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Professional Standards Authority  
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10 March 2020

Dear Christine,

**Response to the consultation paper on the approach to the performance review process**

The GDC welcomes the opportunity to comment on the performance review process. We are in broad support of the direction of travel towards a review system that is flexible and agile.

We have provided responses to some of the posed questions below but would also like to take this opportunity to offer some more general comments on the performance review function and process.

While the consultation document described the performance review process with reference to the PSA's statutory duty, there was very little reference in the document to the purpose of performance reviews. We are of the view that alongside fulfilling a statutory duty, the performance review function should have a clearly expressed purpose (ideally a forward looking one), and that any process for carrying out reviews should be proportionate to achieving that purpose. Without a clearly expressed purpose, designing or amending a review process becomes somewhat difficult, as it is not immediately apparent what the process is designed to deliver. While there is some reference to risk identification via performance reviews, this raises the question of whether a performance review process is the best method of identifying and mitigating risks. We therefore consider that there are higher order questions to answer before looking in too much detail at the process itself.

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

Alongside the lack of clarity over purpose and aims, we agree with several of the points highlighted by other regulators during the pre-consultation phase, particularly in relation to the annual review cycle, the approach to describing performance against the standards and the timescales for publication of reports.

We would add that the timing of review cycles limits the opportunity for regulators to use the review process as a tool for supporting improvement. The submission and reporting cycles are currently not well aligned, and result in a report on the previous review period being received approximately half way through the next cycle.

We would therefore like to see a process that has a clearer focus on supporting and enabling improvements, both in terms of the timing of consecutive cycles and in how the process allows for the identification of improvements and acknowledgement that improvement has occurred.

**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?**

Once again, here the approach to review has been described with reference to a statutory duty rather than a proportionate process designed to achieve a clear purpose. That being the case, within the confines of what is described, and on the assumption that the aims can be clearly articulated, once that purpose has been set out, we would support efforts to ensure that the process places the minimum necessary burden on regulators in order to achieve it.

The approach set out in the consultation appears broadly sensible, and we agree that regulators are best placed to determine approaches to risk for their sector.

**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?**

This question speaks very clearly to the question of proportionality, which in turn relates to purpose. A targeted approach led by intelligence on risk appears instinctively more proportionate than a simple "one size fits all" annual approach. It is important, however, that this does not simply result in reviews of areas of risk that the regulator is already aware of and taking steps to mitigate, as this would reduce any risk identification value of the performance review. It would therefore very much depend on the approach to determining the target areas, and the timing of the review process.

**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?**

The factors listed for consideration look broadly sensible and comprehensive. It may also be worth considering the inclusion of evidence that regulators have taken account of and when they have responded effectively to significant external events, reviews or inquiries.

**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 the Standards at regular intervals? What do you think an appropriate timeframe would be?**

We conclude that an approach that relies on evidence and is demonstrably proportionate is better than one which has arbitrary timetables within it. A five year interval may be sensible, but there is nothing in the consultation document that provides evidence for that.

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

We would support a monitoring process where serious risks have been identified, provided that it had clear aims and was designed proportionately to achieving those aims.

**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?**

**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?**

Key to ensuring that risk identification mechanisms are effective is ensuring that they are undertaken at the right time. Alongside proportionality, there should be a clear focus on timeliness, both of analysis and of reporting, when putting in place processes aimed at identifying risk. We support a more outcome focused approach, and note that this has the potential, if implemented effectively, to provide an assessment of performance in terms that go beyond an audit of processes and the output of those processes.

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

We understand the benefit of the simplicity of the current binary system; however, we would support a more nuanced approach that acknowledges strengths and areas of good practice as well as identifying improvements and supporting learning.

The options identified in the consultation do not differ sufficiently from the current system, and there are alternatives that could be considered, including a more granular analysis of the component parts of a standard, or a score accompanied with a narrative.

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

Once again the question of purpose arises here. The rating system should be appropriate to the stated purpose of the assessment and support the aims of communicating the outcome. This means understanding who the key audiences for the reports are and the purposes for which they are used. If the purpose of performance assessment is supporting improvement, that might suggest a different approach than that taken if

the purpose is identification of risk, for example. Likewise, different target audiences will suggest different approaches.

**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 consider that there are more effective ways of highlighting and promoting good practice than via the performance review process, and that perhaps a clearer focus on this more generally would be of greater benefit than seeking to address this via this process. These include providing a range of platforms and opportunities to do this. Various inter-regulatory networks are in place already, and these could be utilised for that purpose.

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

Thematic reviews and inspections can be used as a catalyst for wide-ranging improvement. However, given the diversity of the professions regulated, the differences in legislation among other aspects, the thematic reviews would need to be very high level to be meaningful, and would need to be identified via the analysis of a wide range of evidence. Once again, we would be supportive of any process that is proportionately designed to achieve clearly expressed public protection aims.

**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:**

There are no immediate concerns in relation to differential treatment as a result of the proposed changes to the process. However, in line with our earlier remarks in relation to expressing a clear purpose for performance reviews, and given the regulators' common objectives in relation to public protection, it may be worth considering how the review process could positively contribute to tackling inequality, both within healthcare provision and the professions themselves.

Yours sincerely

Rebecca Cooper  
Head of GDC Policy and Research Programme