hcpc health & care professions council

Agenda Item 11

Enclosure 7

Health and Care Professions Council
25 September 2019

Fitness to Practise Annual Report

For approval

From Brian James, Head of Fitness to Practise

Fitness to Practise Annual Report 2018-19

Executive Summary

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 report includes statutory information that we are obliged to include: statistical information and a factual summary of fitness to practise activity for the period 1 April 2018 to 31 March 2019. In the report we aim to

- relate our work to how we protect the public;
- promote our standards of conduct, performance and ethics;
- educate the public on what behaviour is expected of professionals registered with the HCPC;
- identify potential learning for our registrants;
- apply plain language to make the report more engaging for all the stakeholders.

In relation to the visual presentation, the report will be produced with the graphics and the key points as a microsite (similar to the Annual report and accounts 2018- 19). This should make it more engaging for the target audience.

The text for the 2018-19 Fitness to Practise Annual Report is attached as Appendix 1.

After consideration by Council, the report will undergo final proofing, will be edited and formatted in HCPC house style and will be sent for design. The report will be published in electronic format only and made available on the HCPC website at the following page: http://www.hcpc-uk.org/publications/reports/.

Previous consideration	The draft report has been considered by the Tribunal Advisory Committee at its meeting of 17 September 2019.
Decision	The Council is asked to approve the text for the 2018-19 Fitness to Practise Annual Report, Appendix A, (subject to any necessary editorial or stylistic amendments).
Next steps	Following Council approval the report will be published to our website and disseminated to key stakeholders in accordance with the accompanying communications plan.

Strategic priority	Strategic priority 2: Ensure our communication and engagement activities are proactive, effective and informed by the views of our stakeholders
Risk	Strategic risk 3 - Failure to be a trusted regulator and meet stakeholder expectations.
Financial and resource implications	The production costs have been accounted for in the 2019-20 budget.
Author	Brian James, Head of Fitness to Practise brian.james@hcpc-uk.org

1 April 2018 to 31 March 2019

Protecting the public

Promoting professionalism

Fitness to Practise annual report 2019

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Executive summary

Welcome to our Fitness to Practise annual report for the period 1 April 2018 to 31 March 2019.

This report provides statistical information about our work and explains how this work protects the public and ensures our registrants meet our standards[1]. The report is written for informational and educational purposes only. We have included a link to a learning resource that looks at the outcomes of concluded fitness to practise (FTP) cases, to help current and future registrants to practise safely and effectively.

Across all 16 professions, we have seen a 5.3 per cent increase in the number of new FTP concerns we received. The number of individuals on our Register increased by 2.2 per cent. The proportion of registrants who had concerns raised about their fitness to practise remained relatively low, at 0.66 per cent, and only 0.06 per cent were subject to a sanction imposed at a final hearing.

A larger proportion (47 per cent compared to 42 last year) of the concerns we received this year were raised by members of the public. Registrants' employers continue to be the second largest source of concerns at 24 per cent. Registrants have an obligation to tell us about events that might raise a concern about their fitness to practise[2] and this year, 431 registrants notified us of such concerns, which constituted 18 per cent of concerns and is similar to the previous year.

Of the cases we progressed through the FTP process in 2018–19:

- we closed 1,805 as they did not meet our Standard of acceptance or Threshold policy respectively[3];
- Investigating Committee panels concluded 556 cases;
- 353 cases were concluded at final hearings; and
- 203 cases were concluded at review hearings.

We continue to experience a large volume of hearings activity, particularly review and interim order hearings as well as Investigating Committee Panel meetings. This activity amounted to 2,090 hearing days in total.

There have been a number of significant developments in the Fitness to Practise Department in the last twelve months.

We have concluded a major programme of work, our Fitness to Practise Improvement Project. This was designed to address the areas for improvement identified in the Professional Standards Authority performance review 2016–17. Some of the achievements of this programme are outlined below.

- We have implemented a new **Threshold policy for fitness to practise investigations**. This policy sets out our new approach to investigating FTP concerns in the early stages of the investigation process. The policy ensures that more serious

[1] Standards of conduct, performance and ethics and Standards of proficiency
[2] Standards of conduct, performance and ethics, paragraph 9.5
[3] The standard of acceptance is the threshold a concern about a registrant must meet before we will investigate it as an FTP allegation. Our Standard of acceptance policy was replaced by the Threshold policy on 14 January 2019.

Executive summary

and high-risk cases are prioritised and advanced. The Threshold policy for fitness to practise investigations replaced our previous Standard of acceptance policy and came into effect on 14 January 2019.

- We have implemented the **HCPC's approach to the investigation of health matters**[4]. This policy explains how we investigate concerns that a registrant's fitness to practise may be impaired because of their physical or mental health. It also sets out the factors we will take into account when assessing health matters and the types of information we might need.
- We have implemented a **case progression strategy**, designed to improve both the quality of allegations under consideration, and earlier consideration by the Investigating Committee Panel.
- We have developed e-learning materials to support our teams with the consistent application of the way we ask for new information, how we assess the weight of the evidence, and how we **assess and manage risks to ensure effective public protection**.
- We have reviewed our **resources and structure** including job descriptions and recruitment needs, to ensure we have the right skills mix to ensure the effective and efficient management of FTP cases.
- We have revised our **discontinuance of allegations and consent process** to ensure we balance public interest in our activities with the impact on the registrant of what can be a stressful process.
- We have implemented corporate Key Performance Indicators. These include targets for the length of time it takes to conclude the case at various stages of the FTP process.
- We published new self-referral guidance[5] that applies to all of our professions. It is designed to help our registrants decide when to refer any concerns about themselves to our Fitness to Practise Department. This guidance was part of our action plan following University of Surrey research about the prevalence of FTP concerns about social workers and paramedics.
- We implemented a new **Indicative sanctions policy**. This supports the quality of the decisions made at substantive final hearings. We have trained our panel members on the new policy, using case studies and an e-learning module. This was designed to equip them to ensure a more consistent decision-making process.
- We have begun gathering requirements for our new **case management system upgrade** in order to meet our current stakeholder and business needs.
- We have started to classify cases closed at each stage, so that we can develop intelligence about the types of cases we receive and process, the nature of the concerns, and how they apply across different professions. This forms part of a wider piece of work that will help the HCPC understand the **impact of fitness to**

[4] www.hcpc-uk.org/resources/policy/hcpcs-approach-to-the-investigation-of-health-matters/
[5] www.hcpc-uk.org/concerns/raising-concerns/self-referral/

Executive summary

practise through the lens of equality and diversity characteristics, and underpin some of the wider **prevention agenda** ideas that will support registrants to remain on the Register.

We have continued to develop our processes and policies, including providing support to those involved in FTP cases. We have:

- developed operations of the Tribunal Advisory Committee, which was set up last year to support the adjudication function. This includes reviewing our Practice Notes and guidance, and developing the training and support for panel members.
- supported the operation of the Investigating Committee Panel process to ensure panels are equipped to make high-quality decisions.
- worked with stakeholders, including representative bodies, on how we can provide support for registrants at the post- conditions of practice and suspension stage of the FTP proceedings or making self-referrals.
- developed the HCPC website to ensure it meets stakeholders' needs better, creating step-by-step guidance on how to raise an FTP concern, making it easier to report a concern and ensuring that the concerns are within the HCPC's remit to investigate.

Our key priorities for 2019–20 are to:

- **support and evaluate the initiatives we have implemented to improve our performance** and achieve the Professional Standards Authority's standards of good regulation;
- **ensure the successful transfer of social workers** to their new regulatory body, Social Work England, including joint working to transfer significant amounts of data for current and historic cases into Social Work England's IT systems;
- **develop the business case for the replacement of our Case Management System**, and commence building the new system; and
- **continue supporting the delivery of the wider prevention and intelligence driven agenda** in regulation, and support existing stakeholder engagement.

I hope that you find this report of interest. Following positive comments about our previous year's report, we have adopted the same format this year. However, we are considering improvements going forwards.

If you have any feedback, please contact our Assurance and Development team at ad@hcpc-uk.org

John Barwick
Executive Director of Regulation

Fitness to practise key information

Section 1.1: Protecting the public

We are the Health and Care Professions Council (HCPC), a regulator set up to protect the public by:

- setting standards for the professions we regulate;
- publishing and maintaining a Register[6] of health and care professionals who meet these standards;
- approving and monitoring education and training programmes so that when someone successfully completes a programme they are eligible to apply to the Register; and
- acting if someone on our Register falls below our standards.

In the year 1 April 2018 to 31 March 2019 we regulated 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

What is fitness to practise?

All our registrants must follow our standards of conduct, performance and ethics and standards of proficiency in order to be registered and maintain their registration.

The standards are available on our website at www.hcpc-uk.org/standards/

When we say that a registrant is "*fit to practise*", we mean that they have the skills, knowledge and character to practise their profession safely and effectively. Being fit to practise is about being more than a competent health and care professional. The need for registrants to keep their knowledge and skills up to date, to act competently, and to remain within the bounds of their competence are all important aspects of fitness to practise.

Maintaining fitness to practise also requires registrants to treat service users with dignity and respect, to collaborate and communicate effectively, to act with honesty and integrity, and to manage any risk posed by their own health.

What is the purpose of the fitness to practise (FTP) process?

Its purpose is to identify registrants who are not fit to practise and, where necessary, take steps to restrict their ability to practise. This

[6] www.hcpc-uk.org/aboutregistration/theregister/

provides protection for the public, and maintains confidence in the professions that we regulate and in us as a regulator.

Most health and care professionals adhere to the standards without any intervention by us. Only a small minority of registrants will ever face an allegation that their fitness to practise is impaired.

Sometimes professionals make mistakes or have one-off instances of relatively minor unprofessional conduct or behaviour, which are unlikely to be repeated. In such circumstances, it is unlikely that the registrant's fitness to practise will be found to be impaired. We are, therefore, unlikely to pursue every isolated or minor mistake. However, if a professional is found to fall below our standards, we will consider the appropriate action to take.

Section 1: Fitness to practise key information

Section 1.2: Developments and key statistics

Concerns received

Over the last seven years we have seen a steady increase in the volume of registrants on our Register and in the volume of concerns. Within the last seven years the number of registrants on our Register has increased by almost 19 per cent. The number of concerns we have received has increased by almost 47 per cent. It is important to note, however, that during 2018–19 only 0.66 per cent of registrants had an allegation made against them – 0.02 per cent more than the year before (see Figure 1).

This year has seen an increase of 5.3 per cent in the number of concerns received compared to the previous year. At the same time, the number of professionals registered increased by 2 per cent.

Figure 1

Proportion of registrants subject to concern

Year	Total number of registrants	% of registrants subject to a concern	Number of concerns
2012–13	310,942	0.52	1,653
2013–14	322,021	0.64	2,069
2014–15	330,887	0.66	2,170
2015–16	341,745	0.62	2,127
2016–17	350,330	0.64	2,259
2017–18	361,061	0.64	2,302
2018–19	369,139	0.66	2,424

Section 1: Fitness to practise key information

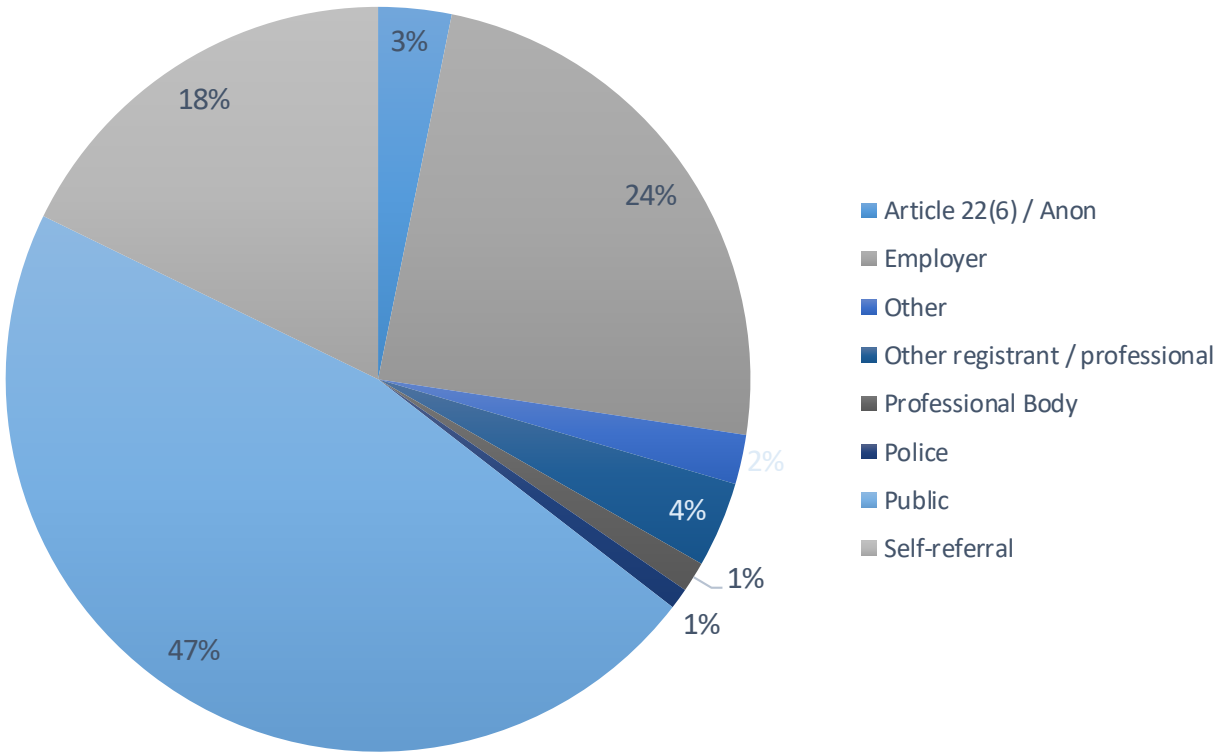
This means that only 1 in 152 registrants were the subject of a new concern about their fitness to practise. Please note that in a small number of instances a registrant would be the subject of more than one concern.

Figure 2 shows where the concerns came from. The category "Other" 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, who notify us of individuals who have been barred from working with vulnerable adults and/or children. Other types of complainants may also fall within this category.

Members of the public continue to raise the largest proportion of concerns with a 47 per cent share of concerns raised. Employers continue to be the second largest source of concern, comprising 24 per cent of the total.

Figure 2

Where concerns come from



Section 1: Fitness to practise key information

Where a concern does not meet a certain threshold (set of requirements for acceptance of allegation) even after we have sought further information, the case is closed.

In 2018–19, 1,805 cases were closed in this way. Within the same period, 1,129 cases that were closed in this way (62 per cent) came from members of the public. This compares to 57 per cent in 2017–18.

Decisions by Investigating Committee panels

Investigating Committee panels (ICPs) consider the information about concerns and decide whether there is a case to answer in relation to the allegations. ICPs considered 621 cases in 2018–19, which was 15 per cent more than in the previous year.

In 65 out of 621 cases considered in 2018-19, the Panel requested that we obtain further information before they could make a decision.

The Panel decided there was a case to answer or no case to answer in 556 cases this year. In 62 per cent of those cases, the decision was that there was a case to answer and the matter referred to a hearing. A detailed breakdown of those decisions, information about where the concerns originated and how they came to be considered is set out in Figure 3.

Figure 3

Cases to answer and who raised the concerns

Complainant	Number of cases-to-answer decisions	Number of no case-to-answer decisions	Total	% case to answer
Article 22(6) / anonymous[7]	9	11	20	45
Employer	178	75	253	70
Other	5	4	9	56
Other registrant / professional	17	11	28	61
Professional body	1	1	2	50
Police	5	5	10	50
Public	32	31	63	51
Self-referral	100	71	171	58
Total	**347**	**209**	**556**	**62**

[7] Under Article 22(6) of the Health and Social Work Professions Order 2001, if an allegation is not made in a normal way, we can take the matter forward if it appears that an FTP allegation should be made. This means that even if someone who has referred a matter to us wants to withdraw from the process, we may still take the matter forward.

Section 1: Fitness to practise key information

The largest group of complainants for cases considered was employers, and panels decided there was a case to answer in a significant proportion of these (70 per cent).

In the cases referred by the public, ICPs found there was a case to answer in 51 per cent. This represents a decrease compared to the previous year where the proportion was 63 per cent.

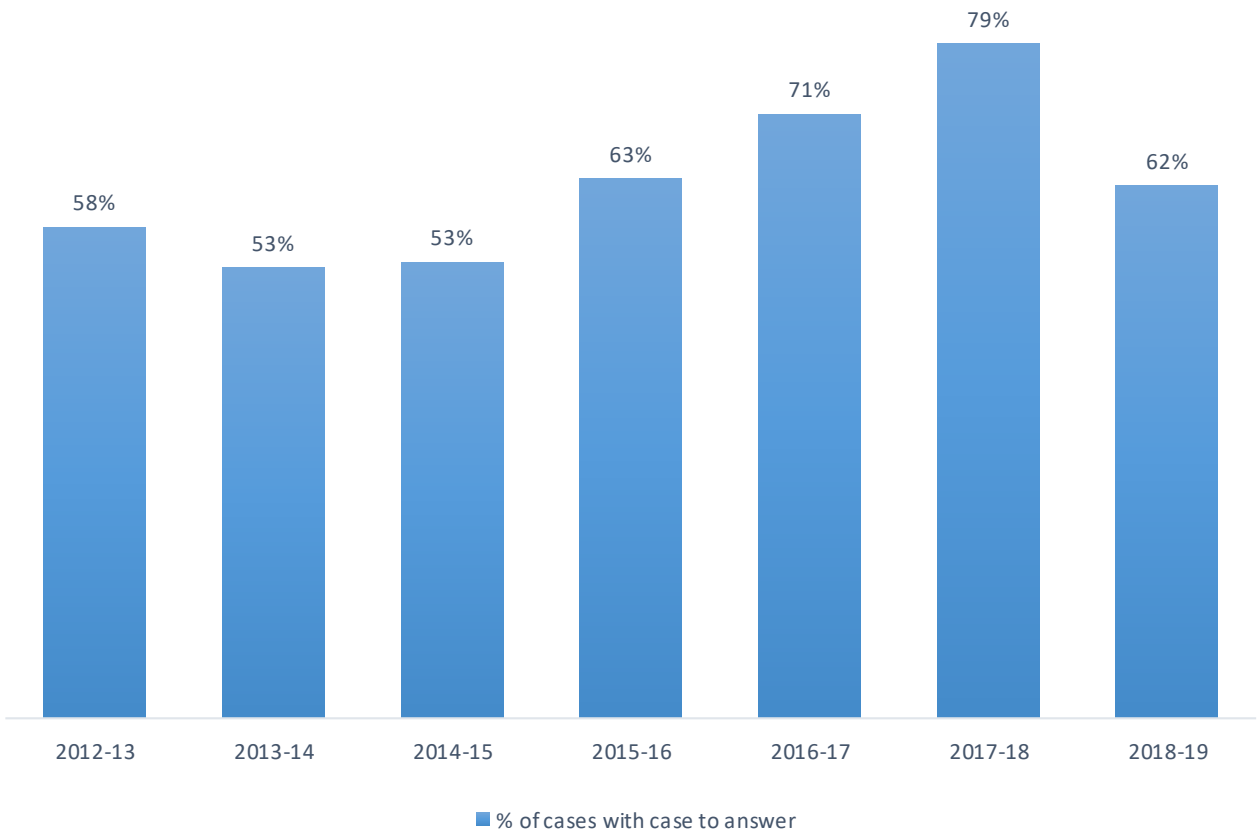
ICPs found that there was a case to answer in 58 per cent of cases that were self-referred by registrants, compared to 75 per cent previously.

Figure 4 shows the percentage of case-to-answer decisions each year from 2012–13 to 2018–19.

Sixty two per cent of cases reached a case-to-answer conclusion in 2018–19, a decrease from 79 per cent in the previous year.

Figure 4

Percentage of allegations where there was a case-to-answer decision



Section 1: Fitness to practise key information

Decisions by hearing panels

The Conduct and Competence Committee and Health Committee panels consider all the evidence put before them. They make decisions at final hearings about whether restrictions should be placed on a registrant's practice. This is in order to protect the public. ICPs can make a final decision that the individual should be removed from the Register or that the Register should be amended on cases where there is an incorrect or fraudulent entry allegation.

In 2018–19, 353 final hearing cases were concluded. However, only a limited number of these resulted in a sanction being imposed.

Figure 5 illustrates the number of public hearings that were held from 2012–13 to 2018–19. It details the number of hearings heard about 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. Further information about different types of hearings is included in Section 3: How we manage our cases.

Decisions from all public hearings where a registrant's fitness to practise is found to be impaired are published on our website at www.hcpc-uk.org or www.hcpts-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.

Figure 5

Number of concluded public hearings

Year	Interim order and review	Final hearing	Review hearing	Restoration hearing	Article 30(7) hearing[8]	Total
2012–13	194	228	141	1	1	565
2013–14	265	267	155	1	1	689
2014–15	337	351	236	5	0	929
2015–16	346	320	171	8	1	846
2016–17	466	445	216	8	0	1,135
2017–18	505	432	250	7	0	1,194
2018–19	493	353	203	5	0	1,054

[8] Where new evidence relevant to a striking off order becomes available after the making of the order, it may be reviewed as if it were an application for restoration.

Section 1: Fitness to practise key information

Figure 6 is a summary of the outcomes of hearings that concluded in 2018–19. It does not include cases that were adjourned or part heard.

Analysis of the impact of outcomes on registrants shows that:

- 47 per cent had a sanction that prevented them from practising (strike-off order, including removal by consent and suspension);
- 9 per cent had a sanction that restricted their practice (conditions of practice);
- 10 per cent had a caution entry on the Register; and
- 31 per cent of the cases considered at the final hearings were not well founded (97) or discontinued in full (13).

Figure 6

Outcomes reached by each committee

Committee	Caution	Conditions of practice	No further action	Not well founded / discontinued	Removed by consent	Struck off	Suspension	Well-founded	Total
Conduct and Competence Committee	36	31	7	106	11	70	80	0	**341**
Health Committee	0	2	0	4	3	0	2	0	**11**
Investigating Committee (fraudulent and incorrect entry)	0	0	0	0	0	1	0	0	**1**
Total	**36**	**33**	**7**	**110**	**14**	**71**	**82**	**0**	**353**

Section 1: Fitness to practise key information

Days of hearing activity

The Investigating Committee, Conduct and Competence Committee, and Health Committee panels met on 2,090 days in 2018–19, across the range of public and private decision-making activities.

Figure 7 sets out the types of hearing days activity in 2018–19. It shows that 1,435 hearing days were held to consider final hearing cases which is a decrease from 1,768 days last year.

This includes days where more than one hearing takes place and cases that were part heard or adjourned, as well as five restoration hearings.

While we have held fewer hearing days this year, the number of hearings that have concluded within the allocated timeframe (without the need to adjourn) has increased. Similar to last year, this year approximately 15 per cent of hearings were adjourned compared to almost 20 per cent in the previous years. This positive development can be linked to better preparation of cases before hearings and continuous improvement activities within the Fitness to Practise Department.

ICPs only hear final hearing cases about fraudulent or incorrect entry to the Register. Only one case fell into this category this year.

Panels may hear more than one case on some days to best make use of the time available.

Figure 7

Breakdown of public and private hearing activity in 2018–19

Private meetings Activity	Number of days	Public hearings Activity	Number of days
Investigating Committee	162	Final hearings	1,435
Preliminary meetings	37	Review of substantive sanctions	169
		Interim orders	287
Total	**199**		**1,891**

Section 1: Fitness to practise key information

Length of time to progress cases

Continuing to ensure that cases are progressed in a timely manner is one of our key performance indicators. However, there are sometimes complex issues which may extend the length of time. These include complex investigations, legal arguments, vulnerability or availability of the parties and requests for adjournments, which can delay proceedings. Where criminal investigations have begun, we will usually wait for the conclusion of any related court proceedings. Criminal cases are often lengthy and can extend the time it takes for a case to reach a hearing.

Figure 8 presents the length of time statistics for the FTP cases between 2014–15 and 2018–19. Within this five-year period, the length of time it takes to close a case has increased. This was reflected in the Professional Standards Authority's last annual performance report and is being addressed as part of our Fitness to Practise Improvement Project.

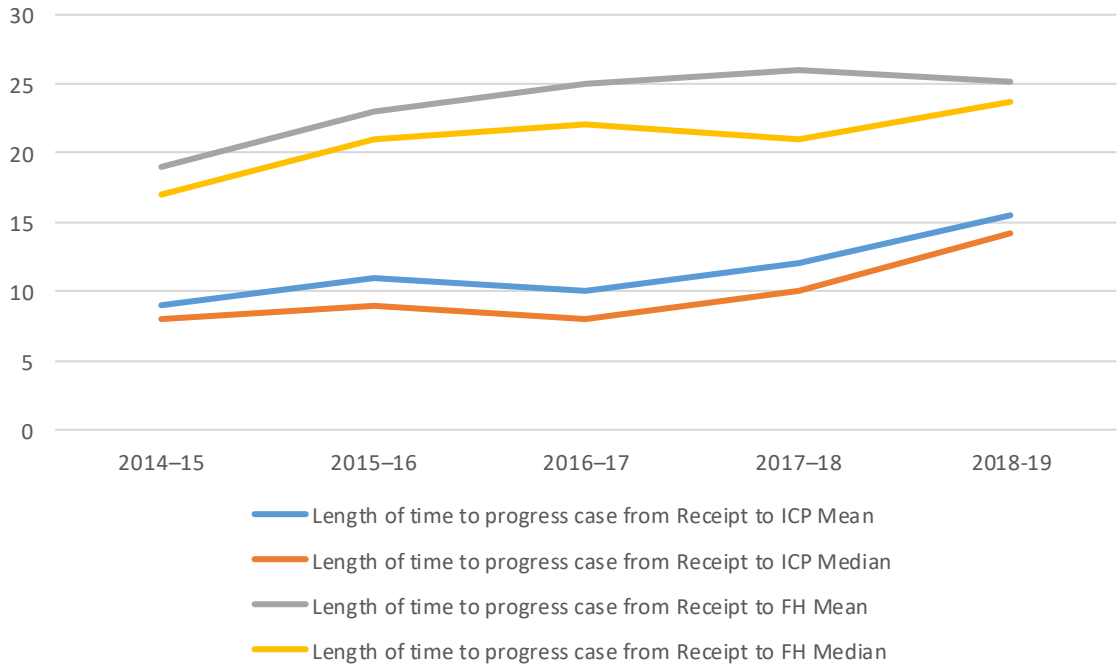
Actions we are taking to address the increase include:

- revising our processes to escalate requests earlier for information to make our decisions;
- monthly reviews of older cases with oversight of next actions; and
- setting projected dates for reaching the next stage.

Cases where there is an adjournment are also prioritised for re-listing. These activities form part of our revised reporting and case progression strategy, which is reviewed by Council.

Figure 8

Length of time to conclude cases at ICP and final hearings



Concerns raised with us

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 an FTP concern is in our brochure, *"How to raise a concern"*, which is available on our website at www.hcpc-uk.org/globalassets/resources/guidance/how-to-raise-a-concern.pdf

Self-referrals

Article 22(6) of the Health and Social Work Professions Order 2001 is important in self-referral cases. Article 22(6) allows us to investigate a matter even where a concern has not been raised with us in the normal way.

For example, when registrants self-refer, 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.

We encourage all registrants to self-refer any issue which may affect their fitness to practise.

Standard 9 of our standards of conduct, performance and ethics 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."

We consider self-referrals in the same way as every other type of FTP concern.

Following the Surrey Research Action Plan and our Fitness to Practise Improvement Project, we have now published clearer guidance[9] for our registrants on making self-referrals.

Figure 9 provides a breakdown of concerns raised by profession, together with details of who raised the concern.

[9] www.hcpc-uk.org/concerns/raising-concerns/self-referral/

Section 2: Concerns raised with us

Figure 9

Concerns by profession and complainant type

Profession	Article 22(6) / anon	%	Employer	%	Other	%	Other registrant	%	Police	%	Professional body	%	Public	%	Self-referral	%	Total
Arts therapists	1	1.3	2	0.3	0	0	2	2.2	0	0	0	0	14	1.2	3	1	22
Biomedical scientists	1	1.3	18	3.1	0	0	6	6.7	0	0	0	0	8	0.7	14	3	47
Chiropodists / podiatrists	0	0	11	1.9	3	5.8	2	2.2	2	8	0	0	29	2.6	7	2	52
Clinical scientists	0	0	1	0.2	0	0	2	2.2	0	0	1	3.1	3	0.3	2	0	9
Dietitians	0	0	10	1.7	0	0	1	1.1	0	0	0	0	5	0.4	4	1	20
Hearing aid dispensers	4	5.2	9	1.5	0	0	0	0	1	4	1	3.1	10	0.9	4	1	29
Occupational therapists	1	1.3	36	6.1	0	0	5	5.6	1	4	1	3.1	45	4.0	19	4	107
Operating department practitioners	2	2.6	33	5.6	2	3.8	2	2.2	2	8	1	3.1	13	1.1	21	5	76
Orthoptists	1	1.3	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2
Paramedics	25	32.5	59	10.1	10	19.2	11	12.2	4	16	7	21.9	57	5.0	127	29	302
Physiotherapists	5	6.5	49	8.3	4	7.7	6	6.7	4	16	3	9.4	50	4.4	29	7	148
Practitioner psychologists	5	6.5	14	2.4	12	23.1	13	14.4	2	8	3	9.4	119	10.5	7	2	175
Prosthetists / orthotists	0	0	1	0.2	0	0	0	0	0	0	0	0	1	0.1	1	0	3
Radiographers	3	3.9	27	4.6	1	1.9	3	3.3	1	4	2	6.3	13	1.1	19	4	69
Social workers in England	29	37.7	310	52.8	20	38.5	35	38.9	8	32	13	40.6	759	67.0	171	40	1345
Speech and language therapists	0	0	7	1.2	0	0	2	2.2	0	0	0	0	7	0.6	2	0	18
Total	**77**	**100**	**587**	**100**	**52**	**100**	**90**	**100**	**25**	**100**	**32**	**100**	**1133**	**100**	**431**	**100**	**2424**

Section 2: Concerns raised with us

Figure 10 provides information on the breakdown of cases received by profession and gives a comparison to the Register as a whole.

This year, the proportion of concerns received about social workers (55 per cent) was larger than last year (51 per cent). The majority (over 56 per cent) of concerns raised about social workers came from members of the public.

Paramedics accounted for the second largest proportion (12 per cent). This is a decrease from 14 per cent last year. The majority (42 per cent compared to last year's 47 per cent) of concerns about paramedics came through self-referral.

Figure 10

Cases by profession and percentage of the Register

Profession	Number of cases	% of total cases	Number of registrants	% of the Register	% of registrants subject to concerns
Arts therapists	22	0.91	4,432	1.20	0.50
Biomedical scientists	47	1.94	23,284	6.31	0.20
Chiropodists / podiatrists	52	2.15	12,833	3.48	0.41
Clinical scientists	9	0.37	6,207	1.68	0.14
Dietitians	20	0.83	9,722	2.63	0.21
Hearing aid dispensers	29	1.20	3,047	0.83	0.95
Occupational therapists	107	4.41	39,925	10.82	0.27
Operating department practitioners	76	3.14	13,903	3.77	0.55
Orthoptists	2	0.08	1,496	0.41	0.13
Paramedics	302	12.46	27,686	7.50	1.09
Physiotherapists	148	6.11	55,695	15.09	0.27
Practitioner psychologists	175	7.22	24,290	6.58	0.72
Prosthetists / orthotists	3	0.12	1,101	0.30	0.27
Radiographers	69	2.85	34,470	9.34	0.20
Social workers in England	1345	55	94,453	25.59	1.42
Speech and language therapists	18	0.74	16,595	4.50	0.11
Total	**2424**	**100**	**369,139**	**100**	**0.66**

Section 2: Concerns raised with us

Nature of concerns: what types of cases we can consider

The standards of conduct, performance and ethics are the standards we set for all professionals on our Register to follow. These set out, in broad terms, our expectations of their behaviour and conduct.

"Registrants must:

- promote and protect the interests of service users and carers;
- communicate appropriately and effectively;
- work within the limits of their knowledge and skills;
- delegate appropriately;
- respect confidentiality;
- manage risk;
- report concerns about safety;
- be open when things go wrong;
- be honest and trustworthy; and
- keep records of their work."

The standards are important as they help us to decide whether we should take action if someone raises a concern about a registrant's practice.

More information about all of our standards can be found on our website at www.hcpc-uk.org/standards/

We consider every case individually. However, a registrant's fitness to practise is likely to be impaired if it appears that they have breached our standards by:

- being dishonest, committing fraud or abusing someone's trust;
- exploiting a vulnerable person;
- failing to respect service users' rights to make choices about their own care;
- not managing their (the registrant's) own health problems appropriately, affecting the safety of service users;
- hiding mistakes or trying to block the HCPC's investigation;
- having an improper relationship with a service user;
- carrying out reckless or deliberately harmful acts;
- seriously or persistently failing to meet standards;
- being involved in sexual misconduct or indecency (including any involvement in child pornography);
- having a substance abuse or misuse problem;
- having been violent or displayed threatening behaviour; or
- carrying out other equally serious activities which affect public confidence in the profession.

We can also consider concerns about fraudulent or incorrect entry to the Register. For example, the person may have provided false information when they applied to be registered. Or, other information may have come to light since which means that they were not eligible for registration.

What we cannot 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 registrants);
- 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;
- 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.

Further information about the types of concerns we considered and action taken is

included in Section 4: Learning from fitness to practise cases.

What to expect

Case managers keep everyone involved in the case up to date with progress, informed of the process being followed and decisions being made. Case managers are neutral and do not take the side of either the registrant or the person who has made us aware of the concerns. To ensure decisions are made independently, HCPC employees or Council members are not involved in the decision-making process. This ensures that we balance the rights of the registrant against the need to protect the public.

How to raise a concern

If you would like to raise a concern about a professional registered with us, please do so on our website at www.hcpc-uk.org/concerns/raising-concerns

You can also write to us at the following address.

Fitness to Practise Department
The Health and Care Professions Council
Park House
184–186 Kennington Park Road
London
SE11 4BU

If you need advice, or feel your concerns should be dealt with over the telephone, you can contact a member of the Fitness to Practise Department by:

Tel: +44 (0)20 7840 9814

Freephone: 0800 328 4218 (UK only)

Fax: +44 (0)20 7582 4874

For more information, including reporting a concern, visit www.hcpc-uk.org/resources/guidance/how-to-raise-a-concern

How we manage our cases

Section 3.1: Case assessment

We take a proportionate and risk-based approach when considering a registrant's fitness to practise.

New concerns about a registrant's fitness to practise that are raised with us are considered by the Case Reception and Triage team. The concerns are assessed against our Threshold policy for fitness to practise investigation. Further information about the policy can be found on our website at www.hcpc-uk.org/resources/policy/threshold-policy-for-fitness-to-practise-investigations/

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.

Section 3.2: Investigating Committee panels

Following our initial investigation, if the Threshold policy is met, the case will be allocated to a case manager in our Investigations team where allegations will be drafted to put before the Investigating Committee panel (ICP). We will, as far as it is lawful to do so, share the evidence we have obtained with the registrant under investigation and will ask for their observations. The ICP will consider the case and determine whether the case should be closed at that stage, or whether there is a case to answer and the case should be referred for a hearing.

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 and will be closed).

ICPs meet in private to conduct a paper-based consideration of the allegation. Neither the registrant nor the complainant appears before the ICP whilst it decides whether or not there is a case to answer based on the documents before it. In considering whether there is a case to answer, the ICP applies the "realistic prospect" test. They must decide whether there is a realistic possibility that the HCPC will be able to prove the alleged facts before the panel considering the case at a final hearing and whether, based on those facts, that panel would conclude:

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

Only in cases where the "realistic prospect" test is met in respect of all three relevant elements (facts, statutory ground(s) and impairment) can the matter be referred to a final hearing. Panels must consider the allegation as whole.

Examples of case-to-answer and no case-to-answer decisions can be found in the same section in our Fitness to Practise annual report 2018.

In some cases there may be a realistic prospect of proving the facts. However, the panel may consider there is no realistic prospect of those facts amounting to the ground(s) of the allegation. Similarly, a panel 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 for a number of reasons. For example, because the allegation concerns a minor, 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, so there is no risk of repetition. Such cases might result in a no case-to-answer decision, and might therefore not proceed to a final hearing. We are required to assess these issues carefully on a case-by-case basis.

In no case-to-answer decisions, if matters arise which the panel wants to bring to the attention of the registrant, the decision may include a learning point. Learning points are general in nature and are for guidance only. They allow ICPs to acknowledge that a registrant's conduct or competence is not to the standard expected. Learning points provide ICPs the opportunities to give advice on how the registrant can learn from the events.

Decisions by Investigating Committee panels

Each case will be considered on its own merit. Panel decisions will vary, depending on factors including the factual circumstances of the case, behaviours demonstrated by the registrant and the risk to the public. For an example of allegations and the rationale of panel's decision, please refer to this section of our Fitness to Practise annual report 2018.

Section 3.3: 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 who are subject to a fitness to practise (FTP) investigation. These interim orders prevent the registrant from practising, or place limits on their practice, while the investigation is ongoing. This power is used when it is necessary to protect the public, for example, because a registrant would pose a risk to the public, or is otherwise in the public interest. The power may also be used to protect a registrant from harm to him or herself, if they continued to practise. Panels will only impose an interim order if they are satisfied that the public or the registrant involved require immediate protection.

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 interim order expires, we must apply to the relevant court to have the order extended. In 2018–19, we applied to the High Court to extend an interim order in 62 cases.

A Practice Committee panel may make an interim order to take effect either before a final decision is made about an allegation, or pending an appeal against the decision.

In 2018–19, 164 applications were made for interim orders, accounting for almost 7 per cent of the cases received. This is consistent with the previous year. The majority (117 cases, 71 per cent) of those applications were granted. Social workers in England and paramedics had the highest number of applications.

Our governing legislation says that we have to review an interim order six months after it is first imposed and every three months after that. The regular review mechanism is particularly important. This is because 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.

Section 3: How we manage our cases

However, a registrant may ask for an order to be reviewed at any time if, for example, their circumstances change or new evidence becomes available. An interim suspension order may be replaced with an interim conditions of practice order if the panel consider this will adequately protect the public. Equally, an interim conditions of practice order may be replaced with an interim suspension order. This is if the panel considers it to be necessary to protect the public. An interim order of either type may also be revoked. In 2018–19, there were seven cases where an interim order was revoked by a review panel.

We assess the risk of all concerns on receipt to help determine whether to apply for an interim order. In 2018–19, the median time it took for a panel to consider whether an interim order was necessary was 14 weeks from receipt of the complaint.

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 assess the risk of new material as it is received throughout the lifetime of a case, to decide if it indicates that an interim order application is necessary.

In 2018–19, in cases where information appeared to pose a risk, the median time between receiving the information and hearing an interim order application by a panel was four weeks.

Figure 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 us during the management of the case. It does not include interim orders that are imposed at final hearings to cover the registrant's appeal period.

Section 3: How we manage our cases

Figure 11

Number of interim orders by profession

Profession	Applications considered	Applications granted	Applications not granted	Orders reviewed	Orders revoked on review
Arts therapists	0	0	0	0	0
Biomedical scientists	6	0	6	13	1
Chiropodists / podiatrists	1	0	1	7	2
Clinical scientists	1	0	1	0	0
Dietitians	0	0	0	4	0
Hearing aid dispensers	3	0	2	8	0
Occupational therapists	8	1	6	14	2
Operating department practitioners	13	1	12	17	2
Orthoptists	0	0	0	0	0
Paramedics	33	2	25	71	6
Physiotherapists	9	1	6	39	1
Practitioner psychologists	2	0	2	15	0
Prosthetists / orthotists	0	0	0	0	0
Radiographers	9	0	6	20	0
Social workers in England	78	12	50	119	8
Speech and language therapists	1	0	0	2	1
Total	**164**	**117**	**30**	**329**	**23**

Section 3: How we manage our cases

Section 3.4: Public hearings

Cases where the Investigating Committee decided that there was a case to answer are referred to a panel of the Conduct and Competence Committee or the Health Committee for consideration, depending on the nature of the allegation.

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. If a registrant is registered or lives in the UK, we are obliged to hold hearings in the UK country concerned. The majority of hearings take place in London at our Health and Care Professions Tribunal Service (HCPTS) offices. Where appropriate, proceedings are held in locations other than capitals or regional centres, for example, to accommodate attendees with restricted mobility.

Conduct and Competence Committee panels

Conduct and Competence Committee panels 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. Some allegations contain a combination of these reasons.

Misconduct

The majority of cases heard at a final hearing relate to allegations that the registrant's fitness to practise is impaired by reason of their misconduct. Some of these cases relate to allegations about a lack of competence or a conviction. Some of the misconduct allegations that were considered included the same themes as last year:

- failure to provide adequate service user care or accurate assessment;
- failure to maintain accurate records;
- failure to complete adequate reports;
- dishonesty (for example, falsifying records, fraud or false claim of sick leave);
- undermining public confidence in the profession;
- breach of confidentiality through inappropriate use or misuse of patient information;
- breach of professional boundaries with colleagues, service users or service user family members;
- assault or abuse;
- bullying and harassment of colleagues;
- failure to report incidents;
- driving under the influence of alcohol;
- failure to communicate properly and effectively with service users and / or colleagues;
- acting outside scope of practice; and
- unsafe clinical practice.

Lack of competence

In 2018–19, 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 we considered included:

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

Convictions / cautions

Criminal convictions or cautions were the third most frequent grounds of allegation considered by panels of the Conduct and Competence Committee in 2018–19. These allegations either related solely to the registrants' conviction(s) or caution(s) or were "composite" allegations, in that they also

covered other matters amounting to another statutory ground, for example, misconduct.

Some of the criminal offences considered included:

- theft;
- fraud;
- 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 at www.hcpts-uk.org

Case studies, including examples of how some of the above concerns were considered at the hearing and the sanction that resulted, can be found on our website at www.hcpc-uk.org/concerns/resources/case-studies/

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, we can take action when the health of a registrant is considered to be affecting their ability to practise safely and effectively.

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

The Health Committee considered 11 cases in 2018–19. This is compares with 17 last year and 13 cases in 2016–17. For further information about outcomes please refer to Figure 6.

Preliminary hearings

Panels have the power to hold preliminary hearings in private with the parties involved for the purpose of case management. Such hearings allow for substantive evidential or procedural issues to be resolved (by a panel direction) prior to the final hearing taking place. For example to decide on the use of expert evidence or the needs of a vulnerable witness. This helps final hearings to take place as planned. In 2018–19, 37 preliminary hearings were held, compared to 59 in 2017–18 and 89 before that. This represents a decrease in percentage of total hearings as well as the number and is an indicator of improved internal hearing preparation with no need for a preliminary hearing.

Adjournments

In certain circumstances hearings can be adjourned in advance of the event. Other than in exceptional circumstances, applications should be made no later than 14 days before the hearing.

Hearings that commence but do not conclude in the time allocated are classed as part heard.

The powers panels have and how decisions are made

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

1. Panels must first consider whether the facts of any allegations against a registrant are proven.
2. They then have to decide whether, based upon the proven facts, the statutory "ground" set out in the allegation has been established, for example, misconduct or lack of competence.
3. Finally, they must decide whether if, as a result, the registrant's fitness to practise is currently impaired.

If the panel is satisfied that an allegation against a registrant is well founded, it has the power to refer the matter to mediation. This is the process where an independent person helps the registrant and the other people involved to agree on a solution to issues. It can also decide, instead, that no further action needs to be taken.

In cases which are not appropriate for mediation, but require further action, the panel may:

- caution the registrant (place a warning on their registration details for one to five years);
- impose conditions on the registrant's practice;
- suspend the registrant from practising; or
- strike the registrant's name from the Register, which means they cannot practise.

In cases where the only statutory ground referred to in the allegation is either health or lack of competence, the panel does not have the option to make a striking-off order in the first instance (but may impose any of the other sanctions). This is because it is recognised that in cases where ill health has impaired fitness to practise, or where competence has fallen below expected standards, it may be possible for the registrant to remedy the situation over time.

Making decisions – HCPTS

Our Practice Committees[10] make decisions about our cases.

Panel members are independent and drawn from a wide variety of backgrounds, including professional practice, education and management. Each panel has at least one lay member and one registrant member. Lay panel members are individuals who are not, and have never been, eligible to be on the HCPC Register. The registrant panel member will be from the relevant profession. This ensures that we have appropriate public and professional involvement in the decision-making process.

A legal assessor will be present at every substantive hearing before a Conduct and Competence Committee panel or a Health Committee panel. They do not take part in the decision-making process, but will give the panel and the others involved advice on law and legal procedure. They ensure that all parties are treated fairly. Any advice given to panels is stated in the public element of the hearing.

Disposal of cases by consent

Our consent process is a means by which we, and the registrant concerned, may seek to conclude a case without the need for a contested hearing. In such cases, both parties consent to conclude the case by agreeing an order. The order is of a type that the panel would have been likely to make had the matter proceeded to a fully contested hearing. Both parties may also agree to enter into a Voluntary Removal Agreement. By Voluntary Removal Agreement, we allow the registrant to remove themselves from the Register. This is on the basis that they no longer wish to practise their profession and admit the substance of the allegation that has been made against them. Voluntary Removal Agreements are made on similar terms to those that apply when a registrant is struck off the Register.

[10] Information about Practice Committees can be found in the Health and Social Work Professions Order 2001 at www.hcpc-uk.org/resources/legislation/orders/consolidated-health-and-social-work-professions-order-2001/

Section 3: How we manage our cases

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

In order to ensure that we fulfil our obligation to protect the public, we would not ask a panel to agree to resolve a case by consent unless we were satisfied that:

- public protection was being secured properly and effectively; and
- there was no detrimental effect to the wider public interest.

To ensure a panel can be satisfied on those points, we present evidence to demonstrate that the registrant understands the impact on their registration if they agree to a sanction. We will only consider resolving a case by consent:

- after an ICP finds 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 substance of the allegation (a registrant's insight into, and willingness to address failings are key elements in the FTP 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 us is consistent with the expected outcome if the case were to proceed to a contested hearing.

The process of disposal by consent 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 2018–19, 20 cases were concluded via our consent arrangements at final hearing. This is less than 37 which were concluded via consent in each of the last three years.

Further information on the process can be found in the practice note Disposal of cases by consent at www.hcpts-uk.org

Discontinuance

Following the referral of a case for hearing by the Investigating Committee, it may become necessary for us to apply to a panel to discontinue all or part of the case. This may occur when new evidence becomes available, or because of emerging concerns about the quality or viability of the evidence that was considered by the Investigating Committee. We provide the panel with a summary of what has changed during the course of the investigation. This means that the case is no longer as we originally understood, or how new or additional evidence has emerged.

In 2018–19, allegations were discontinued in full in 13 cases. This is an increase from nine in 2017–18.

Attendance at hearing

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.

We encourage registrants to participate in their hearings where possible. We make information about hearings and our procedures accessible and transparent. This is to maximise participation and to ensure that 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 online, detailing the process and how 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 we have properly served notice of the hearing and that it is just to do so.

Panels must not draw any improper inference from the fact that a registrant has failed to attend the hearing. In particular, they must not treat the registrant's absence as an admission that the case against them is well founded. Panels will receive independent legal advice from the legal assessor when deciding whether or not to proceed in the absence of the registrant. The panel must be satisfied that in all circumstances it would be appropriate to proceed in the registrant's absence. The practice note Proceeding in the absence of the registrant provides further information and is available at www.hcpts-uk.org

In 2018–19, registrants did not attend and were not represented in 45 per cent of final hearings.

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 by us.

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.

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

In reviewing a suspension order, the panel will consider evidence and decide whether the issues leading to the original order have been addressed. If the panel feels satisfied that they have been, it will consider whether the overriding objective of public protection can be met without the order.

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 2018–19, we held 211 review hearings.

Restoration hearings

A person who has been struck off our Register and wishes to be restored 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 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 that the applicant needs to prove that he or she should be restored to the Register, but we do not need to prove the contrary. The procedure is generally similar to other FTP proceedings. However, as the applicant has the burden of proof, they will present their case first, after which our presenting officer makes submissions.

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

- meeting our "return to practice" requirements; or

- complying with a conditions of practice order imposed by the panel.

In 2018–19, five applications for restoration were heard. Of these, four were restored – two social workers, one physiotherapist and one radiographer. One applicant, a physiotherapist, was not restored.

More information about the HCPTS can be found on our website at www.hcpts-uk.org

Learning from fitness to practise cases

Through our fitness to practise (FTP) process we continuously develop ways of capturing and analysing data to identify trends, forecast levels of activity at various stages or gather intelligence. It gives us, and our stakeholders, an opportunity to learn and improve.

Cases closed without consideration by an Investigating Committee panel (ICP)

Figure 12 shows patterns of referral, across professions for cases that are closed without consideration by an ICP. For instance, social workers are the largest profession on the Register and have the most concerns raised about them. This profession had the largest number of cases that are raised by members of the public (67 per cent). The profession also had the largest number of cases that were closed because the concerns did not meet the requirement for acceptance.

Physiotherapists are the second largest profession, yet have a much lower rate of concerns raised than paramedics, or social workers in England. They also have a lower rate of closure as a result of not meeting the acceptance requirements criteria.

Figure 12

Cases closed by profession before consideration at ICP

Profession	Number of cases 2017–18	% of total cases 2017–18	Number of cases 2018–19	% of total cases 2018–19
Arts therapists	7	0.6	13	0.7
Biomedical scientists	18	1.4	21	1.2
Chiropodists / podiatrists	38	3.0	34	1.9
Clinical scientists	2	0.2	5	0.3
Dietitians	16	1.3	11	0.6
Hearing aid dispensers	10	0.8	10	0.6
Occupational therapists	48	3.9	73	4.0
Operating department Practitioners	23	1.8	36	2.0
Orthoptists	1	0.1	1	0.1
Paramedics	170	13.6	185	10.2
Physiotherapists	87	7.0	108	6.0
Practitioner psychologists	104	8.3	178	9.9
Prosthetists / orthotists	0	0	0	0
Radiographers	31	2.5	35	1.9
Social workers in England	673	54.0	1083	60.0
Speech and language therapists	18	1.4	12	0.7
Total	**1,246**	**100**	**1,805**	**100**

Section 4: Learning from fitness to practise cases

Paramedics have the second largest number of concerns raised and are the fifth largest profession overall. This group also has the second highest number of cases closed because of a failure to meet the requirements for acceptance of allegations.

ICP decisions and how registrants were represented

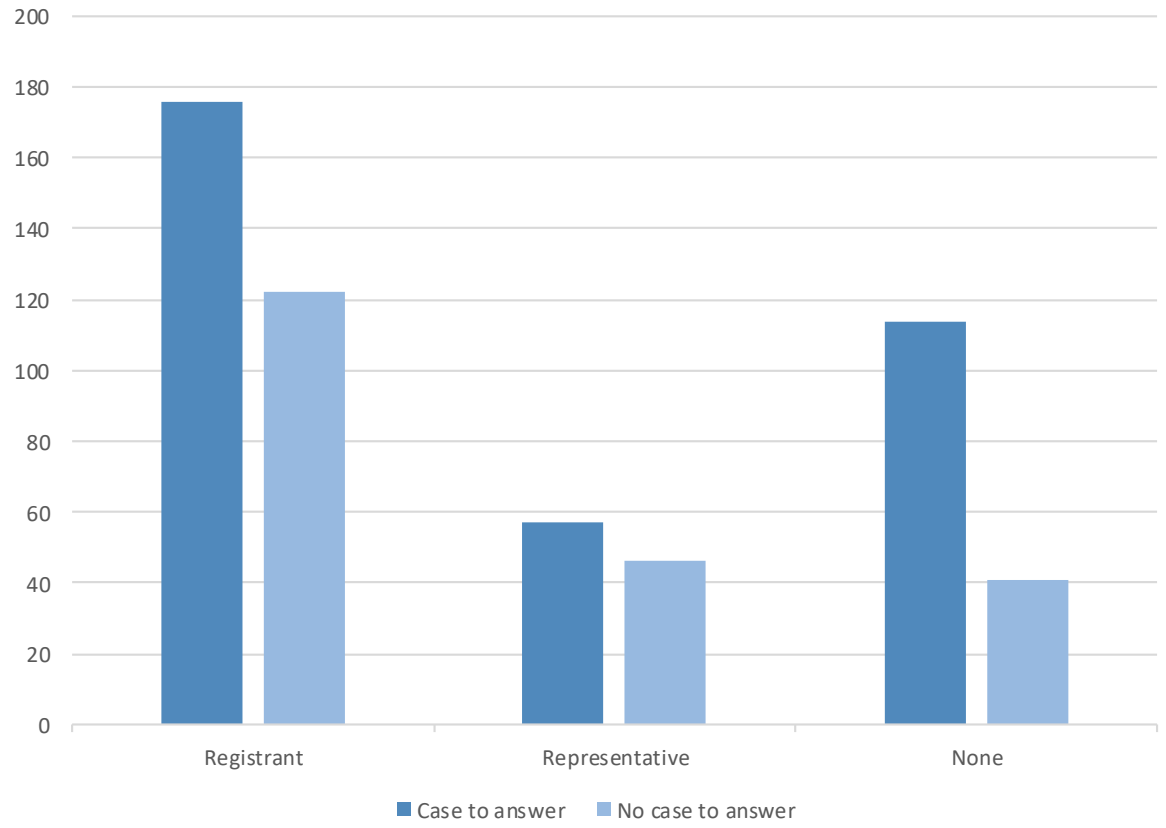
Figure 13 provides information on case-to-answer and no case-to-answer decisions and representations received in response to allegations. In 2018–19, there was a slight decrease in representations being made to the ICP by either the registrant or their representative.

Representations were made in 72 per cent of the cases considered compared to 76 last year and 74 per cent in the previous year.

A total of 122 cases considered by ICPs resulted in a no case-to-answer decision. In 80 per cent of those cases, representations were made by either the registrant or their representative.

Figure 13

Response to allegations provided to ICP



Section 4: Learning from fitness to practise cases

ICP case-to-answer decisions by complainant

Figure 14 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.

Like the previous year, out of cases concluded at ICP, the largest complainant group was made up of employers. A case-to-answer decision was made in a significant proportion of those cases (70 per cent, compared to 82 per cent in the previous year). The case-to-answer rate for the second largest complainant group (members of the public) has gone down to 51 per cent from 63 per cent in 2017–18.

Final hearing outcome by profession

Figure 15 shows the full range of decisions made at final hearings in relation to the different professions we regulate. 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. The sanctions of "consent – removed" and "consent – conditions of practice" are those where the registrant consented to the sanction.

Figure 14

ICP decisions by complainant

Complainant	Number of case to answer 2018–19	Number of no case to answer 2018–19	Total 2018–19	% case to answer 2018–19	% case to answer 2017–18
Article 22(6) / Anon	9	11	20	45	75
Employer	178	75	253	70	82
Other	17	12	29	59	82
Other registrant / Professional	5	4	9	56	100
Police	5	5	10	50	80
Professional body	1	1	2	50	0
Public	32	31	63	51	63
Self-referral	100	70	170	59	76
Total	**347**	**209**	**556**	**62**	**79**

Section 4: Learning from fitness to practise cases

Figure 15

Sanctions imposed by profession

Profession	Caution	Conditions of practice	No further action	Not well founded / discontinued	Struck off	Suspended	Consent – removed	Consent – caution	Consent – conditions	Consent – suspension	Total
Arts therapists	0	0	0	1	0	0	0	0	0	0	1
Biomedical scientists	1	2	0	1	3	4	3	0	0	0	14
Chiropodists / podiatrists	2	0	0	10	1	3	1	0	0	0	17
Clinical scientists	0	0	0	1	0	0	0	0	0	0	1
Dietitians	0	1	0	1	0	0	1	0	0	0	3
Hearing aid dispensers	0	0	0	2	0	0	0	0	0	0	2
Occupational therapists	1	2	1	7	7	6	1	0	0	0	25
Operating department practitioners	2	0	0	2	5	4	0	0	0	0	13
Orthoptists	0	0	0	0	0	0	0	0	0	0	0
Paramedics	7	7	1	14	10	7	0	0	0	0	46
Physiotherapists	1	5	1	11	7	7	2	0	0	0	34
Practitioner psychologists	1	2	0	4	2	5	1	0	0	0	15
Prosthetists / orthotists	0	1	0	0	0	0	0	0	0	0	1
Radiographers	4	5	0	7	5	2	1	0	0	0	24
Social workers in England	17	8	5	49	30	41	4	0	0	0	154
Speech and language therapists	0	0	0	0	0	3	0	0	0	0	3
Total	**36**	**33**	**8**	**110**	**70**	**82**	**14**	**0**	**0**	**0**	**353**

Section 4: Learning from fitness to practise cases

Final hearing outcome and how registrants were represented

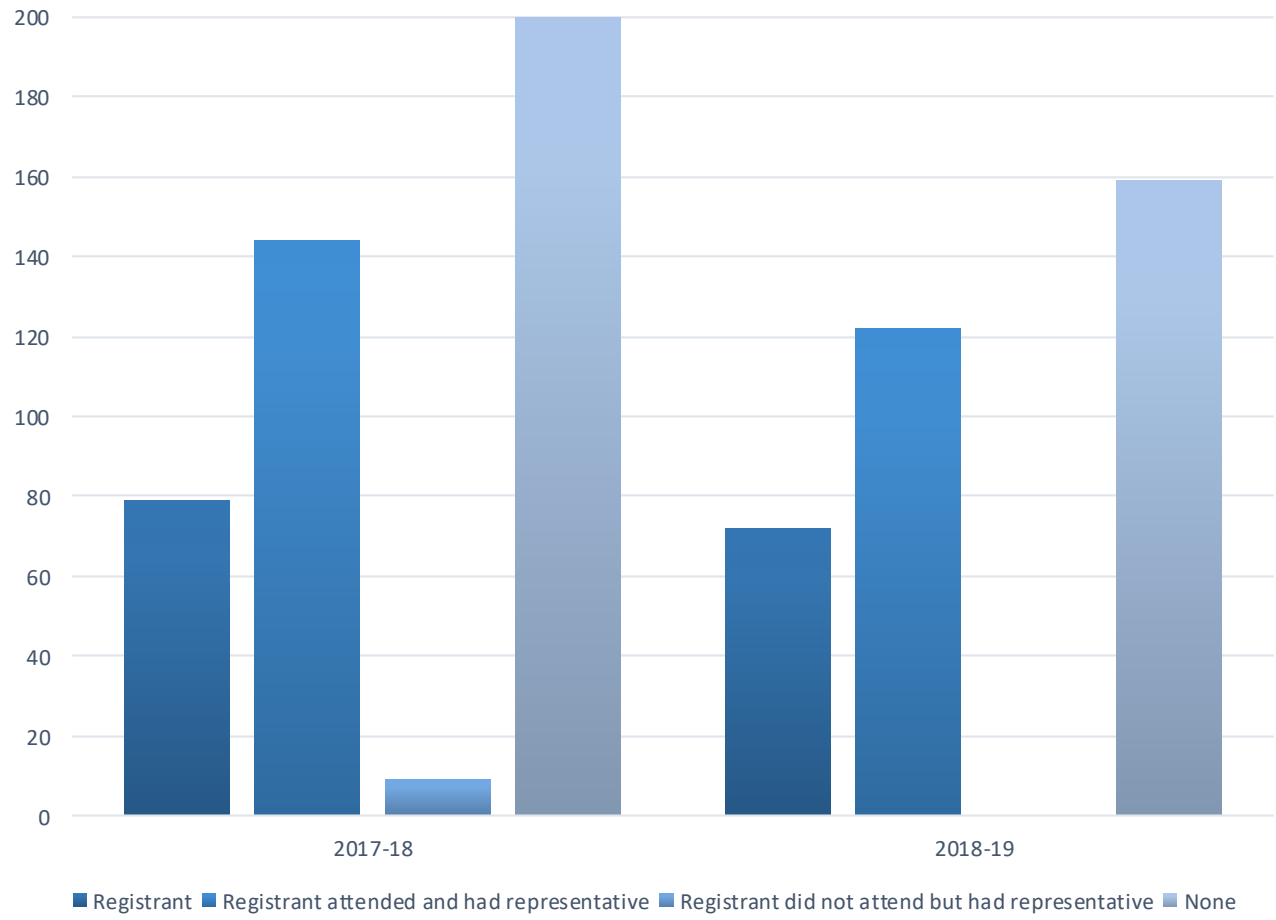
In 2018–19, 20 per cent of registrants represented themselves. A further 35 per cent chose to be represented, which is the same as last year. Of those who were represented, most attended with that representative. We meet with the various registrant representative bodies and share this data with them. This is to help to provide more insight. We also encourage the registrants to seek representation early in the process. This is part of our regular communication about the investigation and to schedule a hearing.

Registrants did not attend and were not represented in 45 per cent of final hearings. This compares to 47 per cent in 2017–18 (see Figure 16) and 49 per cent before that. It is positive when more registrants are engaging in the FTP process.

Figure 17 details outcomes of final hearings and whether the registrant attended alone, with a representative, or was absent from proceedings. Sanctions that prevent the registrant from working are imposed less often in cases where a registrant attends or is represented, than in other cases.

Figure 16

Representation at final hearings



Section 4: Learning from fitness to practise cases

Figure 17

Sanctions imposed by panels and representation at final hearings

	2017–18					2018–19				
	Represented self	Registrant attended and had a representative	Registrant did not attend but had a representative	No representation	Total	Represented self	Registrant attended and had a representative	Registrant did not attend but had a representative	No representation	Total
Caution	17	26	3	6	52	10	14	0	9	33
Conditions	9	29	2	10	50	8	19	0	4	31
No Further Action	2	7	0	0	9	4	3	0	0	7
Well founded	0	4	0	0	4	0	0	0	0	0
Not well founded/Discontinued	27	50	0	16	93	30	60	0	20	110
Register entry amended – removed	0	1	0	0	1	0	0	0	0	0
Struck off	6	10	1	74	91	7	7	0	57	71
Suspended	16	16	1	62	95	13	15	0	53	81
Consent – removed	2	0	2	31	35	0	0	0	14	14
Consent – caution	0	0	0	1	1	0	0	1	2	3
Consent – suspension	0	0	0	0	0	0	0	0	1	1
Consent – conditions	0	1	0	0	1	1	0	0	1	2
Total	**79**	**144**	**9**	**200**	**432**	**73**	**118**	**1**	**161**	**353**

Section 4: Learning from fitness to practise cases

Figure 18 shows the number of registrants from each profession who were represented at hearings in 2018–19. This is broken down to those who either:

- represented themselves, with no representative attending;
- those who attended the hearing with a representative; or
- the representative attending on the registrants' behalf.

Paramedics and social workers in England had the highest number of cases that went to a hearing. Of these, 52 per cent of social workers and 61 per cent of paramedics represented themselves or came with a representative.

Final hearing outcome by source of complaint

Similar to the previous year, employers were the complainant in 60 per cent of the cases heard. Members of the public were the complainant in 6.5 per cent. The most commonly imposed sanction was a suspension order (in 81 matters) and employers were the complainant in 65 per cent of those cases.

Figure 18

Representation at final hearings by profession

Profession	Represented self	Registrant attended and had a representative	Registrant did not attend but had a representative	No representation	Total
Arts therapists	0	1	0	0	1
Biomedical scientists	3	4	0	7	14
Chiropodists / podiatrists	4	8	0	5	17
Clinical scientists	0	1	0	0	1
Dietitians	0	1	0	2	3
Hearing aid dispensers	0	2	0	0	2
Occupational therapists	4	9	0	12	25
Operating department Practitioners	3	1	0	9	13
Orthoptists	0	0	0	0	0
Paramedics	5	23	0	18	46
Physiotherapists	2	18	0	14	34
Practitioner psychologists	0	10	0	5	15
Prosthetists / orthotists	0	1	0	0	1
Radiographers	9	4	0	11	24
Social workers in England	42	39	0	73	154
Speech and language therapists	0	0	0	3	3
Total	**72**	**122**	**0**	**159**	**353**

Section 4: Learning from fitness to practise cases

Figure 19

Sanctions imposed by who the complainant was

Outcome	Article 22(6) / anon	Employer	Other	Other registrant	Police	Professional body	Public	Self-referral	Total
Caution	1	19	0	0	1	0	0	15	33
Conditions of practice	3	19	2	1	0	0	1	7	31
No Further Action	1	2	0	0	0	0	0	4	7
Not Well Founded / Discontinued	1	65	4	1	2	0	8	29	110
Removed	0	0	1	0	0	0	0	0	1
Removed by Consent	0	11	1	0	0	0	0	2	14
Consent – caution	0	1	0	0	0	0	0	2	3
Consent – conditions of practice	0	1	0	0	0	0	0	1	2
Consent – suspension	0	1	0	0	0	0	0	0	1
Struck off	0	43	3	0	2	0	7	15	70
Suspension	1	53	5	0	1	0	7	15	81
Well-founded	0	0	0	0	0	0	0	0	0
Not impaired	0	0	0	0	0	0	0	0	0
Total	**7**	**212**	**16**	**2**	**6**	**0**	**23**	**87**	**353**

Section 4: Learning from fitness to practise cases

Of the matters self-referred by registrants, 36 per cent resulted in a sanction being imposed that prevented them from practising (compared to 50 per cent last year). This was the case in 50 per cent of cases involving concerns raised by employers (compared to 53 per cent last year) and in 23 per cent of matters involving concerns received from members of the public (compared to 40 per cent last year) (see Figure 19).

Cases not well founded or discontinued at hearings

The panel may decide that the allegations are "not well founded", in which case there will be no restrictions imposed on the registrant's practice. This will happen, for example, in cases where, at the hearing, the panel does not think that the facts have been proved to the required standard or the panel concludes that, even if the facts are proved, they do not amount to the statutory ground (for example, misconduct) or show that fitness to practise is impaired. In that event, the hearing concludes and no further action is taken. In 2018–19, the panel concluded that 97 cases were not well founded and 13 cases were discontinued in full.

We continue to monitor these cases to ensure that we maintain a high standard of quality for allegations and investigations. ICP members continue to receive regular refresher training on the case-to-answer stage. The training helps to ensure that only cases meeting the realistic prospect test, as outlined in Section 3.2, are referred to a final hearing. This year we have also piloted specialist Panel Chairs at ICP who received bespoke training in relation to ICP decision-making and chairing skills. The outputs of this pilot will be explored in the coming year. Figure 20 sets out the number of cases that were not well founded including cases discontinued in full between 2012–13 and 2018–19.

Figure 20

Cases not well founded or discontinued at hearings

Year	Number of not well founded and discontinued in full cases	Total number of concluded cases	% of cases not well founded
2012–13	54	228	23.7
2013–14	60	269	22.3
2014–15	75	351	21.4
2015–16	84	320	26.3
2016–17	117	445	26.3
2017–18	93	432	21.5
2018–19	110	353	31.2

Section 4: Learning from fitness to practise cases

In 43 of the 97 cases (44 per cent) which were not well founded, registrants demonstrated that their fitness to practise was not impaired. The test for panels to apply is that fitness to practise is currently impaired. It 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 that fitness to practise is impaired.

In some cases, even though the facts may be judged to amount to the statutory ground in the allegation (for example, misconduct or lack of competence), a panel may conclude that misconduct or lack of competence, as the case may be, has not led to any impairment of the registrant's fitness to practise. For example, this may happen if an allegation was minor or concerns an isolated incident that is unlikely to reoccur. In 32 of the cases (33 per cent) which were not well founded, the panel concluded that the statutory grounds (of misconduct, lack of competence or health) were not met.

In other cases, the facts of an allegation may not be proved to the required standard (i.e. on the balance of probabilities). In 2018–19, 15 cases were not well founded because the facts were not proved. The remainder of these not well-founded cases were either discontinued in full or it was submitted at the hearing that there was no case to answer.

We continue to regularly review cases that are not well founded, particularly those where the facts have been found not to be proved, to explore if an alternative form of disposal would have been appropriate.

We also continue to monitor the levels of not well-founded cases via our Decision Review Group, which meets quarterly. Through this we will continue to develop initiatives to improve engagement and assess learning from panel decisions, with the aim of reducing the numbers of cases that are not well founded at final hearing.

Cases are also reviewed and discussed with our legal services provider on an ongoing basis. This ensures that we are utilising our resources appropriately, and that we minimise the impact of public hearings on the parties involved.

Nature of concerns

We develop our tools for capturing information, which may provide useful learning points about the nature of concerns. In February 2019, we implemented a case classification policy to enable us to capture information about the nature of concerns more consistently and at the key points in the life cycle of cases.

The most frequent concerns considered at final hearings are listed in Section 3.4: Public hearings. In our Fitness to Practise annual report 2018, we produced case studies covering different professions and referring to our standards of conduct, performance and ethics and standards of proficiency.

The case studies can be accessed on our website at www.hcpc-uk.org/concerns/resources/case-studies

They show examples of behaviour that fell below our standards and the measures panels took to protect the public. We hope these continue to be useful for registrants to understand the type of conduct that could lead to proceedings and for the public to understand the types of concerns that progress to a hearing.

Continuous improvement

The role of the Professional Standards Authority and High Court cases

The Professional Standards Authority for Health and Social Care (PSA) is an independent body that oversees the work of the nine health and care regulatory bodies in the UK. The PSA reviews our performance, and audits and scrutinises our FTP cases and decisions. In response to the PSA's performance review 2016–17, this year we completed our Fitness to Practise Improvement Project. This was to address the areas for improvement identified by the authority, as listed in the Executive summary of this report.

The PSA can refer any regulator's final decision in an FTP case to the High Court (or in Scotland, the Court of Session) if it considers that the decision is not sufficient for public protection. This is under section 29 of the National Health Service Reform and Health Care Professions Act 2002. The PSA reviews decisions to check if it is sufficient to protect the public's health, safety and wellbeing. It checks whether the decision is sufficient to maintain public confidence in the profession concerned, and whether it is sufficient to maintain proper professional standards and conduct for members of that profession.

In 2018–19, the PSA referred two of our cases to the High Court under Section 29(4) of the National Health Service Reform and Health Care Professions Act 2002. At the time of writing, one case had been settled by consent with agreement for the matter to be remitted to a panel of the Conduct and Competence Committee for redetermination. The other case is still under consideration.

Registrants may also appeal against the panel's decision if they think it is wrong or unfair. An appeal must be lodged within 28 days of the hearing. Appeals are made directly to the High Court in England and Wales, the High Court in Northern Ireland or, in Scotland, the Court of Session.

In 2018–19, seven registrants sought to appeal to the High Court decisions made by the Conduct and Competence Committee. Six appeals were dismissed (including one by consent with no award to costs) by the High Court and one appeal was struck out as the appellant failed to lodge their grounds of appeal by the required deadline.

The status of the cases was correct at the time of writing this report in August 2019.

Working with stakeholders

We aim to provide the best customer service to those involved in the FTP process. We ask for feedback to find out what is working and what we can do to improve, in line with our customer service policy[11].

We operate a feedback mechanism and engage with the individuals who are part of the proceedings to let us know how we have done, and how we can improve their experience of the process. Getting feedback after our process has concluded can be difficult, and we have explored new approaches.

For example, our stakeholders expressed a preference for an electronic way of communication to give feedback. As a result of this, we have implemented an online survey tool. We are currently evaluating the success of this initiative.

Another example includes improvement in stakeholder satisfaction with their reception

[11] www.hcpc-uk.org/contact-us/customer-service/customer-service-process/

Section 5: Continuous improvement

at the hearing venue, and with travel and accommodation arrangements this year. This was a result of us acting on stakeholder feedback in these areas.

We were pleased to find out that the majority of the stakeholders who provided feedback expressed their overall satisfaction with our service. The areas for improvement included more frequent communication on case progress and the length of time it takes to conclude cases. These are being addressed at strategic level.

We are continuing to improve the way we gather feedback and would like to hear from more people about their experiences with us.

You can contact us with your feedback in the following ways.

Service and Complaints Manager
The Health and Care Professions Council
Park House
184–186 Kennington Park Road
London
SE11 4BU

Tel: +44(0)20 7840 9708

Email: feedback@hcpc-uk.org

Twice a year we hold an FTP forum, attended by members of professional bodies and trade unions. We continue to extend the number of attendees to secure representation for different professions we regulate. We discuss developments in regulation, particularly those which may affect registrants going through FTP proceedings. This might include new or updated policies, statistics and trends, research work, or operational approaches.

This year we engaged representative bodies in consultations on our policies, for example the Indicative sanctions policy and the Threshold policy for fitness to practise investigations, as well as our guidance on when to make a self-referral.

Our aim is to support our registrants during the proceedings as well as in their professional practice and help prevent the concerns from occurring.

Examples of improvements made based on feedback from a variety of stakeholders

This year, we:

- developed an induction and training plan for our employees;
- continued to develop training for our partners (including panel members and legal assessors);
- updated our standard template letters to clarify language and ensure consistency;
- reviewed our webpages on the FTP process;
- reviewed our practice notes and policies to enhance public understanding; and
- continued to develop the process for quality checking pre and post hearings.

We continue to hold regular internal meetings, such as the Decision Review Group, to discuss opportunities for improvement after identifying learning points from panel decisions or feedback. As a result of this, for example, we kept the number of adjourned hearings low, minimising the inconvenience for all parties involved.

Management information

We gather and analyse data on a monthly basis. This allows us to identify trends in our activities and implement appropriate actions in response.

Further information about our activities can be found on our website, including information which we report to the Council, at www.hcpc-uk.org/news-and-events/meetings/?Categories=176