council for healthcare regulatory excellence

Summary of CHRE's annual report 2009/10

This document provides a summary of our activities during 2009/10. Full details and our end of year financial reports can be found in the *Annual Report 2009/10: volume I*, available at www.chre.org.uk/governance/188/

2009/10 – an overview

The interests of patients and the public remained at the forefront of our work this year.

Our ongoing scrutiny of the work of the nine health professional regulators continued. This year it included our first audit of the decisions regulators make at the initial stage of their fitness to practise processes (the processes they use to handle complaints about health professionals).

We researched and asked for views on a wide range of regulation issues, providing advice to the Department of Health and making recommendations to the regulators and other organisations. We also responded to consultations being run by other bodies, some of which are described on page 4. Our aim in each case was to increase the level of public protection that the regulation of health professionals provides.

In September 2009 we developed and consulted on a new strategic plan to set the direction of our work over the next three years. The strategic objectives we agreed were:

- Reporting clearly and openly on the effectiveness of the health professional regulators' work in the interests of patients and the public
- Building evidence and promoting debate in order to identify excellence in health professional regulation and contribute to the wider field of regulatory policy
- Building confident relationships to create right touch regulation.

We continue to promote right touch regulation in all we do. This is regulation that is based on careful assessment of risk, is targeted and proportionate.

As a public sector body we have a responsibility to safeguard public funds and use them efficiently. Our internal auditors examined our systems and our management of risk. They confirmed that our arrangements and practices were appropriate and that our risk management was satisfactory.

Our system of internal control is designed to manage risk at a reasonable level rather than aim to eliminate all risk of failure. We aim, to identify and prioritise risks to achieve our policies, aims and objectives. We seek to

evaluate the likelihood of risks becoming real and the potential impact should they occur in order to manage them efficiently, effectively and economically.

We pay considerable attention to managing significant risks. In the interest of protecting patients, we are prepared to take difficult decisions, which may increase the risk of reputational harm. Managers review risk on an ongoing basis and will tolerate, treat or avoid risks according to the nature of each risk. During the year, we have had to consider how to manage the risks associated with the need to access data held by the regulatory bodies; the risks arising from the expiration of the lease of our office accommodation; and the risks that might arise from any extension in the scope of our remit.

The National Audit Office (our external auditor) audited our internal controls and annual accounts and provided an unqualified opinion. This means that our accounts give a true picture of our activities and that there are no concerns about our finances.

The Department of Health's Review of Arm's Length Bodies was published in July 2010. It proposed that we will become self-funding through a levy from the regulators. Our role will be extended to cover social work in England, to set standards and to quality assure voluntary registers.

Our activity during 2009/10

- **Looking at regulators' decision making at the initial stages of fitness to practise**

This year we carried out our first audit of the initial stages of the regulators' fitness to practise processes. This is when a regulator decides either to take a complaint about a health professional forward to a full fitness to practise hearing or to close the case. We looked at the way regulators made these decisions and assessed whether the decisions made were in the interests of patients and the public.

In March 2010 we published our findings in our *Fitness to Practise Audit Report – audit of health professional regulatory bodies' initial decisions*. We found that in the vast majority of cases, the regulators' decisions did not put the public at risk. Our report identified areas where the regulators were carrying out good practice, which we encouraged the other regulators to adopt. However, there were some areas where practice was either inconsistent or inadequate and we made recommendations to help the regulators to improve these areas in the interests of public protection. The full report is available at www.chre.org.uk/practise/69/.

- **Reviewing the regulators' final fitness to practise decisions**

As part of our ongoing work we review the regulators' final decisions about fitness to practise cases. If we think that a decision is not in the public interest we have the power to refer the case to the high court. We do this in the

interests of patient safety and public protection. The number of fitness to practise cases handled by the regulators rose this year. We reviewed 1,835 cases, compared to 1,370 in 2008/08. Of these cases, two were referred to court, compared to five in the previous year.

There are several possible reasons for the increase in the number of fitness to practise cases:

- Legal changes mean that this year we reviewed cases related to professionals' health as well as their behaviour or performance
- The regulators were responsible for a larger number of professions, resulting in an increase in the number of complaints they received
- Some regulators worked through a backlog of cases, which meant that more cases were handled in 2009/10.

During the process we identified 171 learning points, sharing these with all the regulators to encourage good practice.

- **Checking the regulators' performance**

Our annual review of the regulators' performance found that in general, the regulators are carrying out their responsibilities well and are committed to protecting patients and the public. We highlighted areas of good practice as well as opportunities for the regulators to improve their performance.

This year's performance review included more feedback from third parties, for example, patient groups, the public and others with experience of the regulators. This gave us a broader range of information to make judgements about the regulators' performance. The full performance review report and an overview of the performance review are available at www.chre.org.uk/performance/

- **Our recommendations on the General Social Care Council's (GSCC's) conduct function**

The GSCC regulates social care workers in England. In June 2009 the Secretary of State for Health asked us to review the GSCC's conduct function (their process for investigating complaints about social care workers).

We reported on a number of problems with the processes and management of the conduct function and recommended improvements to enable the GSCC to protect the public more effectively. Our recommendations included:

- The introduction of an effective case management system
- An audit of skills within the conduct team, and the provision of training where required to make sure staff have the appropriate skills
- A review of the GSCC's legal framework to give it more power to protect the public.

The full report is available at www.chre.org.uk/performance/185/

- **Finding ways to improve regulation**

Our review of the regulators' work highlighted areas where health professional regulation could be improved, but where we needed to do more work in order to make recommendations to the regulators. During the year we made recommendations on the following:

- Improving the regulators' registers to make them more helpful to the public. We recommended ways in which the information about health professionals on the regulators' registers could be improved to enhance public safety. The GDC and GOC have since taken our recommendations on board, and are adding more information about health professionals and using clearer language
- Improving decision making in fitness to practise. We recommended that the regulators' fitness to practise panels should share the registrant's response to a complaint with the complainant. This often gives the panel more information and helps them to make better decisions at the early stage of a case. The GOsC has agreed to start sharing the registrant's response with the complainant, and the NMC is also deciding how it could implement this process
- Sharing the results of student fitness to practise committees. Student fitness to practise cases are usually handled by the education provider. Research suggested that sharing the outcome of student cases with the relevant regulator would be beneficial to public safety. We recommended that students' fitness to practise sanctions should be shared with the relevant regulator, so that the regulator can consider the information when the student makes an application to join the register.

We responded to requests from the Department of Health to provide advice on a range of issues to do with health professional regulation. These included:

- Priorities for updating regulatory bodies' legislation so that they can protect the public more effectively
- How the regulators could make sure education and training for health professionals was of a high standard to ensure high quality patient care
- How the regulators can promote the secure use of patients' personal information with their registrants
- Whether some regulatory functions could be shared by the regulators. If so, would this make them more efficient or improve their ability to protect the public?
- The role of the regulators in making sure that people with disabilities received high quality treatment and care from health professionals
- Protecting the public from practitioners who are not on the regulators' registers and therefore may not have the right skills to treat patients safely.

During the year we responded to 13 consultations carried out by other organisations. Through our responses we aimed to promote good practice in health professional regulation. Two examples this year were:

- The Commission on Scottish Devolution – we gave our view that a UK-wide approach to health professional regulation would be the best way to maintain standards and protect public safety. This was reflected in the Commission's final report
- Sharing and publishing information about complaints – we responded to a consultation by the Parliamentary and Health Service Ombudsman, encouraging her to share the details of complaints she received about health professionals with the relevant regulator, even if she had decided not to investigate the complaint herself. She has since confirmed that she would do this.

Building on last year's work, we published a guide for patients and the public on clear sexual boundaries between health professionals and patients, which can be found at www.chre.org.uk/satellite/133/

We also hosted an online consultation on the draft standards of the new General Pharmaceutical Council (GPhC) which will soon become the regulator for pharmacists in Great Britain.

- **Involving patients and the public in our work**

We have improved the way we involve patients and the public in our policy work, for example by asking people for their views through research and consultation. This has helped us to understand what patients and the public think about aspects of health professional regulation and how they would like to see it improve.

Membership of our Public Stakeholder and Professional Stakeholder Networks increased during the year to include patients and patient representative organisations and charities from the four UK countries. We invite members to participate in our consultations and discussions, and keep them informed about our work through an electronic newsletter and email updates.

In March 2010 we invited members of the Public Stakeholder Network to six meetings across England, Northern Ireland, Scotland and Wales, called 'I Learn – U Learn'. A summary report on these meetings can be found at www.chre.org.uk/public/199/

- **Bringing people together to share knowledge and ideas**

In 2009/10 we held six discussion seminars on aspects of regulation. People from over 70 organisations attended sessions on topics including child protection, whistle-blowing and leadership in regulation. The aim of the seminars was to share knowledge, ideas and good practice.

- **Promoting patient safety within the UK and beyond**

We continued to build relationships with organisations in the four UK countries during 2009/10. Through membership of European level organisations and groups, we monitored European developments in health professional regulation policy to promote public protection.

We began work to set up the CHRE International Observatory on the Regulation of Health Professionals in 2009. The Observatory will be a central point for information about how health professional regulation works in different countries. It will be a resource to help countries to learn about good practice from one another. Initially we are inviting organisations from 22 countries to become members of the Observatory. In the longer term we aim to extend this invitation to more countries and to include an increased number of professions.

Find out more

For more details about our work visit www.chre.org.uk