

Council

To consider

Chief Executive's Report

Issue

- 1** This report sets out progress on our strategic aims and significant changes in our external environment since Council last met.
 - Section one: outlines developments in our external environment.
 - Section two: reports on progress on our strategy.

Recommendation

- 2** Council is asked to consider the Chief Executive's report.

Chief Executive's Report

Introduction

- 3** The concern we have had for some time about the state of health services across the UK have become more acute in the last few months and it is now clear we are dealing with systems that are under considerable pressure and in places find it difficult to cope. This will require additional vigilance and some understanding of the difficulties facing both individual and institutions - we know from the past that when the demands on front line services grow, education and training can suffer and we must make sure that doctors' training receives the right levels of supervision and support.
- 4** At the same time the signs from the roll out of revalidation are encouraging. We have now approved recommendations for more than 70,000 doctors and are on target to complete most of the profession by the end of 2016. The administrative process appears to be working well although we are likely to have to deal with more doctors in the next couple of years who do not neatly fit into the usual arrangements. More importantly though we have seen continued rises in appraisal rates among doctors of all kinds and there is strong evidence from Responsible Officers that the new arrangements have helped them engage more effectively with their population of doctors. Moreover, among many doctors there is acknowledgement that the process has encouraged them to reflect on their practice. As we have repeatedly stated, these are early days and we are committed to a comprehensive evaluation, but these are welcome indications that this huge change in the way doctors are regulated is beginning to having the positive impact we were seeking.
- 5** The last few months has seen some progress of the reform of postgraduate education with a series of seminars to explore the recommendations of the Shape of Training Report. The conclusions will be presented to the four governments for consideration - we continue to support the process and are keen to work with others to maintain momentum in the coming year.
- 6** The Smith Commission which has set out further powers to the Scottish Parliament has in effect left health professional regulation under the authority of UK legislation. Given the overwhelming support for UK wide regulation, including from the Law Commissions of England and Wales, Scotland and Northern Ireland the retention of the current position is sensible and welcome.
- 7** We continue to press all the main political parties on the need for legislative reform and the response thus far has been encouraging – there is a shared commitment to take forward the proposals set out by the UK Law Commissions, but unsurprisingly as yet no promises as to when this might happen.
- 8** We have now closed our consultation on the Indicative Sanctions Guidance which has attracted more than 2000 responses, as far as we are aware the biggest response to

any consultation in the GMC's history. We will reflect on this and publish the results early next year. We also had another first with our joint consultation with the Nursing and Midwifery Council on a professional duty of candour – it is an important issue for patient safety and a symbol of our determination to work with others to achieve our goals.

- 9** This has been another year of considerable change, not least on the usually glacier speed area of legal reform – we have new laws to enable us to language test, we are on the way to new laws giving us a right of appeal and we have seen a draft Bill from the Law Commissions which would transform our legislative framework.
- 10** We say goodbye at the end of this month to Sir Peter Rubin who has led this organisation with distinction through major change over the past six years for which we owe him a great debt of gratitude. We also welcome our new Chair, Professor Terence Stephenson, who brings enormous experience and understanding to the role – everyone is very much looking forward to working with him.

Changes to the organisation

- 11** We have appointed Ian Curran as Assistant Director of Postgraduate Education. Ian will be joining us in the New Year from Barts Health NHS Trust where he works as a Consultant Anaesthetist. Ian also currently holds the roles of Clinical Academic Group Director of Education and Workforce at Barts, Senior Examiner for Medical Finals at Barts School of Medicine and Dentistry, and he is Professor of Innovation and Excellence in Healthcare Education at Queen Mary University of London.
- 12** Stephen Jones has been appointed as Assistant Director of the Office of the Chair and Chief Executive. Stephen has previously held senior posts at Monitor and the Department of Health. He will start work with us on 15 December 2014.

Section one – Developments in our external environment

Strategic risks and issues

Legislative reform

- 13** The Law Commissions published the draft *Regulation of Health and Social Care Professions Etc Bill* on 4 April 2014. Although the Government decided not to take the Bill forward in the final Parliamentary session before the General Election, it committed to doing so as soon as Parliamentary time allows. We, the other eight regulators, and the Professional Standards Authority (PSA), have continued to work with Department of Health officials and lawyers to develop the policy thinking which would make it possible to bring a Bill forward following the election. Informed by this work, the Government is expected to publish its detailed response to the Law Commissions proposals in early December 2014.

- 14** Since April 2014 we have worked to improve the prospects for the Bill by highlighting its importance for the future of regulation through an extensive programme of engagement with all our key interests. This has included meetings with, and briefings for, patient groups, a workshop for medical Royal Colleges, medical schools and other education interests, and regular contacts with key parliamentarians. The need for the Bill early in the new Parliament was one of our major themes at the Party conferences for which we also produced a GMC Pledge Card describing some of the reforms that the Bill would enable us to deliver. The case for the Bill has been thoroughly made and is accepted across all our key interests and the main political parties. Not surprisingly, however, no Party has yet given an explicit commitment about when the Bill will be brought forward.
- 15** Following the decision not to proceed with the Law Commissions Bill, the Department of Health (England) is taking forward a Section 60 Order which, if implemented will deliver a number of changes across our fitness to practise procedures and the Medical Practitioners Tribunal Service. The public consultation on these changes has now closed and we await the Department's report. It is expected that Parliament will approve the new legislation in March 2015, before the General Election, with implementation to follow later in the year.

Physicians associates

- 16** We have been approached by Dr Aileen Keel, Acting Chief Medical Officer of Scotland, to consider whether we have a role to play in the regulation of physician associates. We will gauge opinion from our key interests and update members thereafter.

Candour

- 17** In October 2014, we published a joint statement on candour agreed by the Chief Executives of eight professional healthcare regulators. In November 2014, we launched a joint consultation with the Nursing and Midwifery Council on explanatory guidance on the meaning of a professional 'duty of candour'. This expands on our current professional guidance, and includes issues such as near misses and apologies. The Secretary of State, the Rt. Hon. Jeremy Hunt MP spoke at the launch.
- 18** The consultation will run until 5 January 2015, and we hope to finalise the guidance for publication towards the end of March 2015.

Devolution of further powers to Scotland

- 19** The Smith Commission, established by the Prime Minister to take forward devolution, has received 14,000 submissions from the public and 250 submissions from institutions.
- 20** Our submission highlighted the benefits of retaining UK wide regulation which ensures consistent standards for medical education, training and professional practice

across the UK. It safeguards the future of undergraduate and postgraduate medical education throughout the UK and enables medical graduates to move freely across the four parts of the UK throughout their careers.

- 21** Support for UK wide regulation in this area was given by the Law Commissions (of England and Wales, Scotland and Northern Ireland) in its joint report and draft Bill in April 2014.
- 22** The Smith Commission reported at the end of November 2014 and the effect of its recommendations would mean that the GMC remains under the authority of the powers reserved to Westminster.

Healthcare Improvement Scotland Report on Aberdeen Royal Infirmary

- 23** On 2 December 2014, Healthcare Improvement Scotland published two reports looking at the quality and safety of care at Aberdeen Royal Infirmary. These raise very serious issues about aspects of medical care at the hospital. In particular, those conducting the review found unprofessional conduct by senior doctors which had not been addressed, a significantly dysfunctional surgical unit, little evidence of effective performance management, and a failure to follow up concerns raised by the GMC's survey of doctors in training at the hospital.
- 24** In the light of these findings we will now consider whether we need to take any immediate action beyond that which we have taken already. In particular, we will consider whether any further investigations are needed into doctors practising at the hospital; we will seek assurances that doctors in training are being properly supported in appropriate learning environments; and we will wish to be satisfied that the governance arrangements are in place for us to continue accepting revalidation recommendations for doctors at the hospital.

Morecambe Bay Investigation

- 25** We continue to correspond with the Morecambe Bay Investigation which is looking at a series of deaths of mothers and new born babies at Furness General Hospital, between 2004 and 2013. The investigation is focused on the actions, systems and processes of the Trust, as well as the actions of the regulators and commissioners where those actions affected the safety of maternity and neonatal services. The investigation timetable has been extended and is now expected to report in February 2015.

Gosport War Memorial Hospital

- 26** On 10 July 2014, the Minister of State for Care and Support, Rt Hon Norman Lamb MP announced the establishment of an Independent Panel to address the concerns raised over a number of years about the higher than expected deaths of a number of

elderly patients at Gosport War Memorial Hospital, and the subsequent investigations into their deaths.

- 27** The Panel notified us on the 25 September 2014 that it wished to meet the GMC and discuss any material of relevance that we may hold. This will follow formal agreement of the Panel's Terms of Reference which are due to be signed off later this year.

Operation Jasmine Review

- 28** We are also assisting the Operation Jasmine Review which was established in December 2013 by the Rt Hon Carwyn Jones AM, the First Minister of Wales. Operation Jasmine was set up by the Home Office in 2005 in response to allegations of abuse and neglect across six South Wales care homes. The Review was established to identify key learning points for policy, legislation, regulation and operational practice. On 1 December 2014, together with Anthony Omo, Director of Fitness to Practise, and Mary Agnew, Assistant Director of Standards, I met with Margaret Flynn who chairs the Review to assist with her investigation.

EU Directive on the Recognition of Professional Qualifications

- 29** We are continuing to consider the implications of the EU Directive on the Recognition of Professional Qualifications. The Directive includes a pro-active fitness to practise alert mechanism, the introduction of a European Professional Card designed to aid movement around Europe, and new powers for regulators to assess the language competency of applicants for registration.
- 30** We have responded to the public consultation on the Directive run by the UK Department of Business, Innovation and Skills which closed in November 2014.
- 31** We understand that doctors will be included in the second phase of implementation of the professional card which will take place in 2018.
- 32** We have significant concerns about the suitability of the card as a mechanism for registering doctors, as we believe it could undermine our own rigorous processes. We will continue to call on the European Commission to undertake an independent evaluation of the first phase before it is extended to doctors. While the Commission has acknowledged the need to learn from the experience of the first phase it has thus far not accepted the need for such an evaluation.

Shape of Training and credentialing

- 33** The 2013 Shape of Training Review proposed a new architecture for the future of GP and specialist training. The four UK Departments of Health welcomed the Shape of Training report and, through their UK Shape of Medical Training Steering Group, have been considering the report recommendations in a series of workshops.

- 34** The Steering Group met on 4 November 2014 to review the conclusions that may be drawn from the workshops. The aim now is to produce a report by the end of the year to share with the four UK ministers. We remain keen to make sure there is continued momentum behind reform in this area and will work with others to foster UK wide solutions.
- 35** One of the key elements is the introduction of credentialing, a system for accrediting doctors' competence in defined areas of practice. On 30 September 2014 the GMC and Academy of Medical Royal Colleges co-hosted the Shape workshop on credentialing, bringing together key interests from across the UK. A report from the workshop was sent to the UK Shape of Training Steering Group.

Whistleblowing review

- 36** As Council is aware, we commissioned the former Lord Justice of Appeal Sir Anthony Hooper to undertake a review of how we deal with doctors who raise concerns in the public interest and how best they might be supported. Sir Anthony has met with GMC staff and with Sir Robert Francis who is carrying out a wider review for the Department of Health into 'speaking out' which is due to report in December. We expect to receive Sir Anthony's report early next year which will allow time to consider the conclusions of Sir Robert Francis and their relevance to our work.

Work of the IAMRA Chair

- 37** The International Association of Medical Regulatory Authorities (IAMRA) Management Committee, which I now chair, has agreed to appoint an Executive Director. This post is an important first step in enabling IAMRA to promote and support the development of international medical regulation worldwide and better serve the needs of its members.

International Postgraduate Medical Training Scheme

- 38** The Department of Health is developing a scheme to provide specialty training to doctors in the UK by arrangement with overseas' governments. The stated purpose of the International Postgraduate Medical Training Scheme (IPGMTS) is to improve the welfare of overseas' populations by training doctors in the UK who will subsequently return to the sponsor country to practise. A pilot will begin shortly with nominees from the Kingdom of Saudi Arabia. They will follow an identical programme to doctors being trained for the UK workforce and will have the same access to clinical and educational experience, opportunities and assessments. The doctors on IPGMTS will be supernumerary and their training places will be funded by the sponsor government, and they will return to their home countries after their training.
- 39** The GMC has had a limited but important role in the development of the scheme.

- 40** The Department has confirmed that all IPGMTS trainees will apply for registration with the GMC in the same way as other international medical graduates and that they will only be considered for the scheme once they are fully registered and licenced by the GMC. IPGMTS trainees will apply for training posts through the national recruitment portal and will be assessed in the same way as their NHS counterparts. Although they will only fill supernumerary posts, they must still be appointable in their chosen field based on the agreed criteria for national specialty training.
- 41** We have agreed to approve these training posts so that IPGMTS trainees will receive a CCT at the end of their training.

Other Government or Parliamentary activity which may impact on our work

- 42** A series of amendments to the Medical Innovation Bill have been agreed by the House of Lords which has helped clarify a number of important issues. We have welcomed these amendments and look forward to seeing the final version of the Bill.
- 43** We are considering the implications of the Inquiry Report into the outbreak of C-difficile at the Vale of Leven Hospital which was published on 24 November 2014.
- 44** The Health Select Committee has confirmed that our annual accountability hearing will be held on 6 January 2015.
- 45** On 7 November 2014, the Assisted Dying Bill entered the Committee Stage in the House of Lords. If enacted, the Bill would enable competent adults who are terminally ill to be provided at their request with specified assistance to end their own life.
- 46** Along with more than 100 other organisations, we are co-operating with an investigation by the Welsh Language Commissioner which will determine what services we will be required to provide in Welsh in the future.

Key engagements

- 47** On 21 and 22 September 2014, I attended the Labour Party Conference where I had discussions with front bench health team members Jamie Reed MP and Andrew Gwynne MP on legislative reform.
- 48** On 28 and 29 September 2014, I attended the Conservative Party Conference for various engagements including a meeting with Jeremy Lefroy MP to discuss legislative reform.
- 49** On 1 October 2014, together with Judith Hulf, interim Director of Education and Standards, I visited the University of Leeds, School of Medicine where we engaged with medical students, lecturers and programme directors.

- 50** On 5 and 6 October 2014, I attended the Liberal Democrats Party Conference for various engagements including a meeting with Norman Lamb MP and colleagues to discuss legislative reform and other matters.
- 51** On 15 October 2014, I visited the European Commission where I met Martin Frohn, Head of Unit 'Free Movement of Professionals' in DG Internal Market and Services, European Commission, to discuss the Recognition of Professional Qualifications Directive.
- 52** On 17 October and 17 November 2014, I attended the Department of Health's Functions Recommendations Executive Group meeting to discuss proposed changes in the functions of NHS England.
- 53** On 3 November 2014, I had a meeting with Dr Dan Poulter MP to discuss the proposal to move the point of registration. Representatives from Health Education England and the Medical Schools Council were also part of the discussions. A further meeting is planned in January 2015.
- 54** In October and November, together with various directors and Susan Goldsmith, Chief Operating Officer, I attended the UK Advisory Forum meeting in Scotland, chaired by Sir Peter Rubin, and I chaired the meeting in Northern Ireland and Wales. A number of Council members also attended the forums. Feedback from members of the Forums continues to be very positive.
- 55** On 12 November 2014, I attended the HSJ Summit for leaders of the healthcare system where I spoke on the 'Difficult conversations Panel'.
- 56** On 19 November 2014, together with Vicky Osgood, Assistant Director of Postgraduate Education, Judith Hulf, interim Director of Education and Standards, and Andrea Callender, Head of Diversity, I took part in the BMA symposium: 'Ensuring fairness in clinical training and assessment'.
- 57** On 24 November 2014, together with Judith Hulf and Mary Agnew, Assistant Director of Standards, I attended a meeting with the Secretary of State, Rt Hon Jeremy Hunt MP about the teaching of safety in medical training.

Use of the Corporate Seal

- 58** During 2014, in addition to Regulations made by Council, I have exercised the power delegated by Council to apply the Corporate Seal on the following occasions:
- a** Relating to property:
 - i** Licence for Works agreement, to enable work to be carried out at our office in Edinburgh.

- ii Lease agreement for our office in Cardiff.
- iii Deed of Surrender, to relinquish a storage area at our office in St James' Building, Manchester.
- b Relating to pension arrangements – GMC Staff Superannuation Scheme:
 - i Deed of amendment to clarify Trustees role in relation to investments.
 - ii Deed of amendment related to the appointment and removal of trustees.
- c Relating to pension arrangements – Aviva Group Personal Pension Scheme:
 - i Deed of amendment for administrative reasons to ensure the Scheme name matches that held by HM Revenue and Customs.

Section two – Progress on our strategy

Strategy and Policy Board

59 The Strategy and Policy Board met on 2 October 2014 and:

- a Considered the 18 month update to our April 2013 response to the Francis Report and agreed that it should be published.
- b Agreed that we should move towards collecting equality and diversity data from registrants on three protected characteristics: disability, sexual orientation, and religion or belief.
- c Agreed to the establishment of an Assessment Advisory Board to have oversight of assessment activity across the organisation.
- d Agreed to changes in our Reporting Guidance for doctors; Triage Guidance in relation to Fixed Penalty Notices; and to the criteria that would inform the Registrar's decision on referral of non-custodial decisions to case examiners.
- e Approved updated guidance on obtaining and disclosing information in fitness to practise proceedings.
- f Approved new *Guidance on assessing the seriousness of concerns relating to self-prescribing or prescribing to those in close personal relationships with doctors.*
- g Approved amendments to our guidance for doctors on giving advice to patients who raise the issue of assisted suicide.

Insurance and indemnity arrangements

- 60** Our core guidance, *Good medical practice* (GMP), says that doctors must have adequate insurance and indemnity cover so that patients will not be disadvantaged if they need to make a claim about their clinical care. Since August 2014, we have required all new applications for registration with a licence to practise (or restoration of a licence to practise) to include a declaration that they will have, at the point of practice, appropriate cover under an indemnity arrangement. On 15 October 2014 we launched an eight week consultation on changes introduced by the UK Government that are designed to provide further assurance to patients. These changes include new powers that will allow us to:
- a** Request information from a doctor or third party about a doctor's indemnity arrangements.
 - b** Require a doctor to inform us if they cease to have appropriate indemnity or insurance cover or if their cover is provided by their employer.
 - c** Refuse to grant or to withdraw a doctor's licence to practise for failure to have appropriate cover or to comply with our requirements to complete the declaration or provide any further information.
- 61** Our intention, following consideration of the responses to the consultation, is to implement these changes by June 2015.

Indicative Sanctions Guidance consultation

- 62** On 14 November 2014, the public consultation on our Indicative Sanctions Guidance closed. We received a record number of responses and had a good turnout at the events for those with an interest in this area of our work which we held in London, Edinburgh, Manchester, Belfast and Cardiff.
- 63** The draft consultation report will be circulated to Council for approval on 26 January 2015. The recommendations on the outcome of the consultation will then be brought to Council for approval at its meeting on 24 February 2015.
- 64** The new Indicative Sanctions Guidance will be brought for approval in the first half of 2015.

Report on patient safety and undermining

- 65** In November 2014, we published two reports, the first on undermining and bullying and the second on patient safety. The reports draw on information from the National Training Survey and include a number of case studies demonstrating the importance

of reporting such concerns and identifying the actions taken as a result. They also show the demographics of the doctors reporting.

Suicides Review

- 66** The review of cases where doctors have died during one of our investigations is almost complete and we expect to publish it before the end of the year.

State of medical education and practice report 2014

- 67** In October, we published the fourth edition of our annual report, the *State of Medical Education and Practice*. There are key findings on the changing shape of the profession with relatively low growth in the number of GPs, more specialists, a high proportion of women and more doctors who graduated in the EEA.
- 68** This year, there is a greater focus on medical education and how prepared doctors are when they leave medical school for the first year of practice. There has been an overall improvement in preparedness, although there were wide differences between medical schools and concerns about particular areas of practice.
- 69** The report looks at the continuing rise in the number of complaints about doctors and identifies groups at higher risk of receiving a complaint or a sanction/warning and discusses the possible causes.
- 70** For the first time, the report highlights the concerns doctors have raised with our liaison services, devolved offices and Standards team. These issues will inform the content of our Promoting Professionalism work in 2015.

Supporting Information

- Queen's Speech 4 June 2014: <https://www.gov.uk/government/speeches/queens-speech-2014>
- The Law Commission draft Bill on the Regulation of Health and Social Care Professionals: <http://lawcommission.justice.gov.uk/publications/Healthcare-professions.htm>
- Department of Health (England) consultation on changes to the way the GMC decides on a doctor's fitness to practise and the PSA's power to refer cases to higher courts: <https://www.gov.uk/government/consultations/changing-how-the-gmc-decides-on-doctors-fitness-to-practise>
- Morecombe Bay Investigation: <https://www.gov.uk/government/organisations/morecambe-bay-investigation>
- Policy developments on Directive 2005/36/EC (Recognition of Professional Qualifications): http://ec.europa.eu/internal_market/qualifications/policy_developments/index_en.htm
- Shape of Training Review: <http://www.shapeoftraining.co.uk/aboutus/1735.asp>
- Vale of Leven hospital inquiry: <http://www.valeoflevenhospitalinquiry.org/faq.aspx>
- GMC consultation on reviewing Indicative Sanctions Guidance and the role of apologies and warnings: http://www.gmc-uk.org/concerns/fitness_to_practise_consultations.asp#Reviewingour

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