



# Health and Care Professions Council Fitness To Practise Annual Report 2021-22

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# Health and Care Professions Council Fitness To Practise Annual Report 2021-22

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# Foreword

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This annual report provides an account of our work in 2021-22 investigating fitness to practise (FTP) concerns raised with us about the 15 professions we regulate. In 2021–2022 we continued to face the challenges of the COVID-19 pandemic, and we adapted by carrying out some of our hearings either fully or partially remotely.

The overwhelming majority of professionals on our Register practise safely and effectively. Fewer than one percent of the professionals we regulate had a concern raised about them in 2021-2022. The number who we ultimately removed from our Register as a consequence of a concern raised about them is a fraction of this; 52 people in this financial year. We will always listen to anyone who feels they have not had safe or effective care, or who has concerns about someone on our Register.

In December 2020, our Council approved an ambitious Fitness to Practise Improvement Plan along with funding to accelerate our improvement. Improving and modernising how we investigate FTP concerns is also a core element of our [Corporate Strategy 2021-2026](#) and will continue to be a priority for the HCPC in 2022-23.

This year we have begun to see the impact of some of the changes we have made. The Professional Standards Authority's<sup>1</sup> [annual performance review](#) of the HCPC recognises the improvements we have made, highlighting that our FTP Improvement Programme is focussed on the right initiatives, and noting the strong improvement in the quality of our decision making in FTP cases.

In periods of change, performance can sometimes dip. However, during this period, against the additional challenge of the COVID-19 pandemic, we have not seen a further delay in case progression,

nor a backlog of cases created. In this period we:

- Launched and completed a project to implement a new Fitness to Practise Case Management IT system
- Introduced legally qualified Investigating Committee Panel Chairs to improve the quality and consistency of decision making
- Completed a pilot to 'frontload' our fitness to practise investigations ('frontloading' means gathering more evidence earlier in the investigation – helping improve the quality of investigations as we are gathering evidence closer to when an incident occurred).
- Concluded or progressed our oldest cases and concluded hearings for those cases which were postponed due to COVID-19 restrictions.

We have made significant progress in this financial year, however, we acknowledge that we still have work to do to meet the PSA's five FTP Standards of Good Regulation.

We are grateful to our colleagues for all their hard work as we strive to safely reduce our caseload, whilst maintaining high standards for the professions we regulate and taking action to protect the public.



**Andrew Smith**  
Executive Director of Regulation

1. The Professional Standards Authority oversees the work of the ten professional health and care regulators in the UK.

# Our role

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The HCPC's statutory role is to protect the public by regulating healthcare professionals in the UK. We promote high quality professional practice, regulating around 300,000 registrants across 15 different professions by:

- setting standards for professionals' education and training and practice;
- approving education programmes which professionals must complete to register with us;
- keeping a register of professionals, known as 'registrants', who meet our standards;
- taking action if professionals on our Register do not meet our standards; and
- stopping unregistered practitioners from using protected professional titles.

By law, people must be registered with us to work in the UK in the professions listed below:

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	Speech and language therapists

We also make sure that someone who has trained outside of the UK has met our standards before they can join our Register.

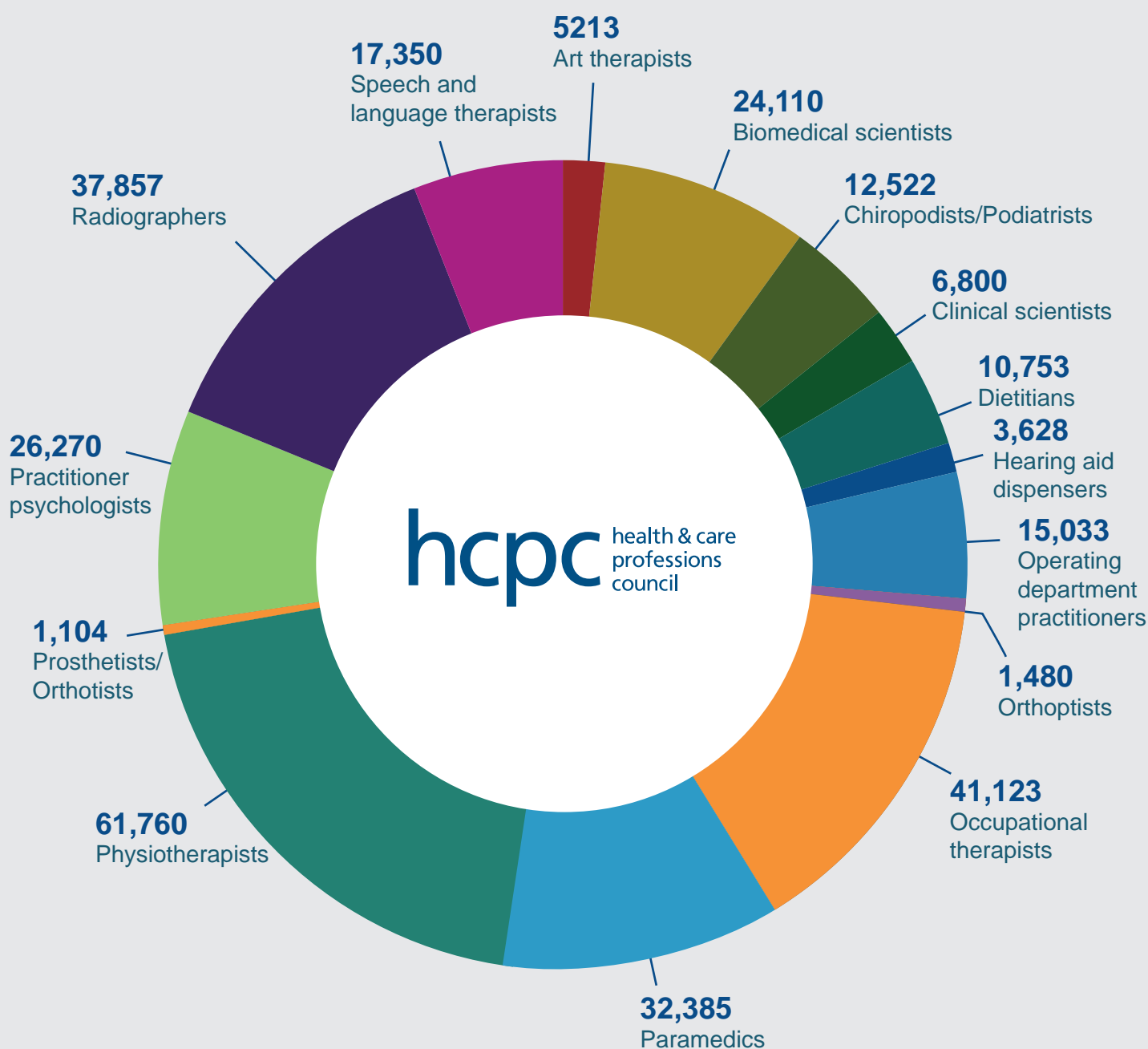
## Our Register

As of 31 March 2022 we had 297,388 registrants on our Register from the 15 professions we regulate. This was an increase of 10,474 registrants on the previous year.

Between 1 April 2021 and 31 March 2022 practitioner psychologists, orthoptists, paramedics, clinical scientists, prosthetists/orthotists, speech and language therapists, occupational therapists, biomedical scientists, and radiographers all renewed their registration.

## The HCPC Register

Total number of registrants broken down by profession as at 31 March 2022:



# What is fitness to practise?

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All our registrants must meet our standards of conduct, performance and ethics and our Standards of proficiency in order to join our Register and to maintain their registration. The standards are available on our website.

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.

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 that may be posed by their own health.

## How people raise concerns with us

Anyone can tell us if they have a concern about a HCPC registrant or misuse of one of the [protected professional titles](#). Typically, we receive concerns from:

- A member of the public concerned about the treatment they, or a family or friend may have experienced
- A colleague of a registrant
- An employer
- A registrant who refers themselves

Each of these types of referrers can use a form on our [website](#), or send their referral by post or by email. If a referrer wishes to discuss their concern, needs help to fill in the referral form, or needs us to make an adjustment because of a disability they are encouraged to get in touch with the Fitness to Practise Department via phone.

2. Unless the concern raised was around the misuse of a protected title.



## Concerns we can and cannot consider

The types of cases we can consider are those about whether a registered professional's fitness to practise is impaired on one of the following grounds:

- Misconduct – behaviour that falls short of what can reasonably be expected of a professional.
- Lack of competence – lack of knowledge, skill and judgement, usually repeated and over a period of time.
- Conviction or caution – for a criminal offence in the UK (or in another country if the offence would be a crime if committed here).
- Physical or mental health – usually a long-term, untreated or unacknowledged condition.
- A decision made by another health or social care regulator.

We cannot do the following:

- consider concerns about professionals not registered with us<sup>2</sup>;
- consider concerns about organisations (our remit is to regulate the people on our Register);
- get involved in or advise on clinical care or social care arrangements;
- change decisions made by other organisations;
- deal with customer service or consumer issues;
- get involved with matters which should be decided by a court, including disagreement with the professional decision of a registrant.
- get a registered professional or organisation to make changes to a report;
- arrange refunds or compensation;
- fine a professional;
- give legal advice; or
- make a professional apologise.

## How we deal with concerns raised with us

We will review a concern to decide whether it is about an issue that is within our remit to investigate.

We will first consider whether the concern is something we can deal with. This assessment takes place during our triage stage.

We sometimes receive information about issues we cannot deal with. If this is the case with a concern we will write to explain why, and, if possible, we will direct the complainant to another organisation that might be able to help them.

Where we have made a decision at the triage stage that a matter is something we can deal with, we will carry out an initial investigation to obtain the relevant information about that concern. This may involve gathering information from a number of sources.

Once we have completed our initial investigation, we will assess a concern and the information we have obtained about it, against our threshold criteria for fitness to practise investigations. This is to decide whether the concern, and the information we have gathered, amounts to an allegation that the registrant's fitness to practise may be impaired. We will take into account whether the matter could amount to a breach of the HCPC's Standards of conduct, performance and ethics or our Standards of proficiency. We take a proportionate and risk-based approach when considering new concerns against our threshold policy for fitness to practise investigations | ([hcpc-uk.org](http://hcpc-uk.org)).

If we find that a concern does meet our threshold, we will refer the matter to our Investigating Committee. If we consider that our threshold has not been met we will close the case and take no further action. At each stage we write to inform all involved in the case of the outcome.

## The Investigating Committee Panel (ICP)

The Investigating Committee's role is to consider all evidence put before them and decide whether there is a case to answer in respect of the allegation against the registrant.

The panel will not decide the facts of a case, but whether there is a realistic prospect of proving the allegation(s) at a final hearing. The panel consider cases in private, on the basis of the papers before them. Each panel is made up of three members: a Chair, someone from the relevant profession and a lay person who is not from any of the professions we regulate.

The Investigating Committee Panel can decide that:

- the case should be adjourned for further information to be obtained or for the allegation(s) to be amended;
- there is a case to answer and the case should go forward for a final hearing; or
- there is no case to answer and the case should be closed.

## The Health and Care Professions Tribunal Service (HCPTS)

The Health and Care Professions Tribunal Service (HCPTS) is the fitness to practise adjudication service of the Health and Care Professions Council.

Although it is part of the HCPC, the distinct identity of the HCPTS seeks to emphasise that hearings are conducted and managed by independent panels.

### Structure of the HCPTS

Health and Care Professions Tribunal - These are the panels that hear and determine cases on behalf of the HCPC's three Practice Committees: the Investigating Committee, Conduct and Competence and Health Committees.

The Tribunal Service team - This team provides operational support to the Tribunal. Within it sit the Tribunal Service Scheduling Team, which is responsible for listing all fitness to practise proceedings, and the Tribunal Service Hearings Team, which is responsible for providing support to panels and other participants at hearings and is also responsible for publishing Tribunal decisions.

## Regulatory action we can take to protect the public

If a registrant's fitness to practise is impaired, an independent HCPTS panel can:

- take no action;
- impose a caution order;
- impose a conditions of practice order;
- impose a suspension order;
- strike the registrant off the register.

## Public Information about our decisions

Hearings are usually held in public. This means that members of the public, including the press, are able to attend. Information heard in public may result in reports in the media. Sometimes, all or part of a hearing is held in private due to the personal and confidential information that may need to be shared with the panel. The public are not allowed to be present when proceedings are held in private.

# Statistical summary<sup>3</sup>

## Number of concerns

The total number of concerns raised in 2021-22 increased by 25% from the previous year. This increase is likely to be due to the reduction in case numbers during 2020-21, which was a result of the nationwide lockdowns and restricted public interaction with some healthcare professionals.

1,266  
2020-21



1,583  
2021-22

## Source of concerns

Source of concern	No. of cases	Percentage
Public	544	34%
Self referral	301	19%
Employer	278	18%
Other	137	9%
Unknown <sup>4</sup>	123	8%
HCPC registrant	106	7%
Anonymous	50	3%
Police	22	1%
Professional Body	21	1%
Article 22(6) <sup>5</sup>	1	0.1%
<b>Total</b>	<b>1,583</b>	

3. Statistics relate to professionals on the HCPC's permanent Register. Numbers on the Temporary Register have not been included as individuals would have been identifiable from the small number.

4. These cases did not pass our Triage stage and the information was not provided by the referrer.

5. Article 22(6) allows us to investigate a matter even where a concern has not been raised with us in the normal way.

## Concerns by profession

The profession with the highest number of concerns raised against them in this period were paramedics followed by practitioner psychologists and physiotherapists. For all professions, the percentage of registrants subject to a concern is c.1% or lower.

Profession	No. of cases	% of registrants subject to concern
Arts therapist	17	0.3%
Biomedical scientist	63	0.3%
Chiropodists / Podiatrist	65	0.5%
Clinical scientist	5	0.1%
Dietitian	20	0.2%
Hearing aid dispenser	34	0.9%
Occupational therapist	137	0.3%
Operating department practitioner	83	0.6%
Orthoptist	5	0.3%
Paramedic	367	1.1%
Physiotherapist	213	0.3%
Practitioner psychologist	312	1.2%
Prosthetists / orthotist	6	0.5%
Radiographer	120	0.3%
Speech and language therapist	49	0.3%
Unknown <sup>6</sup>	87	
<b>Total</b>	<b>1,583</b>	

6. These cases did not pass our Triage stage and the information was not provided by the referrer.

## Outcomes

In 2021 -2022, **470** concerns were closed as they did not meet our threshold policy.

**316** cases were closed by an Investigating Committee Panel, as there was no case to answer.



**470**

Initial assessments (cases closed at Threshold)



**316**

Cases closed at ICP (NCTA)

Cases where an ICP decided there was a case to answer were referred to a Conduct and Competence Committee or Health Committee, depending on the allegation(s).

## 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. Misconduct allegations could include:

- 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*

Lack of competence allegations could include:

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

## Health committee

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 during these hearings and it may not be appropriate for that information to be discussed in a public session.

**212** cases were concluded at final hearings where **127** sanctions were imposed.

Concluded outcome	No. of cases
Struck off	29
Removed by consent	23
Suspended	37
Cautioned (inc. 2 by consent)	25
Conditions of Practice (inc. 1 by consent)	13
Not well founded, discontinued or no further action	85
<b>Total</b>	<b>212</b>

## Outcomes summary

The number of cases closed, or concluded at final hearing in 2021-22 was 22% more than the previous financial year. This is broadly in line with the 25% increase in concerns raised during this period of time, due to the fact there were fewer COVID-19 restrictions in place which limited public interaction with healthcare professionals.

Outcome	2020-21	2021-22
Case closed pre-ICP <sup>7</sup>	457	642
Case closed at ICP	341	316
Case concluded at final hearing	163	212
<b>Total</b>	<b>961</b>	<b>1170</b>

7. This includes cases closed at Triage and at Threshold.

## Concluding 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.

In some cases concluded by consent 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.

Cases can only be concluded by consent 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(s);
- 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 conclude 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.

Concluding a case 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.

## Cases concluded by consent

Decision	No. of cases
Consent - Caution	2
Consent - Conditions of Practice	1
Removed by Consent	23
<b>Grand Total</b>	<b>26</b>

## Appeals against decisions

Registrants may appeal against a HCPTS panel's decision if they think it is wrong or unfair. An appeal must be lodged at the relevant court 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.

Appeals outcome	No. of cases
Upheld and outcome substituted	0
Upheld and case remitted to regulator for re-hearing	0
Settled by consent	2

## Restoration to the register

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 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.

Restoration to the register outcomes	No. of cases
Total restoration applications received	1
Applications accepted	0
Applications rejected	1



## Interim orders

HCPTS panels may impose interim suspension or interim conditions of practice while an investigation is ongoing. These interim restrictions are to protect the public, to protect the registrants from harm to themselves, or are otherwise in the public interest.

The panels considered 73 applications for interim orders. 65 were granted and 8 were not.

Interim order decisions	No. of cases
Conditions of Practice - Interim Order	14
IO not granted	8
Suspension - Interim Order	51
<b>Total</b>	<b>73</b>

## Length of time (expressed as the median) to conclude cases at the ICP and final hearings

As part of our FTP Improvement Programme, we have begun to 'frontload' cases which will result in a decrease in the length of time for a case to progress from ICP to final HCPTS hearing to decrease. The improvements will take some time to embed before we start to see the results in the data.

Conclusion	2020-21 (months)	2021-22 (months)
From receipt to ICP	13	13
From receipt to final hearing	30	29

# Looking forward

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As well as realising the benefits from the changes and improvements to our FTP process, in 2022-2023 we will continue to focus on the FTP goals set out in our [Corporate Plan](#):



A new FTP operating model to support improved quality of our investigations and therefore the experiences of those involved in our FTP processes.



Improved support for those involved in the FTP process.

**These goals will further our aims to continuously improve and innovate, and embed a compassionate approach to regulation.**

