Agenda Item 13

Enclosure 10

Health and Care Professions Council
19 September 2018

Fitness to Practise case progression strategy

For approval

From John Barwick, Executive Director of Regulation and Brian James, Head of Fitness to Practise

Council, 19 September 2018

HCPC Case Progression Strategy

Executive summary and recommendations

Introduction

1. The Fitness to Practise process has up to nine separate stages. These stages are in series. Some of the stages allow closure of the case, either by HCPC employees, or by independent panels of a practice committee. Some of the stages are dictated in the detail of activity and duration, by our legislation.

2. As such, there is not a single intervention that will address the desire to expedite cases to conclusion, to our quality standards, and in an appropriate timescale to address the issues of concern. We are applying an operations management approach to ensure that each part of the process has sufficient resource to meet demand and quality standards, and that these activities are carefully directed simultaneously, so as not to create waves of activity in each of the stages that could contribute to increased length of time.

3. A key deliverable of the FTP Improvement Project, and the associated operational transformation work, is a Case Progression Strategy.

Current position

4. The Case Progression Strategy aims to set out how we will coordinate these activities, and how we will demonstrate that they are having an impact. As we already have a number of older cases in the system, the strategy will help us to target them for conclusion, but also assist with the projections of how the length of time profile will change in each stage of the process. It will also help to provide evidence for budget setting decisions over the next two budget cycles, and to demonstrate where any investment may be targeted to greatest effect.

5. As the overall process can take 18 months or more for a complex investigation that leads to a final hearing, and some of these cases have already passed the optimum case progression time, the strategy describes how we propose to monitor the flow of cases from stage to stage, even if they have not concluded. This is crucial information to determine if our efforts are having an effect, and to provide assurance to stakeholders that cases are advancing, even if they have further stages to complete.

6. This paper sets out the complexity of these pathways, but also demonstrates that more than a third of the open caseload has moved one of more steps in the period April to June 2018.

7. The strategy also sets out the ambitions for case progression, and the proposed milestone measurements as we progress towards meeting the KPI measures.

8. This strategy was compiled before the recent discussion with acting Chair and Chief Executive on the need for additional investment in FTP resources in the immediate term. A summary of this was previously circulated to Council members by the Interim Chair, and is included as part of Appendix 1. An update on progression with that resource allocation is also included.

9. Given the dynamic nature of receipt and progression of cases, a verbal update on further progress will be given at the Council meeting.

Decision

The Council is asked to endorse the aims of HCPC's Case Progression Strategy, and the proposed approach to prioritizing and monitoring case throughput.

The Council is also asked to formally approve the additional resources provisionally allocated.

Resource implications

There are no additional resources beyond those discussed in the paper.

Financial implications

These are set out in the paper, and total £500,000.

Appendices

Appendix 1 – Fitness to Practise assumptions and resources update
Appendix 2 - HCPC Case Progression Strategy 2018-19

Date of paper
5 September 2018

Appendix 1 – Fitness to Practise assumptions and resources update

Introduction

1. On 8 August 2018, the Executive Director of Regulation and Head of Fitness to Practise met with the Interim Chair, and the Chief Executive and Registrar, in order to look at Fitness to Practise (FTP) processes, projections and potential areas of investment.

2. Following this meeting, additional resource was agreed in principle, to target the growing number of open cases in the earliest stages of the system. The focus of this additional resource would be on receiving and managing new concerns, rapid collection and assessment of information, leading to high quality closures or drafting of allegations for consideration by an Investigating Committee Panel.

3. This update sets out progress with these activities, and underpins the projections set out in the Case Progression Strategy.

4. As this is a current and dynamic area of work, a further verbal position update will be given at Council. Furthermore, a detailed workshop for Council members is planned in early October. This will provide further analysis of the position and application of the resource.

Summary of proposed additional resource

5. The following is a precis of the email sent by the Interim Chair to Council Members:

- 2 team members to manage logging and general enquiries (releasing Case Managers to progress cases) £33k part year
- 1 additional Case Manager to ensure case assessment and closure pre-transfer £17k part year
- 1 additional Team Leader role (to provide additional closure approval capacity) £18k part year
- 2 Case Managers to enhance investigations and allegation drafting £33k part year
- 1 additional Lead Case Manager (to assist closures and approvals) £17k part year
- Provision for overtime for existing team members, capped less than 10hr/wk £49k part year
- an additional £320K for additional cases to be outsourced to external legal investigators.
- We anticipate there will be additional hardware and software costs associated with the additional staff which would bring the total additional funding required to approximately **£500k.**

Targeting the resource

6. A chief aim of the additional resource is in managing the receipt, logging and initial assessment of the new cases. The volatility of the number of cases is not within HCPC's control; we must receive and process cases as they arrive.

7. The amount of cases varies from month to month. In July 2018, there were 256 new cases received. In August 2018, there were 158. Overall the average number of cases received per month across the last 8 months is over 200. This is an increase on the previous year's average of 183. Cumulatively, over a year, this amounts to 240 more cases, which in turn equates to around 5 full time Case Manager posts.

8. It is important to note that whilst the impact of this volatility on a month by month basis is significant, the long term forecast of cases remains stable over more than 7 years, and falling between 0.62 and 0.64% of the register. Our projections and resourcing assumptions therefore need to be both long- and short-term.

9. As cases must be logged and risk assessed on receipt, large variations in numbers results in work on other core activities being deferred. This has the effect of teams having to catch up later in the month, and can feel like priorities are constantly changing. This can be demotivating for the teams, and pace can affect the consistency of our approach.

10. We are therefore using additional resource to separate time-consuming (but important) general advice enquiry management, from case logging and initial assessment. This will not only help to manage time more effectively, but should improve the way we ensure we meet the accessibility standards of good regulation, by providing a consistent and consistently available advice route.

11. Once a case has been received and assessed, additional information is often required. We are adding resource to this initial investigative stage, and being more clear and robust in our use of article 25 powers, to request further information. This additional resource means that we can follow up and escalate as necessary, any requests for information to help us decide if the case should be closed or pass to an Investigating Committee.

12. We have already identified around 150 cases (8% of the open caseload) that are being pursued for further information. Once received, these cases can either be closed, or allegations drafted. The additional resource will allow us to ensure that the number of cases closed (because they don't meet the Standard of Acceptance, or by a panel of the ICP), is always equal or greater to the number that are received.

13. This approach is also going to be key to our progression strategy when the new Threshold Standard is implemented, as we envisage that more cases will be considered by an ICP than currently.

14. Further Case Management resource is being applied to enhance capacity in the allegation drafting stage. Having adjusted resource in the earliest stages to balance the number of newly received cases with those closed or progressed, the Investigations teams need to be resourced to receive around 100 new cases each month.

15. The challenge is therefore to identify and process at least this number of closures, or cases considered by ICP. This means cases need to be identified, worked up, approved and actioned.

16. We have developed our identification measures, using data from the Case Management System, and targeted a number of groups, based on age, stage in the process, risk and complexity. Each Case Team Manager receives a monthly update of their cases, with objectives for closures and progression to ICP. They then manage the workload of each of their team members.

17. In order to maintain and enhance good quality decisions, the additional resource is supporting a pilot of three Lead case Managers, who will provide instant access to technical and escalation advice. They will also provide additional capacity to sign off these decisions. A further activity is to search for and assess the appropriateness of closures from the open caseload.

18. All three Lead Case Managers are in post, and we currently have 100 cases ready to close, and a further 120 cases that are ready to have allegations drafted. This means that each month, the Case Teams know which cases to focus on, and the Case Team Managers can support and monitor the delivery.

19. Since April, we have closed 567 cases, and approved 286 allegations. We estimate that a further 400 cases closed or moved to the ICP stage will make an impact of around 1.5 to 2 months on the length of time of the caseload in the initial stages. Our approach is to focus on these cases until the end of the calendar year. We anticipate the open preICP caseload reducing from 1936 to around 1500-1600 cases by March 2019. Unless there is a change in the number of new cases received, this is likely to be the run rate of open cases until Social Workers transfer. We are therefore planning for resourcing at this level. The length of time of cases in the system, however, will be lower once these oldest cases are concluded.

20. We are aiming to use the additional resource to equalise the caseloads of team members to around 45-50. Currently, some team members have over 65 cases. The lower caseload would be more sustainable in the longer term, and will support better risk assessment and response, better communication with stakeholders, and enhanced quality decision-making.

21. We have removed non-core tasks from Case Managers to maximise their time on closures and drafting allegations. This includes using additional resources

to employ temporary case presenters. Not only does this enhance capacity to concentrate on core activities, but it assists with a plank of the improvement work, namely, the specific skills required for different roles, and the training required for consistent quality.

22. Adding additional Case Managers and technical support roles can be complex. We are reliant of temporary or fixed term workers. This has a lead time to find suitable candidates, train and induct them. Our salaries are lower than other regulators which means there is potential for existing team members to leave. Our additional resource has provided opportunities for existing team members to gain promotion, but this leaves vacancies in the Case Manager function, and dilutes the experience, which in turn requires more and closer management of junior team members.

23. There are also hidden costs in recruitment and agency costs, especially if we convert temporary staff to fixed term positions. We are working with colleagues in HR to ensure a reduced lead-time to new team members starting, and best value for HCPC.

24. In addition to the additional Case Manager resource, we have successfully sent 100 cases to external lawyers. Not only does this buy additional capacity, but it provides an experienced view on some of the older or more complex cases. Of those that were sent in July, we have had 6 cases closed and 2 scheduled for consideration at an ICP. We aim to have processed around 200 cases in this manner by the end of the financial year.

25. Additional activity also requires more panels to be listed and supported, and more bundles of information to be redacted and shared. We have bolstered our existing support teams to ensure that we can meet these increased demands, and maintain quality of the material.

- The Case Progression Strategy sets out how we propose to tackle the cases at each stage of the process. There are some encouraging signs of advancement:-
- The current median age of cases to going ICP is 14 months. Whilst this is outside the optimum case time, the cases about to go to ICP are currently a median of 10 months old.
- The median age of cases at final hearing remains higher than the optimum at 23 months. This is directly due to scheduling the oldest cases. Cases not yet listed for a hearing are currently at 18 months median.
- The top 25 % of oldest PreICP cases has a median age of 15 months (485 cases). The remaining 75% (1451 cases) has a median of 5 months.
- The oldest 5% (97 cases) have a median age of 28 months. These are likely to be complex Police or employer investigations, or involve health issues. It is unlikely that focussing on these cases would result in significant closures or progression. However the 394 next oldest cases have a median of 14 months. If we were to conclude these cases, the remaining caseload would have a median of 5 months.

26. A further update of the impact of the activity will be given at the Council meeting.

Appendix 2 - Case Progression Strategy 2018/19

Introduction

1. This document sets out the strategic approach that we will be taking in 2018/19 to improve the timeliness of our case progression. It identifies our aims and the steps we are taking to achieve these.

2. This strategy applies to 2018/19 only and will be kept under review through the year and changed as and when necessary. A strategy for 2019/20 onwards, which will build on the achievements we make this year, is being developed as part of the FTP Improvement Plan. This strategy will include any preparations for, or impacts felt from, the transfer of Social Workers to Social Work England.

3. This strategy is a key deliverable of the wider improvement work in FTP, and will provide the approach and framework for investment and monitoring activities.

Background

Professional Standard Authority (PSA)

4. Each year the PSA reviews our performance against the Standards of Good Regulation (Standard) and it concluded, for the first time, that we had not met Standard 6 in 2015/16[1]. This Standard remains unmet.

5. Standard 6 reads:

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

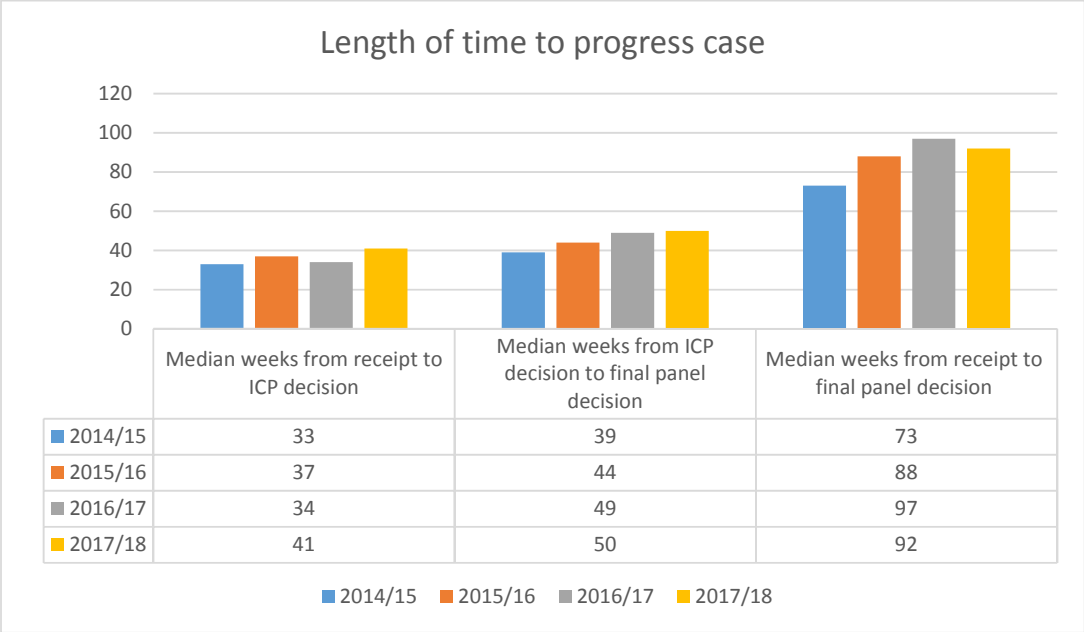
6. Whilst the PSA does not define the timeliness performance it requires in order to determine that Standard 6 is met, it did suggest in its report of our 2016/17 performance review that if we achieved a similar position to 2014/15 we may again meet Standard 6. This is, therefore, our overall objective. Given the volume and age of our existing caseload, it is difficult to accurately predict the position until the impact of the improvement work has had time to be measured. The aim of the strategy is to provide clear evidence of the flow of cases from the baseline position, assessed against PSA's standards, even if those cases are still live in the system. This strategy also provides the building blocks for us to work towards achieving our overall objective in 2019/20.

2014/15 performance

7. We report on our case progression timeliness to the PSA each quarter and it uses that data to assess our performance against Standard 6. Our performance against the PSA measures since 2014/15 is demonstrated below in Fig 1 and 2.

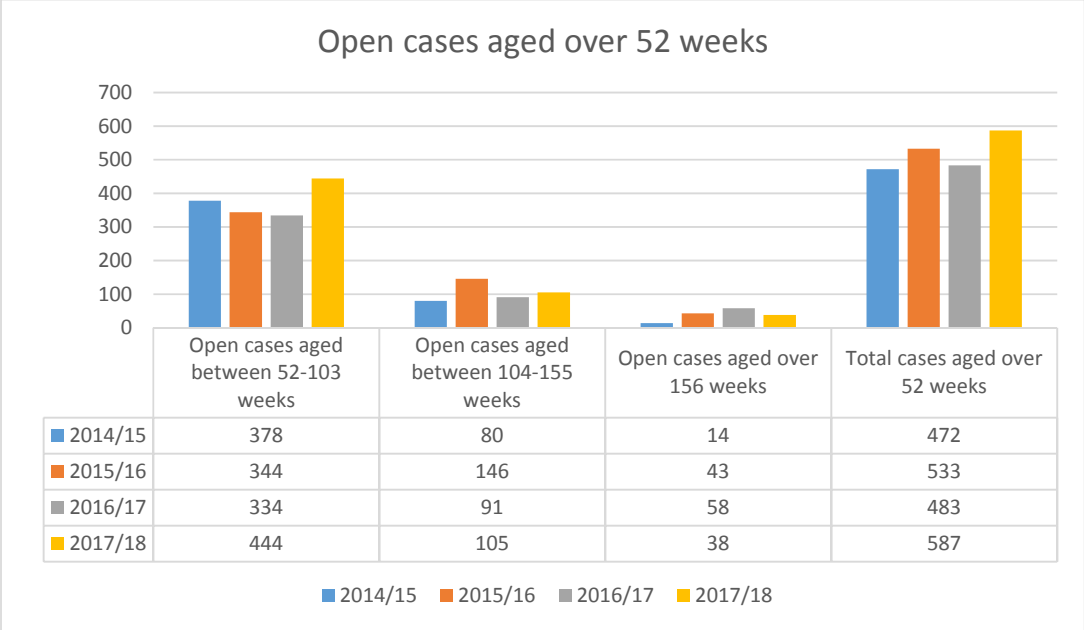
[1] PSA Annual Review of Performance 2015/16

Fig 1



	Median weeks from receipt to ICP decision	Median weeks from ICP decision to final panel decision	Median weeks from receipt to final panel decision
2014/15	33	39	73
2015/16	37	44	88
2016/17	34	49	97
2017/18	41	50	92

Fig 2



	Open cases aged between 52-103 weeks	Open cases aged between 104-155 weeks	Open cases aged over 156 weeks	Total cases aged over 52 weeks
2014/15	378	80	14	472
2015/16	344	146	43	533
2016/17	334	91	58	483
2017/18	444	105	38	587

Optimum case length of time

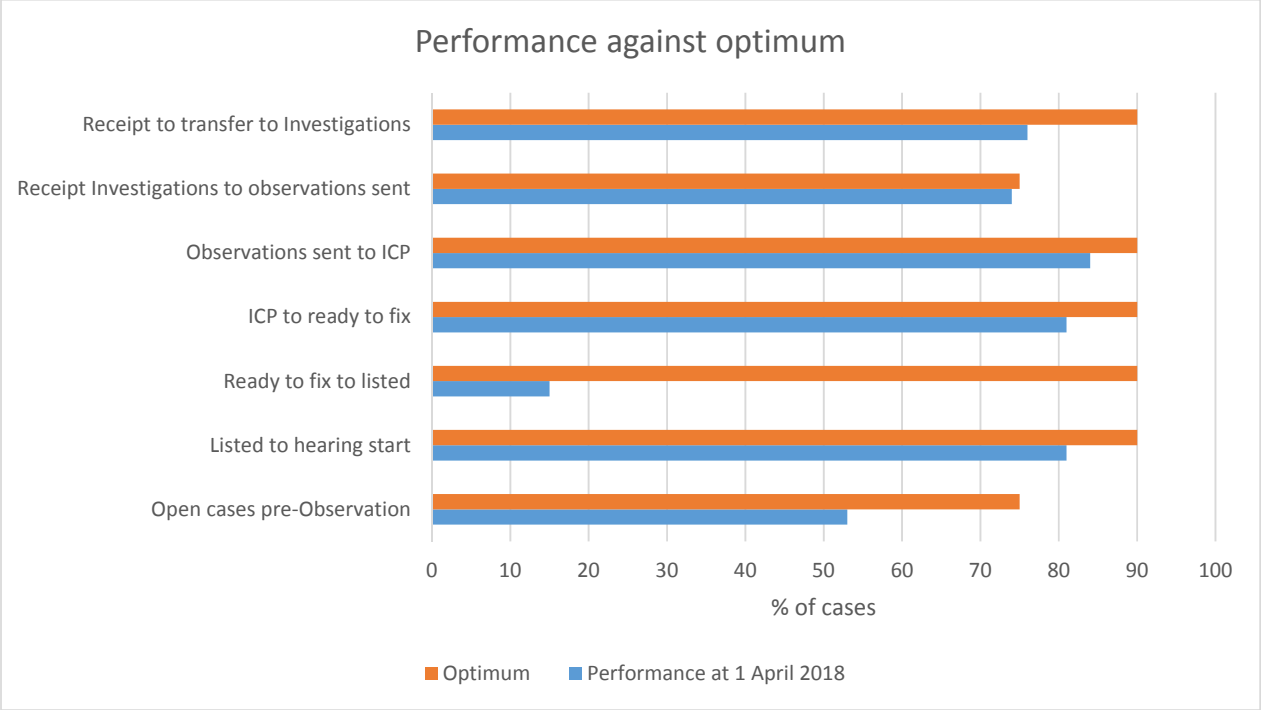
8. In response to the PSA's decision that we had not met Standard 6 in 2015/16, we developed the optimum case length of time. This identified that the overall optimum length of time a case could progress through the fitness to practise process was 74 weeks, broken down as follows:

Stage	Optimum time	% of cases within optimum
Receipt to transfer to Investigations team	9 weeks	90%
Receipt in Investigations to observations sent to registrant	17 weeks	75%
Observations sent to ICP	13 weeks	90%
Pre-ICP total	39 weeks	
ICP to ready to fix	13 weeks	90%
Ready to fix to listed	9 weeks	90%
Listed to hearing started	13 weeks	90%
Total	74 weeks	

9. The optimum case length of time also identified that 75% of the open caseload that was at the pre-observations sent to the registrant stage of the process should be less than 22 weeks old.

Performance against optimum

10. We continue to work towards the optimum case length of time and, at 1 April 2018, our performance against this measure was:



Key Performance Indicators (KPI)

11. In March 2018, Council agreed KPIs for the progression of fitness to practise cases, which are aligned to our 2014/15 performance and are:

    - Fitness to practise cases progressed from receipt to a decision by an ICP in a median time of 33 weeks
    - Fitness to practise cases progression from receipt to a final hearing decision in a median time of 73 weeks.

Fitness to Practise Process and constraints

12. Our fitness to practise process is defined by our legislation[2], which establishes a linear progression of cases, and a number of constraints and safeguards that ensure fairness to the registrant. These include defined notice periods and independent decision-making and mean that the length of time taken to progress cases through certain stages of our fitness to practise process cannot be shortened.

13. Our investigations are dependent on the co-operation of members of the public, who are often vulnerable, and other organisations providing us with the information we need. This often presents challenges and causes delays to the progression of our investigation and the listing of and progression of hearings.

14. Some cases cannot be progressed because they are subject to an investigation or legal proceedings by a superior authority. These are often criminal

[2] Health and Social Work Professions Order 2001 and Fitness to Practise Rules

investigations that would be prejudiced by us if we progressed our investigation.

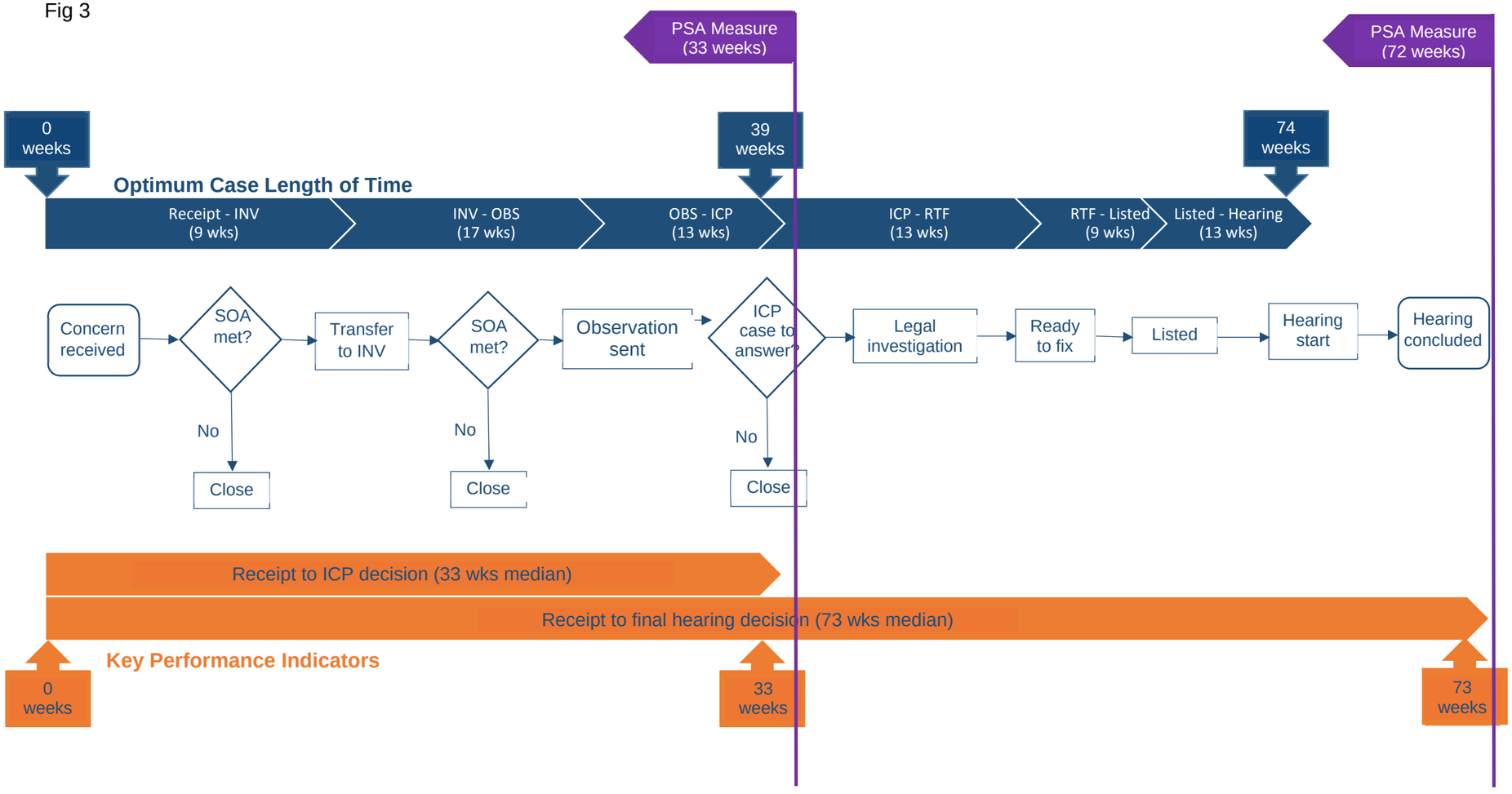
15. We have a limit on the financial and human resources available to us and operate a complex forecasting model to ensure that the volume of cases we move through our fitness to practise process remains within the available annual budget. We are, however, piloting a number of new approaches, with resources allocated in July 2018.

16. These factors are all things that will impact on the length of time it takes for cases to progress through our fitness to practise process. These factors also inform our optimum case length of time, KPIs and our case progression aims and objectives.

17. The fitness to practise process and timeliness measures are set out in Fig 3.

Fitness to Practise process and timeliness measures

Fig 3



Flow and volume of cases

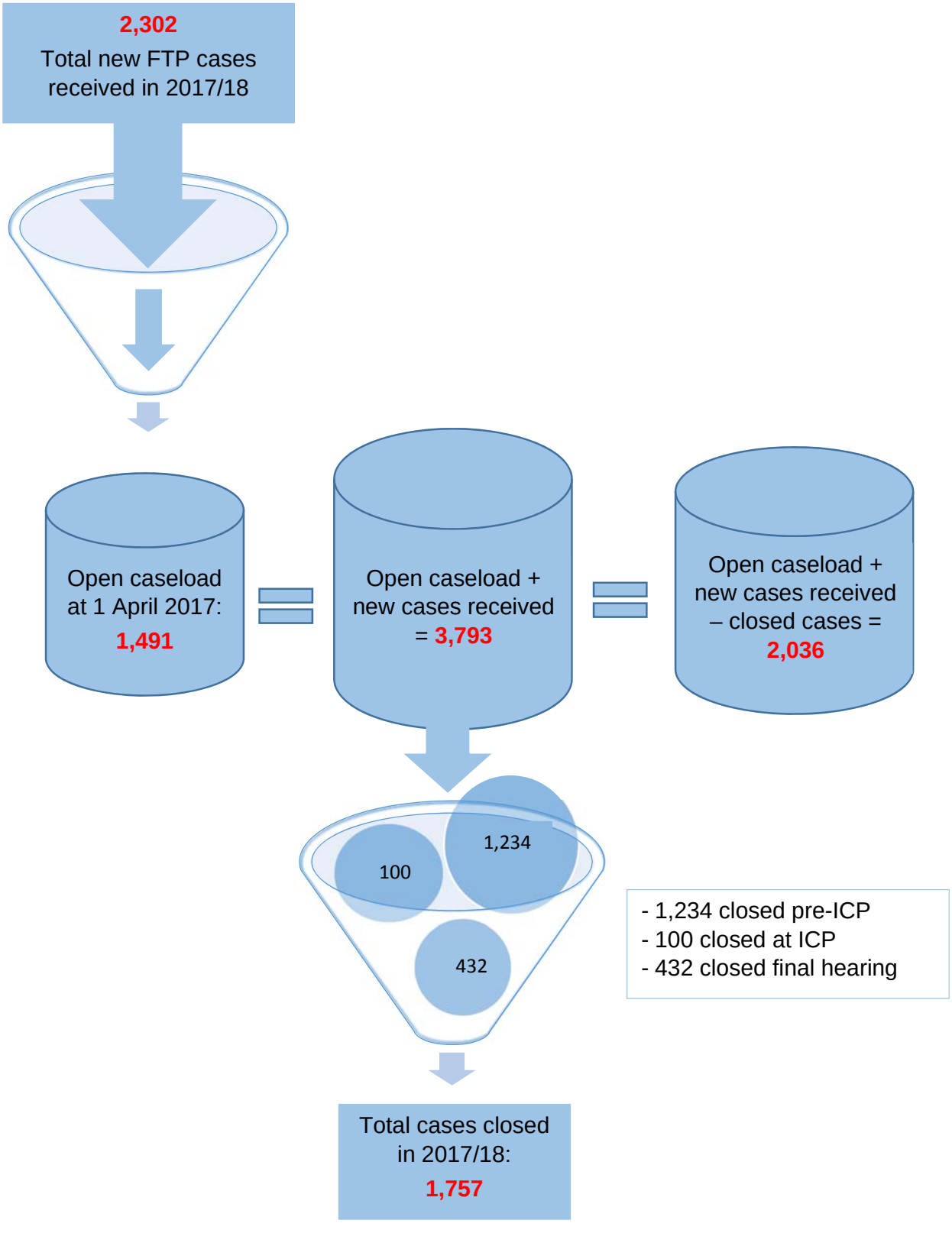
18. An understanding of the flow of cases through the fitness to practise process is important when considering this paper.

19. At the start of each year, we have an open caseload. At the start of 2017/18, our open caseload was 1,491 cases (69% were at the pre-ICP stage of the process and 31% at the post-ICP stage). During the year, we received 2,302 new cases and closed 1,757 cases. Our caseload balance at the end of 2017/18 was 2,036 (82% were at the pre-ICP stage of the process and 18% at the post-ICP stage), which was an increase almost 37%. Fig 4 demonstrates the flow of cases for 2017/18.

20. The volume of new cases we receive continues to increase. In 2017/18 we saw a 6% increase in the volume of new cases received compared to 2014/15. In 2017/18, the volume of cases we closed at the first stage of the process dropped significantly following the PSA's concerns about our application of the Standard of Acceptance. This decrease in activity was deliberate whilst we introduced a series of remedial measures, including enhanced approval and sign off processes, and re-training and support for case team members. Thirty-seven percent fewer cases were closed as not meeting the Standard of Acceptance in the second half of 2017/18 compared to the first half of the year. This increased the volume of cases being referred for investigation and needing to be prepared for and considered by the ICP. In 2017/18, the volume of cases at the investigation stage of our process increased by 65%. Our overall caseload increased by 36% in 2017/18.

Volume of cases flowing through the FTP process (based on 2017/18 data)

Fig 4



2018/19 strategy

21. To put ourselves back to our 2014/15 position, we need to achieve:

- A reduction in the median time it takes cases to progress from receipt to ICP by 8 weeks.
- A reduction in the median time it takes for cases to progression from ICP decision to a final panel hearing by 11 weeks.
- A 19% (115 cases) in the volume of cases aged 52 weeks and over, ensuring that 80% of the aged caseload falls within the 52 to 103 weeks category.

22. In 2018/19, we aim to:

- reduce our open pre-ICP case load by 17.5%
- reduce the age of our open pre-ICP case load from a median age of 22 weeks to 17 weeks

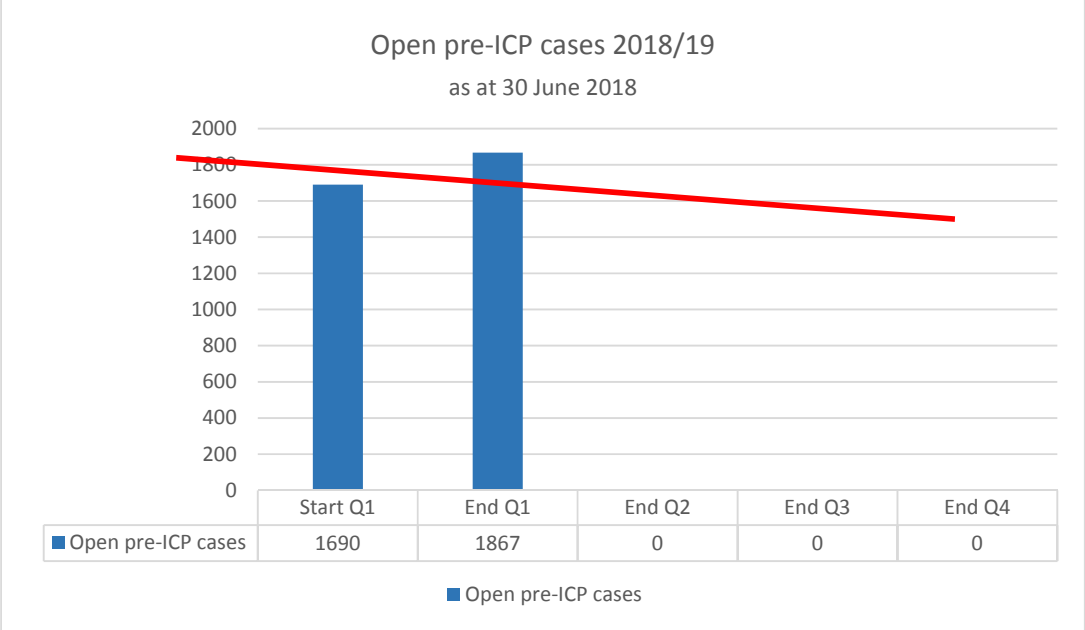
23. At the start of the year, 82% of our caseload was at the pre-ICP stage. Reducing the volume and age of cases at the front end of our process will provide the solid building blocks we need to achieve our overall objective.

What we need to achieve

24. At 1 April 2018, there were 1,690 cases open in pre-ICP. To bring this caseload to 1,400, we need to move 650 cases each quarter out of pre-ICP stage, either by closing or by referring these cases.

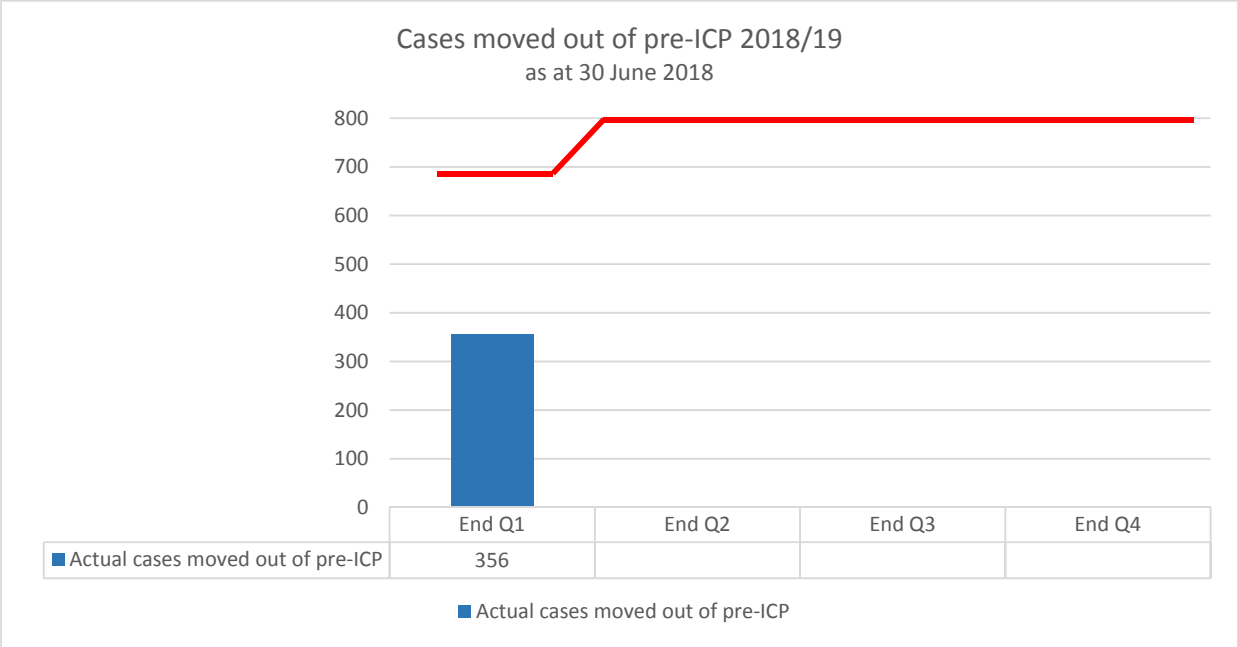
25. In fig 5, the red line identifies the starting caseload volume and a gradual route to our aim, which is to finish the year with no more than 1,400 cases open in the pre-ICP stage of our process.

Fig 5



26. In Q1, we moved 356 cases out of the pre-ICP stage. To remain on target to achieve our aim of reducing pre-ICP caseload by 17.5%, we need to move 748 cases out of pre-ICP stage in Q2, 3 and 4. This target is demonstrated by the red line in Fig 6.

Fig 6



How we will achieve this

27. We will achieve this by:

- Implementing the Case Progression Plan (March 2018), which provides for the progression of four distinct groups of cases:
    - group 1 cases – all cases that are eight weeks old (from receipt) and which are likely to result in a decision that the Standard of Acceptance is not met but further enquiry is required before that decision can be safely made, will be retained in Case Reception and Triage (CRT). The newly formed CRT Case Progression Team aim to conclude the necessary enquiries and make the SOA decision within 16 weeks from receipt. This will reduce the volume of cases referred to the Investigations Team.
    - group 2 – 25% of cases (approximately 60) that have met the SOA and have passed the optimum case length of time of sending the Observations to the registrant (26 weeks from receipt) will be outsourced to an external investigator.
    - group 3 – a proportion (approximately 20) of complex cases over nine months old will be outsourced to an external investigator for progression.
    - group 4 –
        - pre-ICP cases that are aged 104 weeks or older, from date of receipt, will be subject to reviews by the Head of Investigations who will ensure that there is a clear plan of action and timeline to progress the case and that the action plan is being implemented, as directed.
        - post-ICP cases that are aged 104 weeks or older, from date of receipt, will be subject to review by the Head of Case Progression and Conclusion who will ensure that there is a clear plan of action and timeline to progress the case and that the action plan is being implemented, as directed.
    - Clearly defining the priority cases for progression. The Head of Investigations will throughout the year provide a clear steer to the Investigation Team as to which cases should be prioritised for progression. These may be cases that are close to or are ready to be referred to the ICP or those that are close to or ready to close. Clear targets will be set for the volume of cases that are to be closed or referred, which will be informed by our operational management performance reporting and tools.
    - Recruitment and retention of case management staff:
        - we will deliver the Fitness to Practise Resource Plan, as approved by the Executive Management Team in October 2017, which provides for the recruitment of some additional case management staff
        - we have developed a new Lead Case Manager role in our Investigations Team and appointed three Lead Case Managers, whose focus is on mentoring and provision of support for Case Manager to ensure the effective management and progression of

cases. The addition of this role frees up our Case Team Managers who can focus on leading and managing their team and direct reports.
        - we are increasing the number of Case Managers we have in both our Case Reception and Triage and Investigations Teams. This will help to absorb the increase in both newly received cases and those requiring investigation.
- We will be increasing the volume of cases that we outsource for investigation by an external provider.
- Pre-ICP Interim Order (IO) cases:
    - Management of all or our open pre-ICP IO cases will be transferred to our Case Progression and Conclusion team. Moving these cases out of the overall pre-ICP caseload provides for greater scrutiny and improved progression of these cases. It also helps to reduce the pre-ICP caseload.
    - All potential IO application cases identified in Case Reception and Triage will be fast tracked to Case Progression and Conclusion. If the IO is not imposed, the case will be transferred to the Investigation Team.
    - At the point an IO is imposed in a case that is being managed by the Investigation Team, that case will transferred to Case Progression and Conclusion for progression.
    - IO cases that are ready to fixed will be prioritised by the Scheduling team and listed for a final hearing at the earliest opportunity.

28. In addition to these steps, which focus on the pre-ICP stage of the process, we will also improving our scheduling time. The Scheduling Team will increase the volume of final hearing scheduling activity from an average 62 to 96 final hearings actively being scheduled at any one time. Witnesses' dates to avoid will be obtained earlier in the process providing a more efficient scheduling process.

How we will measure performance improvements

29. The development of this strategy and the delivery of case progression plan both form part of the FTP Improvement Plan. This provides for the Project Board's oversight and quality assurance. The Board consists of HCPC senior management from both the Regulation and Policy and External Relations directorates.

30. Quarterly performance reporting on progression against the aims will be considered by the Fitness to Practise Department Management, with oversight from the Executive Director of Regulation and the Head of Fitness to Practise.

31. Careful monitoring of the volume and speed of the flow of cases through the process will be monitored by the fitness to practise Heads, to ensure that we prepare for and respond to increased volumes at different stages of the process and eliminate obstacles to their progression.

32. Monthly performance reporting on the volume, age and progression of fitness to practise cases will continue. This reporting is considered by our Senior Management Team and Council.

What we achieved in Q1 2017/18

33. Fig 7 shows the progression of cases out of the pre-ICP process that has been achieved in Q1 of 2018/19.

Progression of cases from their position in the process on 1 April 2018 to 30 June 2018 (Q1)

Fig 7