General Optical Council (GOC) response to the Professional Standards Authority's consultation on approach to performance review

Question 1: Are there other concerns about the current performance review process that we have not identified here?

We feel this accurately reflects the concerns about the current performance review.

Question 2: Do you have any comments on our role or the broad approach that we take to performance review as we have set out here?

We wholly support the view that each regulator is best placed to tailor its regulatory systems to the professions it regulates and the risk they pose. This is vital due to the different contexts in which healthcare is delivered and by whom, which results in varying risk profiles for the professions. The approach that one regulator takes may not be suitable or effective for another, so it is important that we have flexibility to be able to put emphasis on different areas of practice or different regulatory levers, to make effective use of the income we collect. In optometry/dispensing optics, for example, most care is delivered in private settings (including delivery of NHS contracts), and this means that the NHS structures that others rely on for systems such as revalidation are not available to GOC registrants.

We also support the risk-based, proportionate approach outlined in paragraph 3.5, whereby the Authority undertakes an initial assessment based on data they have already and then only approaches the regulator in different stages if risks or issues are found. It will be important to give the regulator an opportunity to respond to the assessment at each stage, particularly stage 1, where there has not been a specific request for information.

Question 3: Do you think we should continue to look at the regulators' performance against all of the Standards every year or could the scope of our reviews be more targeted?

We have considered whether the scope of the Authority's reviews could be targeted to a smaller number of areas each year, particularly where standards have not been met in previous years or where there are concerns/queries raised during review of data or other information gathered. On balance, we feel that it would be more

appropriate for the review to look at all of the standards. Our concern is similar to that outlined in the consultation document, that only concentrating on certain standards runs the risk of not identifying problems early and then these potentially becoming bigger issues if discovered later down the line. We also feel that we learn from the more constructive feedback received across other areas especially where there is a warning that we had only just passed the standard, as this helps us strive to do better.

We also think that targeted reviews that continually focus on areas where regulators have historically struggled (e.g. timeliness on fitness to practise) could make the reports look overly negative without the other positive areas of practice to balance out the overall view. This could potentially undermine public confidence in regulation

We are content with the current approach where the Authority only asks questions where they haven't got the information already.

Question 4: If we were to change our approach, are these the right factors for us to consider in determining the scope of reviews? Is there anything else we should be considering?

We agree that the factors outlined in paragraph 3.12 of the consultation document are right to consider in determining the scope of future reviews, if the PSA approach were to change. We have not identified any other factors.

Question 5: If we implemented a system as described above, do you agree that there should be a presumption that the Authority should actively review all of the Standards at regular intervals? What do you think an appropriate timeframe would be?

If the Authority were to change its approach (although please note our reservations outlined in response to question 3), we agree that the Authority should actively review all standards at regular intervals and think that every three to five years based on a risk assessment would be a reasonable timeframe.

Question 6: Do you agree that we should introduce monitoring processes as described above? Do you have any comments on these suggestions?

We agree with introducing monitoring processes if the Authority decides to reduce the scope and frequency of the review process as set out in the consultation document. This would be dependent on the frequency of the reviews proposed and should only be considered if the frequency decreased to every three to five years, otherwise it may become burdensome and then retaining the current system would be preferable. We think it would be helpful for the Authority to address a specific issue in 'real time' rather than waiting until the end of the performance review period

and it would allow a more nuanced formal report later down the line which avoids the binary pass/fail.

Question 7: Have we identified the right areas of our approach that we need to develop in this area? Is there anything else we should be considering?

We think that the areas to identify risks and regulatory failings appear to be the right ones to develop. We have not identified any other areas.

Question 8: How could we best engage with stakeholders, to ensure that we are aware of key risks to public protection? Is there any other evidence that we should be seeking to inform our performance reviews?

We understand that the Authority already contacts stakeholders each year as part of the performance review process. We agree that the Authority could also review the regular research carried out by the healthcare regulators with patients and registrants, particularly in relation to specific consultations. We would also point the Authority to the research[1] that we commissioned in 2019 which identified current and future risks posed to patients and the public by optical professionals.

Question 9: Should we retain the binary system or adopt a more nuanced approach?

We would be in favour of the Authority moving away from the 'met – not met' approach to a more nuanced approach.

Question 10: If we were to adopt a different approach, what alternative approach would you prefer and why?

We would be in favour of moving to a ratings scheme with a range of options describing poor to excellent performance. This would allow exemplary performance to be identified and would be fairer in situations where the Authority is trying to balance whether a regulator has overall met a standard where there are aspects of both good and poor performance.

Question 11: Would these changes support the regulators to learn from our work and that of other regulators, in order to better protect the public?

We think that the changes identified to better support improvement would be helpful, provided that the Authority continued to be 'mindful that regulators are best placed to

[1] https://www.optical.org/download.cfm?docid=9C3A4787-BB26-47AF-B47CFAF5ADCD6840; https://www.optical.org/download.cfm?docid=23ECB4A1-4B76-4F90-BFDE057EA2DE0FC3

identify how to improve their own performance' as outlined in paragraph 3.29 and were open to dialogue to explain why we might not want to implement a recommendation.

Question 12: Do you think thematic reviews would assist us in our scrutiny of the regulators and enhance our public protection role?

We think that thematic reviews could assist the Authority in its scrutiny work, particularly if changes are made to the performance review process as outlined in the consultation document. Thematic reviews would be useful for considering learning and good practice from other regulators and may encourage more collaborative working.

If the Authority were to introduce thematic reviews in addition to keeping the performance review process as it is, this would have resource implications for us. The COVID-19 learning review was an example of a thematic review which was undertaken quickly and meant that we had to respond at a time when we were already under pressure with other work and had not been able to plan the learning review in.

We welcome the comments that the Authority would consult the regulators about the timing of reviews and priorities for subject matter.

Question 13: Please set out any impacts that the proposals set out in this paper would be likely to have on your organisation or considerations that we should take into account when assessing the impact of the proposals.

The Authority would need to carefully balance the impact of having a system involving a standard review process, annual monitoring and thematic review to ensure that the overall impact is not increased. We have already identified that introducing annual monitoring should only be considered where the Authority intends to move to a less frequent standard review cycle, i.e. three to five years, otherwise the impact for organisations will increase. Similarly, if thematic review were to be introduced as a further aspect, then this would need to be planned to ensure that regulators were not overly burdened with reporting due to frequency or concurrent reporting requirements.

Question 14: Are there any aspects of these proposals that you feel could result in differential treatment of, or impact on, groups or individuals based on the following characteristics as defined under the Equality Act 2010:

- **Age**
- **Disability**
- **Gender reassignment**

- **Marriage and civil partnership**
- **Pregnancy and maternity**
- **Race**
- **Religion or belief**
- **Sex**
- **Sexual orientation**
- **Other (please specify)**

If yes to any of the above, please explain why and what could be done to change this.

It is possible that less active review of all of the standards for all regulators could result in detriment, as there would be less frequent checking that regulators have adequate processes in place to collect, analyse and act on EDI data.

Email your answers to PRconsultation@professionalstandards.org.uk by **4 March 2021**.