the original complaint was an employer and 24 per cent where registrants had self-referred. This demonstrates that cases that are not well founded are more likely to result from hearings where the complaint was made by a member of the public.

**Table 21 Outcome and source of complaint**

| Outcome | Article 22(6) / anon | Employer | Other | Other registrant | Police | Professional body | Public | Self |
|---|---|---|---|---|---|---|---|---|
| Caution | 0 | 17 | 2 | 0 | 0 | 0 | 1 | 13 |
| Condition of practice | 0 | 34 | 0 | 0 | 0 | 0 | 2 | 6 |
| No further action | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 |
| Not well founded / discontinued | 3 | 43 | 4 | 1 | 2 | 2 | 10 | 19 |
| Removed | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 |
| Consent | 1 | 17 | 0 | 2 | 0 | 0 | 0 | 5 |
| Struck off | 2 | 42 | 2 | 3 | 3 | 1 | 4 | 12 |
| Suspension | 0 | 34 | 3 | 1 | 0 | 0 | 0 | 22 |
| Not impaired | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Total** | **6** | **190** | **11** | **7** | **6** | **3** | **17** | **80** |

**Not well founded**

Once a panel of the Investigating Committee has determined there is a case to answer in relation to the allegation made, the HCPC is obliged to proceed with the case. Final hearings that are 'not well founded' involve cases where, at the hearing, the panel does not find the facts have been proved to the required standard or concludes that, even if those facts are proved they do not amount to the statutory ground (eg misconduct) or show that fitness to practise is impaired. In that event, the hearing concludes and no further action is taken. In 2015–16 there were 84 cases considered to be not well founded at final hearing. This is an increase of nine cases (12%) compared to the previous year.

However, as a proportion of the total number of concluded hearings, the number that are not well founded is consistent with previous years. We continue to monitor these cases to ensure we maintain the quality of allegations and investigations. The Fitness to Practise Department has continued to ensure that Investigating Panels receive regular refresher training on the 'case to answer' stage in order to ensure that only cases that meet the realistic prospect test as outlined on page XX are referred to a final hearing.

Table 22 sets out the number of not well founded cases between 2011–12 and 2015–16.

**Table 22 Cases not well-founded**

| Year | Number of not well founded | Total number of concluded cases | % of cases not well founded |
|---|---|---|---|
| 2011–12 | 68 | 287 | 23.7 |
| 2012–13 | 54 | 228 | 23.7 |
| 2013–14 | 60 | 267 | 22.5 |
| 2014–15 | 75 | 351 | 21.4 |
| 2015–16 | 84 | 320 | 26.3 |

In 38 per cent the cases (32 cases) which were not well founded, registrants demonstrated that their fitness to practise was not impaired. The test is that current fitness to practise is impaired and so is based on a registrant's circumstances at the time of the hearing. If registrants are able to demonstrate insight and can show that any shortcomings have been remedied, panels may not find fitness to practise currently impaired.

In some cases, even though the facts may be judged to amount to the ground of the allegation (eg misconduct, lack of competence), a panel may determine that the ground does not amount to an impairment of current fitness to

practise. For example, if an allegation was minor in nature or an isolated incident, and where reoccurrence is unlikely.

In other cases the facts of an allegation may not be proved to the required standard (the balance of probabilities). This may be due to the standard or nature of the evidence before the Panel. We review any cases that are not well founded on facts to explore if an alternative form of disposal would have been appropriate. We continue to monitor the levels of not well founded cases to ensure that we are utilising our resources appropriately, and that we minimise the impact of public hearings on the parties involved.

**Not well founded case study**

A Panel of the Conduct and Competence Committee considered an allegation that the registrant, a radiographer, used incorrect levels of compression force while conducting mammograms.

The Panel heard evidence from the registrant's employer that over the period of a year the registrant had used compression force over that set out in NHS and the employer's protocols. The employer stated that aside from the compression issue, the registrant was professional in her practice and it had therefore considered that the registrant's difficulties with compression levels may have been a training issue. However, once the full extent of the issues were identified through an audit, the employer undertook a formal investigation which resulted in the registrant's dismissal.

The Panel was also given a detailed statement from the registrant which addressed the allegations and outlined the work she had undertaken since her dismissal. The registrant said that her difficulties with compression arose following the introduction of the new digital machinery and conceded that, having initially checked the compression levels being applied during mammograms using the digital machinery, she should have made further checks after making manual adjustments. The registrant told the Panel that she now checks the levels at least three times for each service user and carries out regular self-audits.

Since her dismissal, the registrant has worked for another employer and her current line manager gave evidence to the Panel by telephone. They stated that they were impressed by the registrant's level of honesty and that they did not currently have any cause for concern.

After taking into account all the evidence and the registrant's full admission, the Panel found all but one of the particulars proved. It also found that the proven facts amounted to misconduct as it was the registrant's responsibility to ensure that her knowledge and skills in using digital machinery were adequate to ensure a safe level of professional service.

When deciding whether the registrant's fitness to practise is impaired, the Panel took note of the positive references from senior practitioners who were appointed to monitor her work whilst she was under investigation. The

registrant also submitted testimonials from other colleagues who had worked with her since she was dismissed. The Panel gave particular consideration to the testimonial from the registrant's current line manager who stated that her current level of knowledge and skills were evidence of the full remediation of her difficulties with excessive compression. The Panel was therefore satisfied that the registrant had remediated her failings in respect of her misconduct as she demonstrated a high degree of insight through retraining and self-reflection.

The Panel then had to consider whether public confidence in the radiography profession would be undermined if a finding of impairment were not made. The Panel concluded that despite the misconduct occurring over a long period of time; when balanced with the absence of service user complaints and the contributions that the registrant made to her employer and subsequent places of work; positive testimonials from colleagues and service users; and the testimonial made by their line manager, the Panel concluded that public confidence in the radiography profession would not be undermined if a finding of impairment were not made.

The Panel therefore determined that the allegation of fitness to practise impairment by reason of misconduct was not well founded.

## Disposal of cases by consent

The HCPC's consent process is a means by which the HCPC and the registrant concerned may seek to conclude a case without the need for a contested hearing. In such cases, the HCPC and the registrant consent to conclude the case by agreeing an order of the nature of which the Panel would have been likely to make had the matter proceeded to a fully contested hearing. The HCPC and the registrant may also agree to enter into a Voluntary Removal Agreement, whereby the HCPC allows the registrant to remove themselves from the HCPC Register on the basis that they no longer wish to practise their profession and fully admit the allegation that has been made against them. Voluntary Removal Agreements have the effect of treating the registrant as if they were subject to a striking off order.

Cases can only be disposed of in this manner with the authorisation of a Panel of a Practice Committee.

In order to ensure the HCPC fulfils its obligation to protect the public, neither the HCPC nor a Panel would agree to resolve a case by consent unless they are satisfied that:

- the appropriate level of public protection is being secured; and
- doing so would not be detrimental to the wider public interest.

The HCPC will only consider resolving a case by consent:

- after an Investigating Committee Panel has found that there is a 'case to answer', so that a proper assessment has been made of the nature, extent and viability of the allegation;

- where the registrant is willing to admit the allegation in full (a registrant's insight into, and willingness to address failings are key elements in the fitness to practise process and it would be inappropriate to dispose of a case by consent where the registrant denies liability); and

- where any remedial action agreed between the registrant and the HCPC is consistent with the expected outcome if the case was to proceed to a contested hearing.

The process may also be used when existing conditions of practice orders or suspension orders are reviewed. This enables orders to be varied, replaced or revoked without the need for a contested hearing.

In 2015–16, thirty six cases were concluded via the HCPC's consent arrangements at final hearing. This is an increase of seven from the previous year.

Further information on the process can be found in the Practice Note Disposal of cases by consent practice note at www.hcpc-uk.org/publications/practicenotes

**Consent case study**

Consent to a three year conditions of practice order was granted in relation to a speech and language therapist who was found to have deficiencies in her record keeping, for which she had been through her employer's capability procedure.

The matter had not previously been considered at a substantive hearing of a Panel of the Conduct and Competence Committee however the Panel were satisfied that granting the consent order rather than having a contested hearing would not be detrimental to the public interest in this case.

The Panel was also satisfied that the proposed conditions for a period of three years provided the appropriate level of public protection and represented a proper disposal of the case. The Panel noted that the registrant had behaved responsibly by admitting her shortcomings and had shown insight throughout the employer's process and the fitness to practice process.

## Discontinuance

Occasionally, after the Investigating Committee has determined that there is a 'case to answer' in respect of an allegation, further and objective appraisal of

the detailed evidence which has been gathered since that decision was made may reveal that it is insufficient to sustain a realistic prospect of all or part of the allegation being 'well founded' at a final hearing.

Where such a situation arises, the HCPC may apply to a panel to discontinue all (ie discontinued in full) or part (ie discontinued in part) of the proceedings.

In 2015–16, following applications by the HCPC, allegations were discontinued in full in 26 separate cases by a panel. This is an increase of 11 of cases from 2014–15 when allegations were discontinued in full in 15 separate cases.

**Conduct and Competence Committee panels**

Panels of the Conduct and Competence Committee consider allegations that a registrant's fitness to practise is impaired by reason of misconduct, lack of competence, a conviction or caution for a criminal offence, or a determination by another regulator responsible for health or social care. Some cases may have a combination of these reasons for impairment in their allegations.

**Misconduct**

Consistent with previous years, in 2015–16, the majority of cases heard at a final hearing related to allegations that the registrant's fitness to practise was impaired by reason of their misconduct. Some cases also concerned other types of allegations concerning lack of competence or a conviction. Some of the misconduct allegations that were considered included:

- attending work under the influence of alcohol;
- bullying and harassment of colleagues;
- breach of professional boundaries with service users or service user family members;
- breach of confidentiality;
- misrepresentation of qualifications and / or previous employment;
- failure to communicate properly and effectively with service users and / or colleagues;
- posting inappropriate comments on social media;
- acting outside scope of practise;
- falsifying service user records; and
- failure to provide adequate service user care.

The case studies below give an illustration of the types of issues that are considered where allegations relate to matters of misconduct. They have been based on real cases that have been anonymised.

More details about the decisions made by the Conduct and Competence Committee can be found on our website at www.hcpc-uk.org/complaints/hearings

**Misconduct case study 1**

An operating department practitioner received a three year caution order after a Panel of the Conduct and Competence Committee found that he had made a false entry in the controlled drugs book which amounted to dishonesty. The registrant was neither present nor represented at the hearing, however, in a written statement he admitted his actions.

Based on these admissions and having considered all the evidence including oral evidence from one witness, the Panel found the facts proven in all but one of the allegations.

The Panel was of the view that the registrant's conduct in making a false entry was deliberate and designed to mitigate the fact that he was unable to account for the missing drugs. The Panel felt that the registrant's conduct fell far short of what would be the proper course of action in the circumstances and decided the proven facts were sufficiently serious to amount to misconduct.

The Panel next considered whether the registrant's current fitness to practise was impaired by that misconduct. The Panel agreed this was a single, isolated incident and so the risk of repetition was low. However, the Panel felt the registrant had not fully remediated his actions and had demonstrated little insight into the impact on public confidence and in understanding the wider consequences of his actions. It was the Panel's view that public confidence in the profession and in the regulatory process would be undermined if a finding of impairment was not made in this case.

In determining the appropriate sanction the Panel considered the mitigating and aggravating factors. The mitigating factors were the remorse shown by the registrant and that he admitted his actions from the outset. There was nothing to suggest that it was anything other than an isolated incident of dishonesty and there were no issues of service user harm and no personal gain from the act. In addition, the registrant's written submission demonstrated to the Panel that he is committed to his ongoing development and to his profession. The aggravating factors were that the registrant had been dishonest which the Panel felt breached a fundamental principle of the profession. Further, the Panel were of the view that the registrant had not demonstrated full insight or that he had fully remediated his actions.

The Panel found that to take no further action would not be sufficient to address the wider public interest considerations. The Panel next considered a caution order and noted that such an order may be appropriate where the lapse is isolated or minor in nature, there is a low risk of repetition and registrant has shown insight and taken remediation. The Panel was satisfied the registrant had demonstrated some insight and remediation. It also found that there was no risk of repetition. Although the Panel found dishonesty, it was of the view that the level of dishonesty is at the lower end of the spectrum. In these circumstances, the Panel concluded a three year caution order would be the appropriate and proportionate sanction in this case.

**Misconduct case study 2**

A chiropodist / podiatrist registrant was struck off the Register, after a Panel of the Conduct and Competence Committee found that he had prescribed medicines outside of his scope of practise. In addition to this, 55 patient records were reviewed and found to be inaccurately documented or missing data.

The registrant had not engaged with the HCPC since he was first referred and was neither present nor represented at the hearing.

The Panel was of the view that the registrant had dishonestly and deliberately purported to be able, trained and qualified to prescribe medication when he was not so trained or qualified to do so. By doing this he put himself into a position of considerable responsibility as well putting service user safety and health at risk. In the Panel's view this was serious and amounted to misconduct.

In considering the registrant's current fitness to practise the Panel took note that the registrant had chosen not to engage in the process and had expressed limited regret or remorse for his behaviour. In the Panel's judgement the registrant's actions brought the profession into disrepute. The Panel concluded that with no information from the registrant of any kind, his fitness to practise was impaired.

In determining the appropriate sanction the Panel considered the aggravating and mitigating factors. The mitigating factors included the registrant's long, blemish-free career until these matters, no service user was actually harmed as a result of his misconduct and a degree of work pressures. The aggravating factors included the long period of deceit by the registrant who was in a senior position with many years' experience, the considerable risk of potential harm to service users, no insight, remorse or regret expressed and as these were not isolated events. In the Panel's judgement the aggravating factors clearly outweighed the mitigating factors.

Taking the above into account, the Panel determined that a failure to restrict the registrant's practice would leave the public at considerable risk. It also determined that a conditions of practice order was not appropriate as the registrant's lack of engagement and insight made it impossible to construct meaningful and workable conditions. The Panel next considered a suspension order and was of the view that even the maximum period of 12 months would not mark the seriousness of the registrant's failings as he has dissociated himself from the process and is in denial about his acts of deceit.

For the above reasons the Panel felt they had no other option but to make a striking off order.

**Lack of competence**

In 2015–16, lack of competence allegations were most frequently cited as the reason for a registrant's fitness to practise being impaired after allegations of misconduct. This is consistent with previous years.

Some of the lack of competence allegations considered included:

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

The case studies below give an illustration of the types of issues that are considered where allegations relate to a lack of competence. They have been based on real cases that have been anonymised.

More details about the decisions made by the Conduct and Competence Committee can be found on our website at www.hcpc-uk.org/complaints/hearings

**Lack of competence case study 1**

An occupational therapist was suspended from the Register for a period of twelve months after a Panel of the Conduct and Competence Committee found wide ranging failings in her competency in that she did not display the basic skills required of an occupational therapist.

The registrant was present and represented and provided evidence during the course of the hearing. The Panel also heard live evidence from three witnesses who had previously worked with the registrant. The Panel found that the registrant's evidence was on occasion inconsistent and was concerned that the registrant was not able to offer a valid explanation for all of the alleged incidents.

Having listened to the witnesses and the registrant, the Panel found the majority of the allegations proven and that the allegations amounted to a lack of competence rather than misconduct. The Panel was of this view as despite appropriate training and significant support from her employer, the registrant's standard of professional performance was low across a broad range of occupational therapist activities.

The registrant raised an issue with her health in mitigation. Whilst there was some evidence to support the impact of her health condition on certain areas of her practice such as report writing and record keeping, the Panel did not have any evidence to suggest that the registrant's health condition impacted across other areas of her practice.

The Panel then went on to determine whether the registrant's fitness to practice was currently impaired. In making this decision, the Panel took into

account the registrant's serious and persistent failure to meet the standards expected and that although the deficiencies in the registrant's competence were capable of being remedied and she had tried hard to address her shortcomings there was no evidence that they had been fully remedied. The Panel was therefore bound to conclude that the registrant's errors will be repeated. In addition the Panel found that the registrant's actions had placed vulnerable service users at risk and that any member of the public who had heard the facts of the case would have genuine concerns about her ability to practise. For these reasons, the Panel found the registrant's fitness to practice to be currently impaired.

The Panel approached the question of sanction by first deciding whether any sanction was necessary. The Panel had found a lack of competence in relation to a wide range of the registrant's skill, in short, she was unable to practise as an autonomous practitioner. By way of mitigation the registrant had a health condition. In these circumstances, the Panel concluded it appropriate to impose a sanction and a sanction that must protect members of public and uphold the proper standards of the profession. The Panel felt it was not appropriate to impose a caution order in this case due to the risk of repetition. The Panel next considered a conditions of practice order and was of the view that the registrant's lack of professional competence were too wide ranging for appropriate, verifiable and realistic conditions to be made.

The Panel's remaining option was to impose a suspension. Whilst this would have serious implications for the registrant, the Panel's main concern is to ensure the safety of the public and to uphold standards in the profession. The Panel felt that a twelve month suspension order would allow adequate time for the registrant to consider whether she wished to return to the profession and if so, would allow time for her to take remedial actions to improve her practice.

**Lack of competence case study 2**

A social worker was suspended from the Register for a period of twelve months after a Panel of the Conduct and Competence Committee found failings in her support and supervision to foster carers, for which following a capability process, she had been dismissed by her employers.

The registrant was not present at the hearing and had not engaged with the fitness to practice process. The Panel heard evidence from one witness who was the registrant's team manager. Having considered the witness and documentary evidence, the Panel found the majority of the allegations proven and that the allegations amounted to a lack of competence rather than misconduct.

The Panel found that the registrant's behaviour fell well below the standards as outlined in the HCPC's Standards of conduct, performance and ethics and the Standards of proficiency for social workers in England. The Panel felt that the registrant's failings were better categorised as a lack of competence rather than misconduct as they were basic and took place over a long period of time. Further, as the registrant had been placed under a performance capability

review by her employer, but her performance had not improved to the standard expected.

The Panel went on to confirm that the registrant's fitness to practice was currently impaired. The Panel came to this decision as it had no information from the registrant to confirm whether she was still working as a social worker since her dismissal or whether she had any insight into or had remediated her failings. The risk of repetition was therefore high. Further, while there was no evidence that the registrant's actions had harmed any service users directly, there was indeed the potential for harm to be caused to vulnerable children placed in the care of the foster carers that the registrant was responsible for overseeing. Her performance also impacted on the reputation of profession.

In deciding on the appropriate sanction, the Panel proceeded on the basis that the fitness to practice process is not intended to be a punitive process, instead a sanction should only be imposed where it is required to protect the public and to maintain a proper degree of confidence in the profession and in the regulatory process. Taking this into consideration, as well as the aggravating factors of the persistent and long standing nature of the failings and the risk of repetition, the Panel determined that a caution order would not suffice, neither would a conditions of practice order as the registrant's lack of engagement made it impossible to formulate conditions that would adequately manage the risk.

The Panel's only remaining option therefore was to impose a suspension order for a period of 12 months. Whilst this would have serious implications for the registrant, the Panel's main concern is to ensure the safety of the public and to uphold standards in the profession. The Panel felt that a twelve month suspension would allow adequate time for the registrant to consider whether they wished to return to the profession and if so, would allow time to take remedial actions to improve their practice.

**Convictions / cautions**

Criminal convictions or cautions were the third most frequent ground of allegation considered by Panels of the Conduct and Competence Committee in 2015–16. The allegation either solely related to the registrants conviction / s or caution / s or they also included other matters amounting to another ground, for example, misconduct.

Some of the criminal offences considered included:

- theft;
- fraud;
- shoplifting;
- possession of drugs and / or possession of drugs with the intent to supply;
- receiving a restraining order and breach of a restraining order;
- driving under the influence of alcohol;

- failure to provide a specimen;
- assault (common or by beating);
- possession of pornographic images; and
- sexual offences.

More details about the decisions made by the Conduct and Competence Committee can be found on our website at www.hcpc-uk.org/complaints/hearings

**Conviction case study**

A paramedic was suspended from the Register for a period of one year after a Panel of the Conduct and Competence Committee considered an allegation that he was convicted of a drink drive offence.

The registrant was neither present nor represented at the hearing. However, the registrant had informed the HCPC of the charge against him and engaged in the regulatory process.

The Panel relied on the certificate of conviction as proof of the allegation. The Panel also noted that the registrant had admitted the conviction. The Panel therefore found the facts and grounds proven.

The Panel went on to consider whether the registrant's fitness to practise was currently impaired by reason of his conviction, taking into account both the personal and public component grounds.

In making its determination in relation to impairment, the Panel acknowledged that the purpose of the fitness to practice hearing is not to punish the Registrant for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise.

The Panel considered that the conviction of driving with excess alcohol is a serious matter involving an obvious risk to other road users. The Panel noted that the registrant had demonstrated real and developing insight into the matter and the impact of the conviction on his profession. The Panel also considered the registrant's resignation prior to conviction from his employment, and the fact he had self-referred to the HCPC, showed that he had reflected appropriately on his conviction. However, the Panel noted the absence of independent evidence to support the registrant's submission that the offence was a "one off" and that he was under stress at the time of the offence, as well as information regarding his current employment. The Panel therefore concluded that the registrant's fitness to practise was impaired.

The Panel also found that the registrant's fitness to practise was impaired on the basis that public confidence in the paramedic profession would be undermined if a finding of impairment was not made in this case.

In determining the appropriate sanction the Panel considered the aggravating and mitigating circumstances. The aggravating circumstances included the

level of alcohol involved and the clear risks of serious harm this presented to other road users. The Panel also took the view that the nature of the offence involved a risk to the reputation of the profession. The mitigating circumstances were the level of insight shown by the registrant and that prior to the matter he had an unblemished professional career. The Panel also took into account that the registrant had pleaded guilty to the offence, resigned from his employment and self-referred to the HCPC.

Taking the above into account, the Panel determined that the nature of the offence meant that to take no further action or to impose a caution order would not sufficiently protect the public or maintain confidence in the profession. The Panel also took the view that a Conditions of Practice Order was not appropriate as there would be no conditions which could be devised which be sufficiently relevant to the nature of the conviction that would be workable and measurable.

The Panel concluded that a 12 month Suspension Order was an appropriate and proportionate sanction. The Panel considered that the period of suspension would give the registrant time to reflect further on the offence and consider what steps he might wish to take to return to his profession. Further, that the public would be adequately protected and the case would send a message to other registrants about the likely consequences of drink driving.

**Health Committee panels**

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

The HCPC presenting officer at a Health Committee hearing will often make an application for proceedings to be heard in private. Often sensitive matters regarding registrants' ill-health are discussed and it may not be appropriate for that information to be discussed in public session.

The Health Committee considered eighteen cases in 2015–16, this is ten more cases than in 2014–15. Of those cases four resulted in a conditions of practice, two were not well founded, five resulted in voluntary removal by consent and seven resulted in suspension.

**Suspension and conditions of practice review hearings**

All suspension and conditions of practice orders must be reviewed by a Panel before they expire. A review may also take place at any time at the request of the registrant concerned or the HCPC.

Registrants may request reviews if, for example, they are experiencing difficulties complying with conditions imposed or if new evidence relating to the original order comes to light.

The HCPC can also request a review of an order if, for example, it has evidence that the registrant concerned has breached any condition imposed by a panel.

In reviewing a suspension order, the panel will look for evidence to satisfy it that the issues that led to the original 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 may:

- extend the existing order or
- replace it with another order.

In 2015–16, 202 review hearings were held. Table 23 shows the decisions that were made by review panels in 2015–16. Similar to the final hearing stage, the HCPC and the registrant concerned may seek to conclude a review case without the need for a contested review hearing. In 2015–16, six of the review cases (3%) were disposed of using voluntary removal agreements.

**Table 23 Review hearing decisions**

| | Adjourned / part heard | Article 30(7) | Caution | Conditions of practice | Order revoked | Struck off | Suspension | Voluntary removal (consent) | Total |
|---|---|---|---|---|---|---|---|---|---|
| Arts therapists | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Biomedical scientists | 1 | 0 | 1 | 4 | 2 | 2 | 6 | 1 | 20 |
| Chiropodists / podiatrists | 0 | 0 | 0 | 1 | 0 | 4 | 1 | 0 | 7 |
| Clinical scientists | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Dietitians | 0 | 0 | 0 | 1 | 1 | 1 | 2 | 2 | 7 |
| Hearing aid dispensers | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 3 |
| Occupational therapists | 1 | 0 | 1 | 3 | 4 | 3 | 5 | 0 | 17 |
| Operating department practitioners | 1 | 0 | 0 | 1 | 2 | 2 | 10 | 1 | 17 |
| Orthoptists | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| Paramedics | 3 | 0 | 0 | 4 | 3 | 5 | 6 | 0 | 20 |
| Physiotherapists | 0 | 0 | 2 | 2 | 2 | 3 | 3 | 0 | 14 |
| Practitioner psychologists | 0 | 0 | 0 | 0 | 1 | 1 | 4 | 0 | 10 |
| Prosthetists / orthotists | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Radiographers | 0 | 0 | 0 | 0 | 2 | 4 | 2 | 0 | 10 |
| Social workers | 0 | 1 | 2 | 2 | 17 | 12 | 25 | 1 | 66 |
| Speech and language therapists | 0 | 0 | 0 | 4 | 4 | 2 | 1 | 0 | 10 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| **Total** | **6** | **1** | **26** | **44** | **38** | **40** | **65** | **6** | **202** |

Tables 24 and 25 set out the outcomes of the reviews of the suspension and conditions of practice orders in the period 2015–16

**Table 24 Suspension orders**

| Review activity | Number | % |
|---|---|---|
| Suspension reviewed, suspension confirmed | 60 | 46.9 |
| Suspension reviewed, replaced with conditions of practice | 12 | 9.4 |
| Suspension reviewed, struck off | 34 | 26.6 |
| Suspension reviewed, caution imposed | 1 | 0.8 |
| Suspension reviewed, removed by consent | 3 | 2.3 |
| Suspension reviewed, no further action | 18 | 14.1 |
| **Total** | 128 | 100 |

**Table 25 Conditions of practice orders**

| Review activity | Number | % |
|---|---|---|
| Conditions reviewed, replaced with suspension | 5 | 7.6 |
| Conditions reviewed, struck off | 6 | 9.1 |
| Conditions reviewed, conditions confirmed | 7 | 10.6 |
| Conditions reviewed, conditions varied | 25 | 37.9 |
| Conditions reviewed, no further action | 20 | 30.3 |
| Conditions replaced, removed by consent | 3 | 4.5 |
| **Total** | 66 | 100 |

Four suspension order review and three conditions of practice review hearings were adjourned, part heard and therefore do not appear in Tables 24 and 25.

## Restoration hearings

A person who has been struck off the HCPC Register and wishes to be restored to the Register, can apply for restoration under Article 33(1) of the Health and Social Work Professions Order 2001.

A restoration application cannot be made until five years have elapsed since the striking off order came into force. In cases where the striking off decision was made by the General Social Care Council that period is reduced to three years. In addition, if a restoration application is refused, a person may not make more than one application for restoration in any twelve-month period.

In applying for restoration, the burden of proof is upon the applicant. This means it is for the applicant to prove that he or she should be restored to the Register and not for the HCPC to prove the contrary. The procedure is generally the same as other fitness to practise proceedings, however in accordance with the relevant procedural rules, the applicant presents his or her case first and then it is for the HCPC presenting officer to make submissions after that.

If a Panel grants an application for restoration, it may do so unconditionally or subject to the applicant:

- meeting the HCPC's 'return to practice' requirements; or
- complying with a conditions of practice order imposed by the Panel.

In 2015–16, eight applications for restoration were heard, of which five were granted restoration to the Register.

## The role of the Professional Standards Authority and High Court cases

The Professional Standards Authority (PSA) is the body that promotes best-practice and consistency in regulation by the UK's nine health and care regulatory bodies.

The PSA 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 the decision is unduly lenient and that such a referral is in the public interest or if it is felt the decision not sufficient for the protection of the public.

In 2015–16, four HCPC cases were referred to the High Court by the PSA. One case was allowed by the High Court with agreement being reached to substitute the original caution order with a suspension order. In one case all parties consented for the matter to be referred to the Health Committee for redetermination. Two cases are still ongoing.

Seven registrants appealed the decisions made by the Conduct and Competence Committee. One appeal was withdrawn, two appeals were dismissed and two appeals were allowed by the High Court to be remitted back to a Panel for a decision on sanction. Two cases are still ongoing.

One judicial review application was made in 2015–16 which was dismissed.

The information set out above in relation to the status of the cases was correct at the time of writing this report in July 2016.

**Further Information**

**How to raise a concern**

If you would like to raise a concern about a professional registered by the HCPC, please write to us 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 concerns 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.hcpc-uk.org

## Appendix – Historical Statistics

### Table 1: Total number of cases received 2002–03 to 2015–16

| Year | Number of cases | Total number of registrants | % of registrants subject to complaints |
|---|---|---|---|
| 2002–03 | 70 | 144,141 | 0.05 |
| 2003–04 | 134 | 144,834 | 0.09 |
| 2004–05 | 172 | 160,513 | 0.11 |
| 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 |
| 2010–11 | 759 | 215,083 | 0.35 |
| 2011–12 | 925 | 219,162 | 0.42 |

| | | | |
|---|---|---|---|
| 2012–13 | 1,653 | 310,942 | 0.52 |
| 2013–14 | 2,069 | 322,021 | 0.64 |
| 2014-15 | 2,170 | 330,887 | 0.66 |
| 2015-16 | 2,127 | 341,745 | 0.62 |

## Table 2: Who raised concerns 2006–07 to 2015–16

*These are cases that were transferred from the British Psychological Society to the HPC

| Type of complaint | 2006-07 | % of cases | 2007-08 | % of cases | 2008-09 | % of cases | 2009-10 | % of cases | 2010-11 | % of cases | 2011-12 | % of cases | 2012-13 | % of cases | 2013-14 cases | % of cases | 2014-15 cases | % of cases | 2015-16 cases | ca |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Article 22(6) / anonymous | 35 | 10.9 | 63 | 14.8 | 64 | 13 | 108 | 13.9 | 166 | 21.9 | 284 | 30.7 | 58 | 3.5 | 77 | 3.7 | 65 | 3.0 | 57 | |
| BPS / AEP transfer* | N/A | N/A | N/A | N/A | N/A | N/A | 44 | 5.7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.0 | 0 | |
| Employer | 161 | 50 | 171 | 40.3 | 202 | 42 | 254 | 22.9 | 217 | 28.6 | 288 | 31.1 | 435 | 26.3 | 593 | 28.7 | 554 | 25.5 | 535 | |
| Other | 1 | 0.3 | 5 | 1.2 | 16 | 3 | 30 | 3.9 | 21 | 2.7 | 46 | 5 | 87 | 5.3 | 81 | 3.9 | 103 | 4.7 | 115 | |
| Other registrant / professional | 16 | 5 | 42 | 9.9 | 56 | 12 | 60 | 7.8 | 75 | 9.9 | 52 | 5.6 | 99 | 6 | 78 | 3.8 | 71 | 3.3 | 51 | |
| Police | 31 | 9.6 | 35 | 8.3 | 36 | 7 | 39 | 5.1 | 25 | 3.3 | 27 | 3 | 27 | 1.6 | 37 | 1.8 | 15 | 0.7 | 20 | |
| Professional body | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 21 | 1.3 | 14 | 0.7 | 21 | 1.0 | 10 | |

| | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Public** | **78** | **24.2** | **108** | **25.5** | **109** | **23** | **237** | **30.7** | **255** | **33.6** | **228** | **24.6** | **634** | **38.3** | **793** | **38.3** | **988** | **45.5** | **910** |
| **Self referral** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **N/A** | **292** | **17.7** | **396** | **19.1** | **353** | **16.3** | **429** |
| **Total** | **322** | **100** | **424** | **100** | **483** | **100** | **772** | **100** | **759** | **100** | **925** | **100** | **1653** | **100** | **2069** | **100** | **2170** | **100** | **2127** |

## Table 3: Cases by profession 2005–06 to 2015–16

| Profession | 2005–06 | 2006–07 | 2007–08 | 2008–09 | 2009–10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Arts therapists** | 2 | 4 | 16 | 8 | 5 | 4 | 4 | 7 | 4 | 11 | 8 |
| **Biomedical scientists** | 21 | 18 | 26 | 46 | 39 | 37 | 66 | 37 | 50 | 36 | 47 |
| **Chiropodists / podiatrists** | 62 | 38 | 40 | 62 | 76 | 78 | 55 | 53 | 71 | 56 | 56 |
| **Clinical scientists** | 3 | 2 | 6 | 8 | 4 | 10 | 9 | 9 | 3 | 6 | 7 |
| **Dietitians** | 7 | 6 | 14 | 1 | 12 | 9 | 12 | 12 | 21 | 15 | 17 |
| **Hearing aid dispensers** | 0 | 0 | 0 | 0 | 0 | 44 | 19 | 25 | 22 | 18 | 18 |
| **Occupational therapists** | 38 | 40 | 45 | 55 | 78 | 62 | 95 | 74 | 105 | 97 | 93 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Operating department practitioners** | 19 | 22 | 38 | 55 | 38 | 39 | 63 | 45 | 63 | 60 | 55 |
| **Orthoptists** | 0 | 1 | 3 | 0 | 2 | 0 | 2 | 2 | 2 | 2 | 1 |
| **Paramedics** | 43 | 81 | 94 | 99 | 163 | 188 | 252 | 262 | 266 | 231 | 239 |
| **Physiotherapists** | 79 | 52 | 85 | 95 | 126 | 104 | 119 | 122 | 134 | 133 | 139 |
| **Practitioner psychologists** | N/A | N/A | N/A | N/A | 149 | 118 | 138 | 180 | 157 | 157 | 146 |
| **Prosthetists / orthotists** | 3 | 3 | 3 | 6 | 7 | 1 | 2 | 1 | 2 | 2 | 4 |
| **Radiographers** | 27 | 44 | 32 | 34 | 47 | 40 | 58 | 56 | 59 | 80 | 87 |
| **Social workers** | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 734 | 1085 | 1251 | 1,174 |
| **Speech and language therapists** | 12 | 11 | 22 | 14 | 26 | 25 | 25 | 34 | 25 | 15 | 36 |
| **Total** | **316** | **322** | **424** | **483** | **772** | **759** | **919** | **1,653** | **2,069** | **2,170** | **2,127** |

**Table 4: Cases by route to registration 2006–07 to 2015–16**

| Route to registration | 2006-07 | % of cases | 2007-08 | % of cases | 2008-09 | % of cases | 2009-10 | % of cases | 2010-11 | % of cases | 2011-12 | % of cases | 2012-13 | % of cases | 2013-14 cases | % of cases | 2014-15 cases | % of cases | 2015-16 cases | c |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Grandparenting | 15 | 5 | 15 | 3.5 | 21 | 4.3 | 24 | 3 | 32 | 4 | 20 | 2 | 6 | 0.4 | 0 | 0 | 0 | 0 | 17 | |

| | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| International | 29 | 9 | 36 | 8.5 | 35 | 7.3 | 63 | 8 | 40 | 5 | 57 | 7 | 50 | 3 | 62 | 3 | 66 | 3 | 79 | |
| UK | 278 | 86 | 373 | 88 | 425 | 88.4 | 685 | 89 | 687 | 91 | 848 | 91 | 1597 | 96.6 | 2007 | 97 | 2104 | 97 | 2031 | 9 |
| Not known | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Total | 322 | 100 | 424 | 100 | 483 | 100 | 772 | 100 | 759 | 100 | 925 | 100 | 1,653 | 100 | 2069 | 100 | 2170 | 100 | 2127 | |

## Investigating Committee

### Table 5: Allegations where a case to answer decision was reached 2004–05 to 2015–16

| Year | % of allegations with case to answer decision |
|---|---|
| 2004–05 | 44 |
| 2005–06 | 58 |
| 2006–07 | 65 |
| 2007–08 | 62 |
| 2008–09 | 57 |
| 2009–10 | 58 |
| 2010–11 | 57 |
| 2011–12 | 51 |

| | |
|---|---|
| 2012–13 | 58 |
| 2013–14 | 53 |
| 2014–15 | 53 |
| 2015–16 | 63 |

**Table 6: Percentage case to answer, comparison of 2005–06 to 2015–16**

| | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **22(6)/Anon** | 58 | 86 | 61 | 49 | 69 | 72 | 50 | 76 | 64 | 53 | 73.3 |
| **BPS transfer cases*** | 0 | 0 | 0 | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Employer** | 81 | 84 | 84 | 81 | 80 | 82 | 69 | 73 | 68 | 68 | 72.6 |
| **Other** | 0 | 0 | 56 | 34 | 79 | 57 | 63 | 67 | 82 | 38 | 57.1 |
| **Other registrant / professional** | 60 | 46 | 77 | 67 | 62 | 29 | 50 | 29 | 31 | 45 | 84 |
| **Police** | 26 | 28 | 31 | 37 | 50 | 54 | 38 | 50 | 67 | 63 | 69.2 |
| **Public** | 18 | 33 | 29 | 22 | 22 | 22 | 17 | 19 | 46 | 24 | 32.7 |

***These are cases that were transferred from the British Psychological Society to the HPC

**Table 7: Representations provided to Investigating Committee Panel by profession 2006–07 to 2015–16**

| | Case to answer | | | | No case to answer | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Year | 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 | Total cases |
| 2006–07 | 40 | 79 | 28 | 147 | 3 | 66 | 4 | 73 | 220 |
| 2007–08 | 59 | 85 | 9 | 153 | 17 | 68 | 6 | 91 | 244 |
| 2008–09 | 61 | 131 | 14 | 206 | 21 | 115 | 13 | 149 | 355 |
| 2009–10 | 70 | 200 | 21 | 291 | 14 | 177 | 7 | 198 | 489 |
| 2010–11 | 84 | 185 | 25 | 294 | 10 | 195 | 13 | 218 | 512 |
| 2011–12 | 49 | 182 | 21 | 252 | 28 | 197 | 21 | 246 | 498 |
| 2012–13 | 86 | 186 | 29 | 301 | 18 | 176 | 28 | 222 | 523 |
| 2013–14 | 99 | 218 | 43 | 360 | 35 | 256 | 31 | 322 | 682 |
| 2014–15 | 136 | 256 | 40 | 433 | 28 | 301 | 48 | 377 | 810 |
| 2015–16 | 131 | 279 | 57 | 467 | 36 | 201 | 35 | 272 | 739 |

## Interim orders

### Table 8: Interim order hearings 2004–05 to 2015–16

| Year | Applications granted | Orders reviewed | Orders revoked on review | Number of cases | % of allegations where interim order was imposed |
|---|---|---|---|---|---|
| 2004–05 | 15 | 0 | 0 | 172 | 8.7 |
| 2005–06 | 15 | 12 | 1 | 316 | 4.7 |
| 2006–07 | 17 | 38 | 1 | 322 | 5.3 |
| 2007–08 | 19 | 52 | 3 | 424 | 4.5 |
| 2008–09 | 27 | 55 | 1 | 483 | 5.6 |
| 2009–10 | 49 | 86 | 6 | 772 | 6.3 |
| 2010–11 | 44 | 123 | 6 | 759 | 5.8 |
| 2011–12 | 49 | 142 | 4 | 925 | 5.3 |
| 2012–13 | 39 | 151 | 8 | 1653 | 2.4 |
| 2013–14 | 85 | 166 | 3 | 2069 | 4.6 |
| 2014–15 | 87 | 367 | 9 | 2170 | 4.0 |
| 2015–16 | 76 | 260 | 7 | 2127 | 3.6 |

## Final hearings

### Table 9: Number of hearings 2004–05 to 2015–16

| Year | Interim order and review | Final hearing | Review hearing | Restoration hearing | Article 30(7) | Total |
|---|---|---|---|---|---|---|
| 2004–05 | 25 | 66 | 11 | 1 | 0 | 103 |
| 2005–06 | 28 | 86 | 26 | 0 | 0 | 140 |
| 2006–07 | 55 | 125 | 42 | 0 | 0 | 222 |
| 2007–08 | 71 | 187 | 66 | 0 | 0 | 324 |
| 2008–09 | 85 | 219 | 92 | 0 | 0 | 396 |
| 2009–10 | 141 | 331 | 95 | 0 | 0 | 567 |
| 2010–11 | 171 | 404 | 99 | 2 | 1 | 677 |
| 2011–12 | 197 | 405 | 126 | 3 | 1 | 732 |
| 2012–13 | 194 | 228 | 141 | 1 | 1 | 565 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 2013–14 | 265 | 267 | 160 | 4 | 1 | 697 |
| 2014–15 | 332 | 351 | 166 | 5 | 0 | 854 |
| 2015–16 | 346 | 320 | 171 | 8 | 1 | 846 |

### Table 10: Representation at final hearings 2006–07 to 2015–16

| | Type of representation | | |
|---|---|---|---|
| Year | Registrant | Representative | None |
| 2006–07 | 13 | 46 | 43 |
| 2007–08 | 17 | 80 | 59 |
| 2008–09 | 21 | 74 | 80 |
| 2009–10 | 44 | 114 | 98 |
| 2010–11 | 41 | 160 | 113 |
| 2011–12 | 38 | 155 | 94 |
| 2012–13 | 31 | 102 | 95 |
| 2013–14 | 39 | 119 | 109 |
| 2014–15 | 71 | 114 | 166 |
| 2015–16 | 56 | 100 | 164 |

## Suspension and conditions of practice review hearings

### Table 11: Number of review hearings 2004–05 to 2015–16

| Year | Number of review hearings |
|---|---|
| 2004–05 | 11 |
| 2005–06 | 26 |
| 2006–07 | 42 |
| 2007–08 | 66 |
| 2008–09 | 92 |
| 2009–10 | 95 |
| 2010–11 | 99 |
| 2011–12 | 126 |
| 2012–13 | 141 |
| 2013–14 | 160 |
| 2014–15 | 236 |
| 2015–16 | 202 |