hcpc health & care professions council

Fitness to practise annual report 2020-21

1 April 2020 to 31 March 2021

Contents

Our role

The HCPC's statutory role is to protect the public by regulating healthcare professionals in the UK. We promote high quality professional practice, regulating over 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 we register them.

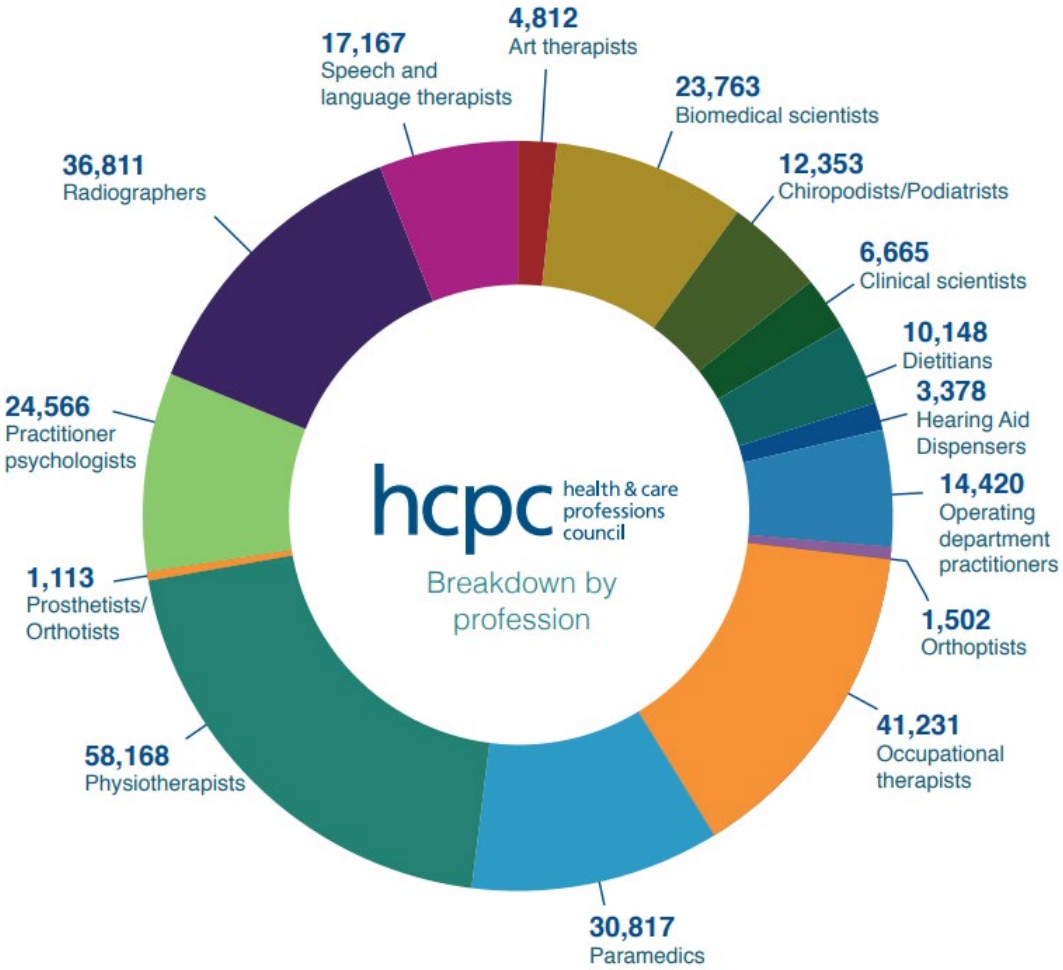
Our Register

As of 31 March 2021 we had 286,914 registrants on our Register from the 15 professions we regulate. This was an increase of 15,518 registrants on the previous year.

Between 1 April 2020 and 31 March 2021 physiotherapists, arts therapists, dietitians, chiropodists / podiatrists, hearing aid dispensers and operating department practitioners all renewed their registration.

During this period, as with many other health and care regulators, the HCPC also added 27,557 individuals to our Temporary Register of students and returners, to boost the healthcare workforce in response to the COVID-19 pandemic.

The HCPC Register – total number of registrants broken down by profession as at 31 March 2021.[1]



[1] This number does not include those on the Temporary Register.

What is fitness to practise?

All our registrants must meet our Standards of conduct, performance and ethics and our Standards of proficiency in order to be registered 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 statutorily 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.

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[2];
- consider concerns about organisations (our remit is to regulate the people on our Register)
- get involved in 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.

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

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 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).

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)

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

The Investigating Committee's role is to meet 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 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 allegations 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 which are at arm's length from the HCPC.

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 to be 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[3]

Number of concerns

The total number of concerns raised in 2020-21 decreased by 45% from the previous year. This decrease was caused for the most part by the transfer of the regulation of around 90,000 social workers in England from the HCPC to Social Work England in December 2019, significantly reducing the number of registrants on our Register. The nationwide lockdowns, which restricted public interaction with healthcare professionals, are also likely to have had an impact on the number of concerns raised.

2019-20	2,284
2020-21	1,266

Source of concerns

Members of the public are the main source of concerns raised. This is followed by self-referrals, and employer referrals.

Source of concern	No. of cases	Percentage
Anonymous	22	2%
Article 22(6)[4]	3	0%
Employer	227	18%
Other	145	11%
Other registrant	76	6%
Police	14	1%
Professional Body	19	2%
Public	475	38%
Self-referral	285	23%
Total	**1,266**	

[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] 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.

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.

Profession	No. of cases	% of registrants subject to concerns
Arts therapist	10	0.2%
Biomedical scientist	45	0.2%
Chiropodists / Podiatrist	66	0.5%
Clinical scientist	10	0.2%
Dietitian	17	0.2%
Hearing aid dispenser	35	1.0%
Occupational therapist	123	0.3%
Operating department practitioner	111	0.8%
Orthoptist	3	0.2%
Paramedic	321	1.0%
Physiotherapist	160	0.3%
Practitioner psychologist	235	1.0%
Prosthetist / Orthotist	1	0.1%
Radiographer	97	0.3%
Speech and language therapist	32	0.2%
Total	**1,266**	

Outcomes

In 2020 -2021, **427** concerns were closed as they did not meet our threshold.

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

	No. of cases
Initial assessments (cases closed at Threshold)	427
Cases closed at ICP (NCTA)	341

Cases where an ICP decided there was a case to answer were referred to a Conduct and Competence Committee or Health Committee, depending on their nature.

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

163 cases were concluded at final hearings where **109** sanctions were imposed.

Concluded outcome	**No. of cases**
Struck off	28
Removed by consent	15
Suspended	33
Cautioned (inc. 6 by consent)	17
Conditions of practice (inc. 2 by consent)	16
Not well founded, discontinued or no further action	54
Total	**163**

Consent process

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. 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.

Voluntary removals	**No. of cases**
Number of applications for voluntary removal	14
Applications granted	14
Applications rejected	0

Appeals against decisions

Appeals	**No. of cases**
Upheld and outcome substituted	0
Upheld and case remitted to regulator for re-hearing	0
Settled by consent	3

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 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 they 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 2020 – 21, three applications for restoration were heard. All three were restored.

Restoration to the register	**No. of cases**
Total restoration applications received	3
Applications accepted	3
Applications rejected	0

Outcomes summary

The total number of cases closed, or concluded at final hearing in 2020-21 was 35% fewer than the previous financial year. This reflects the fact that there were also 45% fewer complaints raised during this period of time, caused for the most part by the transfer of the regulation of social workers in England to Social Work England, as well as restricted public interaction with healthcare professionals, due to Covid-19 restrictions.

Proportionally, the number of cases concluded at final hearing in 2020-2021 fell compared to the last financial year because a large number of in-person FTP hearings had to be postponed due to Covid-19 restrictions. The proportion of cases closed at ICP rose in 2020-2021 compared to 2019-2020, as these meetings could be conducted remotely throughout the pandemic.

Outcome	2019-20	2020-21
Case closed pre-ICP[5]	639	457
Case closed at ICP	389	341
Case concluded at final hearing	355	163
Total	1383	961

Interim orders

HCPTS panels hear and determine cases. 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 **94** applications for interim orders. **69** were granted and **25** were not.

Decision	No. of cases
Conditions of Practice - Interim Order	22
IO not granted	25
Suspension - Interim Order	47
Total	**94**

Average[6] length of time to conclude cases at the ICP and final hearings

Conclusion	2019-20	2020-21 (months)
From receipt to ICP	16	14
From receipt to final hearing	26	32

[5] This includes cases closed at Triage and at Threshold.

[6] Median.