

Office of the Health  
Professions Adjudicator  
**Report and Accounts**  
**for 25 January**  
**to 31 March 2010**





# **Office of the Health Professions Adjudicator (OHPA)**

## **Report and Accounts for 25 January to 31 March 2010**

Report presented to Parliament pursuant to paragraph 20(3)(a)  
of Schedule 6 to the Health and Social Care Act 2008

Accounts presented to Parliament pursuant to paragraph 19 (5)  
of Schedule 6 to the Health and Social Care Act 2008

Report presented to the Northern Ireland Assembly pursuant to paragraph 20(3)(b)  
of Schedule 6 to the Health and Social Care Act 2008

Accounts presented to the Northern Ireland Assembly pursuant to paragraph 19 (4)  
of Schedule 6 to the Health and Social Care Act 2008

Ordered by the House of Commons to be printed 28 October 2010

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## Contacting OHPA

The contact details for OHPA are:

### Office of the Health Professions Adjudicator (OHPA)

Room 7/5/1 New Kings Beam House  
22 Upper Ground  
London SE1 9BW

**Telephone:** 020 7633 7708

**Fax:** 020 7633 7146

**Email:** [info@ohpa.org.uk](mailto:info@ohpa.org.uk)

**Website:** <http://ohpa.org.uk>

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This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 9780102969214

Published in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002393832

10/10

Printed on paper containing 75% recycled fibre content minimum.

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## Part 1: Introduction by the Chair of OHPA

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I am pleased to present the first report and accounts of the Office of the Health Professions Adjudicator (OHPA). Publication has been delayed for reasons entirely beyond OHPA's control.

As OHPA became a corporate body on 25 January 2010, I am in the unusual situation of reporting on only 65 days of activity. Nevertheless, the achievement of corporate status marked an important milestone on the road to creating the kind of body envisaged by Dame Janet Smith in her Shipman Inquiry report published in 2004-05. Her analysis was that there should be a clear separation between the investigation of doctors and the process for adjudicating on whether they should be allowed to practise. OHPA was established under the Health and Social Care Act 2008 as an independent body solely responsible for adjudication of health professionals, starting with medical practitioners.

The election of a new Coalition Government in May 2010, however, has meant that OHPA's future development is now much less certain. The Government is consulting on the future of adjudication for health professionals, and its current 'preferred option' is to repeal the legislation relating to OHPA and, in separate legislation, to take forward steps to enhance the independence of adjudication and modernise existing processes at the General Medical Council (GMC), from whom we had been due to take over responsibility for the adjudication of doctors' fitness to practise in April 2011. The outcome of the consultation will be known later in the year.

Should OHPA go ahead, Parliament has given us a set of powers appropriate to a modern administrative justice tribunal. We would have powers of case management, the power to make directions as to the conduct of proceedings, including the consequences of failure to comply, and the power to make awards of costs and expenses. Using these powers, we believe there is a strong prospect of bringing a tighter discipline to the

management of cases, reducing their average length both before a hearing and during the hearing itself. This in turn should reduce the average cost to all concerned.

Parliament has also given us our name but we have considered whether a different name might better convey OHPA's intended function. The panels that we would engage to make decisions are classified as tribunals by the administrative justice system and so a collective name might better describe their purpose - such as the Health Professions Tribunal.

OHPA has already been listed by the Ministry of Justice under the remit of the Administrative Justice and Tribunals Council (AJTC). This is entirely appropriate given the judicial function we hope to perform and the extensive involvement of lawyers as advocates and representatives of the parties. OHPA should be seen not only as part of the system of health regulation but also as part of the professional disciplinary justice system and we intend, with the support of the AJTC, to make links with the other tribunals and bodies responsible for equivalent functions for other professions such as solicitors, barristers, architects, surveyors, veterinary surgeons and accountants.

## The set-up activity

Some key milestones and activity by the Department of Health have led up to our creation. The White Paper, *Trust, Assurance and Safety*, published in 2007, recorded the previous Government's decision to establish an independent adjudication body, which was then created by the Health and Social Care Act 2008. Following this the Department established a working group under the title *Tackling Concerns Nationally*, chaired by Sir Ian Kennedy, to plan more detailed work on how OHPA should be set up and how it might operate. Later in this report, we record how the recommendations of that group have been taken forward.

Early in 2009, the Department set up a project board chaired by a senior official with representation from the GMC, the General Optical Council and the AJTC, and an external project manager was appointed. The Privy Council approved the board regulations and delegated the selection of board members to the Appointments Commission, which appointed our five members: the chair, the chief executive and three non-executives. I am grateful to the lead commissioner, Ann Lloyd, who led the selection process, and to Tony Swabe, the independent assessor, and to the commission staff who supported the process.

In October 2009, a programme manager was appointed to recruit and lead an interim team of directors to take forward work on communications, HR, IT, accommodation, finance, policy, and legal support. By January 2010 most of the interim team was in place, working closely with their opposite numbers at the GMC. In this set-up phase, both before 25 January and during the period under report, we were engaged in a joint enterprise to ensure a smooth transition and had extensive and business-like co-operation from the GMC's council members, its staff and from many of those who serve and advise on its panels.

In late 2009, many of those who have an interest in health adjudication, such as professional bodies, regulators, lawyers, defence organisations and others, let us have their thoughts on how the adjudication process could be improved, sharing a wealth of experience and ideas. I am grateful to all those who have contributed so helpfully to our policy planning. On behalf of the OHPA board, I would also like to thank those who have contributed to our efforts so far, both colleagues in the Department of Health, GMC, GOC, and other interested parties, and the transitional team that we assembled.

**Walter Merricks CBE**  
**October 2010**

## Management Commentary

### Introduction

The Office of the Health Professions Adjudicator was established by the Health and Social Care Act 2008. The secondary legislation requires that OHPA is managed by a board consisting of a chair, an executive member, and a maximum of three non-executive board members. The chair is to be a qualified lawyer of ten years standing and none of the board members is ever to have been qualified to practise in any of the health professions. During the reporting period, the chair and non-executive members have been in place. They are:

- Walter Merricks CBE (chair)
- Pamela Charlwood
- Andrew Colquhoun
- Dame Janet Finch

A chief executive, Stephen Shaw CBE, was appointed during February 2010 and took up his post in May 2010.

Our role has been to provide governance to the small transitional team to ensure that OHPA is in the best position to meet its objectives. The board met twice during the reporting period.

The legislation creating OHPA was designed to ensure clear separation between the investigation of fitness to practise cases and the process of determining whether a health professional's fitness to practise is impaired. During the reporting period, we worked on the assumption that we would take over the adjudicatory system for doctors that is currently run by the General Medical Council (GMC) in April 2011. The adjudicatory system for opticians and optometrists was expected to transfer from the General Optical Council (GOC) at a later date.

Assuming the OHPA programme proceeds, OHPA's main responsibilities will be to appoint panellists and assessors to conduct hearings that will:

- Decide whether a doctor's or an optician's fitness to practise is impaired.
- Ensure the safety of patients and the public by directing the regulatory body to restrict a healthcare professional's practice or remove them from the register for their profession where appropriate.
- Consider the need for temporary sanctions (interim orders) that will restrict a health professional's practice or suspend them from practice prior to a full hearing.
- Consider applications from professionals for restoration after being removed from the register for fitness to practise reasons.

We have been working within a tight timetable to establish the new organisation from scratch given the need for public consultation and Parliamentary approval for OHPA's rules and ways of working. Staff have had to be recruited, accommodation found, and systems, policies, procedures and contracts agreed.

During the reporting period a transitional team was formed by year-end that was made up of nine temporary members of staff. Key individuals were in place to lead on HR, IT, accommodation, finance, communications, policy, and legal support. Their appointments and the initial build were co-ordinated by a programme director who ably steered the transition from a project run by the Department of Health to a fledgling independent body.

The *Tackling Concerns Nationally* report made recommendations on how the relevant provisions of the Health and Social Care Act 2008 should be translated into practice. The recommendations that relate to OHPA offer a framework within which we can report on our activities and achievements to date.

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## Status of OHPA

### Recommendation

**OHPA should have a status commensurate with the principle of independence from Government and sectional interests in terms of its operational and financial freedom.**

The Office of National Statistics verified in March that OHPA should be regarded as a central government corporate body, rather than a non-departmental public body. This meant that from April 2011 OHPA would report directly to Parliament. Until April 2011, the establishment of OHPA would be funded through grant in aid from the Department of Health.

### Recommendation

**Consideration is given to listing OHPA under the Tribunals, Courts and Enforcement Act to bring it within the remit of the AJTC. This would ensure that members of AJTC would visit OHPA's hearings and review, consider and report on OHPA's constitution and activities.**

OHPA was listed under the Tribunals, Courts and Enforcement Act 2007 on 25 January 2010, putting OHPA firmly within the remit of the AJTC.

### Recommendation

**Under the provisions of the Health and Social Care Act 2008, OHPA will be required to consult persons that it considers appropriate before making its rules. It would make sense for OHPA to consult widely with a range of interested parties, including the various regulators of healthcare professionals, the four UK Health Departments, and bodies representing patients and the public. The Framework Document should make it clear that the Secretary of State would expect OHPA also to consult the AJTC before making its rules.**

Plans were in place and legal advice had been sought for OHPA to consult on its "day one" rules and ambitions for future rules during summer and autumn 2010, providing all groups, organisations, and individuals with a clear picture of the intended journey of adjudication from the GMC to OHPA. These consultations (which were postponed following the new Government's announcement in July 2010 that it wished to consult on the future of fitness to practise adjudication for health professionals) would have run simultaneously with consultations by the General Medical Council and the Department of Health.

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## Establishment and Governance of OHPA

### Recommendation

**In line with established practice OHPA's chair ought to be appointed first and should sit on the selection panel for other members of the board.**

Walter Merricks was appointed by the Appointments Commission (acting on behalf of the Privy Council) as the first chair of OHPA and took up his post in November 2009. The Commission invited him to join its selection panel and three non-executive board members: Pamela Charlwood, Andrew Colquhoun and Dame Janet Finch, as well as the chief executive, Stephen Shaw, were appointed. These five constitute OHPA's board.

### Recommendation

**One of the first tasks of the initial board of OHPA should be to produce a statement on governance. The statement should include consideration of the likely effectiveness of a board of three to provide proper governance and accountability and to be able effectively to hold the Chief Executive to account with a view to having any additional members of the board appointed by the time OHPA becomes operational.**

A delegation of authority and assignment of functions has been produced as a statement of governance (see <http://ohpa.org.uk/about-us/policies/our-policies-and-procedures/>). Following consultation, the board now consists of five people: the chair and chief executive and three non-executives.

### Recommendation

**The role of OHPA's board should be to set the direction of the organisation in line with its statutory duties and purpose. It should ensure that systems are in place to enable it to monitor performance, manage risks, and hold the executive to account. It should also provide that systems be in place to ensure it acts with probity.**

A programme plan has been developed alongside a governance framework. These have been approved by the board.

### Recommendation

**The proposed statement on governance to be produced by the initial board should include a schedule of delegated authority for the executive.**

A schedule of delegated authority was produced as part of the structure necessary for OHPA to become a corporate body on 25 January 2010.

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## Panels

Recommendations eight to nineteen of *Tackling Concerns Nationally* all relate to the setting up of panels, the rules for OHPA's panels, the appointment and performance management of panellists, and the constitution of the panels.

Most of these aspects of the work of OHPA were due to be subject to public consultation during the next financial year. Initial informal consultation has helped OHPA to establish a set of policy proposals that would cover all aspects of panel set-up and ways of working. The board decided that on the first day of operation OHPA would adopt but adapt the GMC rules and ways of working in order to ensure a smooth transition of service. Lawyers were instructed to draft a new set of rules for "day one" when OHPA would take over responsibility for adjudications. There would have been formal consultation around these initial rules in 2010. At the same time OHPA would have consulted on its future ambitions.

## Financial arrangements

### Recommendation

**The formula that OHPA will use to determine its fee should take account of the complexity and the likely duration of cases as well as the volume of cases.**

OHPA is currently funded by grant in aid from the Department of Health. If OHPA becomes operational, it will charge the regulators on whose behalf it carries out its work – initially the GMC. Work has started on designing a fees structure. Assuming OHPA goes ahead, public consultation on the formula for setting the fees will take place at the same time as the procedural rules consultation.

### Recommendation

**It would be inappropriate for OHPA to build significant reserves of funding. However, OHPA should have the flexibility to carry over funding from one financial year to the next.**

During the reporting period, OHPA focussed on putting in place the initial financial processes, projecting budgetary need and examining the possible fees structure. Assuming OHPA proceeds, this recommendation will be addressed specifically.

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## Information

### Recommendation

**OHPA's initial board should develop as soon as possible a 'Publication Scheme' governing the publication and disclosure of information which should include policies in respect of the publication of minutes of meetings of the board, OHPA's fee, factual details about the status of individual cases and panels' determinations. The scheme should be developed in consultation with interested parties.**

An interim publication scheme was drawn up and promulgated as part of the process leading to the establishment of OHPA as a corporate body in January 2010. Further sections – including those concerning individual cases and panel determinations – were due to be developed during 2010-11. The current publication scheme follows the Information Commissioner's guidance on best practice (see <http://ohpa.org.uk/about-us/policies/>).

## Equality and Diversity

The recommendations in the relevant section of the *Tackling Concerns Nationally* report do not address OHPA directly but are directed at other bodies that, assuming OHPA continues, will monitor our activities. The board and the transitional team are, however, critically aware of the need to embed equality and diversity perspectives in all aspects of OHPA's work. Assuming OHPA continues, we will develop robust equality and diversity policies and procedures. OHPA will also ensure that equality impact assessments are prepared for each key activity.

## Transition

### Recommendation

**OHPA's board should be appointed at an early stage, before the body becomes operational, in order to oversee the detailed work necessary to establish policies and procedures.**

Three non-executives and the chair were appointed to the board prior to OHPA becoming a legal entity and were integral in approving all of the necessary policies and procedures. The board is now fully constituted and meets formally on a monthly basis.

### Recommendation

**OHPA's board should agree a Memorandum of Understanding with the GMC and the Department of Health in order to define relationships and respective responsibilities. As OHPA's remit extends, a similar Memorandum of Understanding should be agreed with the GOC.**

At the close of the reporting period, a Memorandum of Understanding for the transitional period had been drafted for each of the GMC and the GOC and both were being discussed before being signed. Further agreements with both regulators and the Department of Health will be drafted and agreed to cover roles and responsibilities if and when OHPA becomes operational.

OHPA has worked very closely with the GMC in particular. The processes currently used by the GMC have been mapped and the transitional team assessed how these could be adapted as OHPA's own processes are developed.

OHPA has been advised that Transfer of Undertakings (Protection of Employment) (TUPE) would apply to any transfer of staff from the GMC. OHPA's board and the transitional team have engaged constructively with potential future staff to help to develop the organisation.

### **Recommendation**

**OHPA should agree to extend its remit to the GOC cases relating to fitness to practise as soon as possible.**

During the reporting period OHPA worked with the GOC in preparing for the transfer of its adjudicatory functions.

### **Recommendation**

**An 'implementation steering group' should be established to support the implementation of OHPA, at least until such time as OHPA's initial board is in place.**

An implementation group has been in place since before OHPA became a legal entity and continues to monitor the programme.

## **Financial Review**

OHPA was financed by grant in aid from the Department of Health from 25 January to 31 March 2010 during which time OHPA was directly accountable for its own expenditure. In line with HM Treasury guidance, grant in aid is shown as a movement in its reserves.

Full accounts are published as part of this report.

## **Staff**

There were no sick absences reported during this period.

## **Prompt Payment Policy**

The Department of Health administered most of the payments and so its prompt payment policy applies.

## **Auditor**

OHPA's annual financial statements are audited externally by the Comptroller and Auditor General (C&AG) in accordance with paragraphs 19(3) and (5) of Schedule 6 to the Health and Social Care Act 2008. For the period from 25 January to 31 March 2010 the C&AG has estimated that the cost of work performed would be £5,000 and this amount has been provided for in the financial statements. The audit services provided by the C&AG's staff related only to statutory audit work.

So far as the Accounting Officer is aware, there is no relevant information of which OHPA's auditors are unaware. The Accounting Officer has taken all the steps that he ought to have to make himself aware of any relevant information and to establish that the auditors are aware of that information.

**Stephen Shaw**

**14 October 2010**

## Part 2: Accounts 2009-2010

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## Remuneration Report

### Remuneration Policy

Remuneration of the chair and non-executive board members is determined by the Secretary of State for Health as agreed by the Appointments Commission, on behalf of the Privy Council.

### Termination

There is no compensation payable for loss of office to the non-executive board members. The Secretary of State determines whether any compensation should be paid to the chair of OHPA.

### Appointments

The Secretary of State for Health through the Appointments Commission appoints the chair and non-executive board for a fixed term of three to four years and members may apply for one subsequent term of office.

	<b>Date Appointed</b>	<b>Date Appointment Ends</b>	<b>Annual rate (£)</b>	<b>To March 2010 (£)</b>
<b>Walter Merricks (Chair)</b>	25/01/2010	24/01/2014	100,000	18,549
<b>Pamela Charlwood (Member)*</b>	25/01/2010	24/01/2013	7,765	3,235***
<b>Andrew Colquhoun (Member)**</b>	25/01/2010	24/01/2014	7,765	3,235***
<b>Dame Janet Finch (Member)</b>	25/01/2010	24/01/2014	7,765	1,942
			<b>123,295</b>	<b>26,961</b>

The Chief Executive, Stephen Shaw, joined on 10 May 2010. The board took all key decisions during the year.

### Chair and Board Members' remuneration

The remuneration of the chair and board members is shown in the table above and has been subject to audit. There were no benefits in kind.

OHPA reimburses travel and subsistence expenses necessarily incurred by OHPA members attending meetings or undertaking other tasks arising from their membership, in accordance with the conditions and at the rates set by the Appointments Commission.

\* Member of the Audit and Risk Committee

\*\* Chair of the Audit and Risk Committee

\*\*\* Includes an additional gratuity payment for additional time required in the set-up phase of OHPA

### Pensions

The Secretary of State determines that remuneration payable to the chief executive is pensionable.

The remuneration payable to the chair and non-executive members is not pensionable.

Stephen Shaw

### Accounting Officer

Date: 14 October 2010

## Statement of the Office of the Health Professions Adjudicator and Accounting Officer's Responsibilities

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1. Under the Health and Social Care Act 2008 ("the 2008 Act"), the Secretary of State has determined that the Office of the Health Professions Adjudicator ("OHPA") prepare for each financial year a statement of accounts in the form of and basis set out in the Accounts Determination. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of OHPA and of its income and expenditure, changes in taxpayers' equity and cash flows for the financial year.
2. In preparing its accounts the OHPA must take into consideration the accounting principles and disclosure requirements of the Government Financial Reporting Manual and in particular:
  - observe the Accounts Determination issued by the Secretary of State;
  - apply suitable accounting policies on a consistent basis;
  - make judgements and estimates on a reasonable basis;
  - follow applicable accounting standards, subject to any material departures disclosed and explained in the accounts; and
  - prepare the accounts on the going concern basis.
3. The Privy Council has designated the Chief Executive as Accounting Officer of OHPA. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OHPA's assets, are set out in the Accounting Officer's memorandum published in Managing Public Money.

## Statement on Internal Control

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### Scope of responsibilities

As accounting officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of OHPA's policies, aims and objectives, whilst safeguarding the public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in 'Managing Public Money'. In approving this report, I have obtained sufficient assurances from my transitional team, the Department of Health and the finance director.

### The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of OHPA's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in OHPA for the period 25 January 2010 to 31 March 2010 and up to the date of approval of the report and accounts, and accords with Treasury guidance.

### Capacity to handle risk

The OHPA board met three times in shadow form in 2009-10. OHPA became a legal entity on 25 January 2010. The OHPA board met twice between 25 January and 31 March 2010. The Audit and Risk Committee was formed during this period, but did not meet until 30 June 2010. The OHPA board approved the risk register which formed part of the commencement documents. The OHPA board has subsequently approved the risk management strategy and strategic programme risk register.

The strategic risk register for the OHPA programme has been my responsibility together with the programme manager. The risk management system is being developed further to ensure that it is embedded within all project streams supporting the OHPA programme. The finance director held one to one training sessions with each workstream director to introduce OHPA's risk management strategy. Each workstream director was responsible for identifying their projects' risks, and for implementing a system to continuously assess and monitor them.

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## Risk and control framework

OHPA is still in its transitional set-up phase. The OHPA transitional team was appointed by the end of this reporting period. The Department of Health is the lead sponsor for this programme. Regular meetings have been held between the senior responsible officer for the programme in the Department and the OHPA transitional team.

## Programme control framework

The system of internal control has been based on a programme management framework, which includes the following:

Programme board meetings have been held on a monthly basis. The purpose of the programme board has been to manage the delivery of the programme of transition. It has been made up of senior representation from OHPA (who chair the meeting), the GMC, Department of Health and AJTC. There is also representation from the GOC (which was expected to transfer its adjudication function to OHPA at a later date) and two independent members who provide a challenge and scrutiny function. The programme board has reviewed the programme plan and report, highlighting areas of risk and agreeing actions of mitigation.

OHPA board meetings are held on a monthly basis.

The purpose of the OHPA board is to lead the strategic direction of OHPA, and lead the development of the new organisation. The OHPA programme board effectively reports to the OHPA board on all aspects of programme planning, reporting and risk management. The first meeting attended by the incoming chief executive was on March 24 2010.

Weekly OHPA director-level team meetings have been held to provide business updates on recent activity, and to identify urgent issues in the short and medium term. The director meetings were also used to ensure that the transitional team was fully informed about current developments within OHPA and the programme.

Fortnightly transitional planning meetings with directors and programme team have been held to strategically review progress, risks and issues by providing updates on the individual workstream plans and reports, which in turn fed into an overall programme milestone plan and highlight report.

Within this period, OHPA has been in the process of developing an Implementation & Delivery Group (IDG) in tandem with the GMC. The IDG would, once formed, bring together workstream leads across the programme to review progress and risks in each workstream in a greater level of detail than at the programme board.

## Financial control framework

OHPA's Funding and Accountability Framework was agreed with the Department of Health for the transitional period. During this period OHPA was in its early stage of inception. Whilst OHPA was developing its own system of internal financial controls, the Department administered the majority of the procurement and payment processes to the staff and suppliers on its behalf. OHPA began administering its own payments to the staff and suppliers in the latter part of the financial year.

## Other control framework

OHPA is currently in start up mode and as such has not begun to develop its own IT applications or infrastructure. OHPA has appointed the chief executive officer as the SIRO (Senior Information Risk Owner). Information Security has been the responsibility of the interim IT director.

All of OHPA's electronic data and access to this data is managed securely through using the services of the Department of Health Information Services. The Department of Health provides all aspects of security audit, desktop, infrastructure and applications.

OHPA has its own email exchange that is maintained by Rackspace Ltd via the Department of Health. Whilst Rackspace Ltd provides a 'safe harbour' agreement facility (<http://www.export.gov/safeharbor/>), all documents, specifically but not exclusively those containing personal data, transmitted via email are archived to a dedicated Department of Health controlled drive that contains OHPA's file structure.

To date there have been no reported security data incidents at OHPA.

## Review of effectiveness

As accounting officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by advice from the Director of Finance who has responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the board, and plans to address weaknesses and ensure continuous improvement of the system are in place.

Stephen Shaw

**Accounting Officer**

Date: 14 October 2010

# The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

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I certify that I have audited the financial statements of the Office of the Health Professions Adjudicator (OHPA) for the period 25 January to 31 March 2010 under the Health and Social Care Act 2008. These comprise the Net Expenditure Account, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

## Respective responsibilities of the OHPA, Accounting Officer and auditor

As explained more fully in the Statement of OHPA and Accounting Officer's Responsibilities, OHPA and the Accounting Officer are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

## Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of whether the accounting policies are appropriate to the OHPA's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the OHPA; and the overall presentation of the financial statements.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Opinion on regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of OHPA's affairs as at 31 March 2010 and of its net expenditure, changes in taxpayers' equity and cash flows for the period then ended; and
- the financial statements have been properly prepared in accordance with the Health and Social Care Act 2008 and directions made thereunder by the Secretary of State.

## Emphasis of matter - Going concern

In forming my opinion, which is not qualified, I have considered the adequacy of the disclosures in the financial statements made in note 1.2 'Going Concern' and note 1.2 'Events after the Reporting Period' which address the Government's ongoing consultation over the future operation of OHPA. This consultation indicates the existence of a material uncertainty which may cast significant doubt about the ability of the Office of the Health Professions Adjudicator to continue as a going concern. The financial statements do not include the adjustments that would result if the Office of the Health Professions Adjudicator was unable to continue as a going concern.

## Opinion on other matters

In my opinion:

- The part of the Remuneration Report to be audited has been properly prepared in accordance with the directions made thereunder by the Secretary of State for Health issued under the Health and Social Care Act 2008; and
- The information given in management commentary within the report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

Amyas C E Morse

**Comptroller and Auditor General**

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

Date: 15 October 2010

## Net Expenditure Account

For the period 25 January to 31 March 2010

	Note	£
<b>Expenditure</b>		
Staff costs	3	247,925
Accommodation & managed services cost	4	18,882
Other expenditure	5	346,434
		<b>(613,241)</b>
Notional cost of capital	6	-
		<b>(613,241)</b>
<b>Net expenditure</b>		
Notional cost of capital reversal	6	-
		<b>(613,241)</b>
<b>Net expenditure after cost of capital</b>		

At year end, all operations were continuing. They are currently the subject of a formal consultation by the Department of Health.

The notes on pages 26 to 33 are part of the financial statements.

## Statement of Financial Position

**As at 31 March 2010**

	<b>Note</b>	<b>£</b>
<b>Non-Current assets:</b>		
Property, plant and equipment		-
<b>Current Assets:</b>		
Prepayments	11	1,469
Cash and cash equivalents	8	312,920
<b>Total Assets</b>		<b>314,389</b>
<b>Current liabilities:</b>		
Trade and other payables	9	(106,050)
Payables to Department of Health	9	(208,339)
<b>Total current liabilities</b>		<b>(314,389)</b>
<b>Non-current assets plus net current assets</b>		<b>-</b>
<b>Assets less liabilities</b>		<b>-</b>
<b>Reserves:</b>		
General Reserve	10	-
		-

The financial statements on pages 22 to 33 were approved by the board on 30 June 2010 and were signed on its behalf by:

Stephen Shaw

**Accounting Officer**

Date: 14 October 2010

Opening balances and comparative figures have not been shown as OHPA was not formally constituted until 25 January 2010.

The notes on pages 26 to 33 are part of the financial statements.

## Statement of Cash Flows

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For the period 25 January to 31 March 2010

	Note	£
<b>Cash flows from operating activities</b>		
Net expenditure		(613,241)
Notional cost of capital		-
Increase in trade payables		106,050
Draw down payable to Department of Health		208,339
Increase in trade receivable & prepayments		(1,469)
		<hr/>
<b>Net cash outflow from operating activities</b>		(300,321)
<b>Cash flows from investing activities</b>		-
<b>Cash flows from financing activities</b>		
		<hr/>
Grant in aid from Department of Health	2	613,241
		<hr/>
<b>Net increase in cash and cash equivalent in the period</b>		312,920
<b>Cash and cash equivalents at the beginning of the period</b>		-
		<hr/>
<b>Cash and cash equivalents at the end of the period</b>		<b>312,920</b>

## Statement of Taxpayers' Equity

From 25 January to 31 March 2010

	Note	General Reserve £
<b>Balance as at 25 January 2010</b>		-
<b>Changes in Taxpayers' Equity for 2010</b>		
Retained deficit		(613,241)
<b>Total recognised income and expenditure for 2010</b>		(613,241)
Government grant from Department of Health	2	613,241
<b>Balance as at 31 March 2010</b>		-

## Notes to the Accounts

### 1 Statement of accounting policies

These financial statements have been prepared in accordance with the 2009-10 Government Financial Reporting Manual (iFReM) issued by HM Treasury. The accounting policies contained in the iFReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the iFReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Office of the Health Professions Adjudicator (OHPA) for the purpose of giving a true and fair view has been selected. The particular policies adopted by OHPA for its reportable activities are as described below. They have been applied consistently in dealing with items that are considered material to the accounts.

#### 1.1 Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment, intangible assets and inventories.

#### 1.2 Going concern

OHPA receives funding from the Department of Health for its operating costs. The Department of Health has confirmed that it will continue to finance OHPA through grant in aid for the period ending 31 March 2011. Depending upon the results of the Government's consultation on the future of fitness to practise adjudication for health professionals, the Department will continue to provide grant in aid until OHPA becomes operational or until it is closed down. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

#### 1.3 Grant in aid

The net cash needs of OHPA are financed by grant in aid from the Department of Health, which is credited to the general reserve and is not shown as income. This is recognised in the financial period in which the amounts

are received.

#### 1.4 Tangible non-current assets

Expenditure on non-current assets is capitalised. Non-current assets comprise software licenses, information technology equipment, office fixtures and fittings, and office leasehold improvements. The capitalisation threshold limits and depreciation policy are as explained below:

Expenditure on major information technology projects is capitalised. This includes expenditure directly incurred on hardware, software and appropriate consultants' installation costs.

Non-current assets are capitalised where the cost is £3,000 or over. However, for grouped purchases of IT equipment, IT software or fixtures and furniture, individual items with a cost of £500 or greater are capitalised where the total grouped purchase is £1,500 or more.

Assets in the course of construction are capitalised at purchase cost and then depreciated from the date that they become operational.

For the purpose of calculating the current value, revaluation is applied using indices prepared by the Office of National Statistics to the closing carrying value of material assets only (e.g. leasehold improvement) at the year ending 31 March. Revaluation losses at balance sheet date are written off against the proportion of the credit balance on the revaluation reserve. Any remaining losses are charged to the net expenditure account.

### 1.5 Depreciation

Depreciation is charged on all non-current assets at rates calculated to write down the valuation of each asset to its estimated residual value evenly over its expected useful life. The asset lives currently estimated for each class of assets are:

Fixtures and fittings	Five years
Leasehold improvement	Ten years
Office and IT equipment	Three years

### 1.6 Intangible assets

Initial costs of software and licenses are capitalised and amortised over the useful life of the software, while annual licenses to use software or ensure continuous updates are charged to the net expenditure account as they are incurred. The minimum level for capitalisation of intangible fixed assets is £3,000. On initial recognition, assets are measured at cost, including any costs such as installation that are directly attributable to bringing the asset into working condition for its intended use.

The asset lives currently estimated for each class of assets are:

Software development and licenses	Three years
-----------------------------------	-------------

### 1.7 Taxation

Expenditure in the net expenditure account is shown inclusive of Value Added Tax (VAT), which is irrecoverable for OHPA.

### 1.8 Capital charge

In accordance with HM Treasury's requirement, a charge reflecting the cost of capital utilised by OHPA is included in the expenditure account. The charge is calculated at the real rate set by HM Treasury (current rate of 3.5 per cent) for the financial year 2009/10 on the average carrying amount of all assets less liabilities. The notional charge is credited back to the net expenditure account for the year before taking the surplus/deficit for the year to the general reserve.

### 1.9 Pensions

OHPA is still considering options for the permanent pension provision for staff. Any staff temporarily appointed on secondment until 31 March 2010 retained the pension scheme of their original employer.

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## 2 Grant in aid

	£
Grant in aid	
Received for revenue expenditure	613,241
Received for capital expenditure	-
	<hr/> <b>613,241</b> <hr/>
Grant in aid drawn down	334,000
Payable to Department of Health	(208,339)
Prepayments by Department of Health	1,469
	<hr/> Spend by OHPA 127,130
Spend by Department of Health on behalf of OHPA	486,111
	<hr/> <b>613,241</b> <hr/>

### 3 Staff numbers and related costs

#### (a) Staff costs comprise

	<b>Permanently employed staff</b>	<b>Board Members</b>	<b>Others</b>	<b>Total</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Wages and salaries	19,564	26,961	196,687	243,212
Social security cost	800	3,085		3,885
Other pension cost	828			828
<b>Total net costs</b>	<b>21,192</b>	<b>30,046</b>	<b>196,687</b>	<b>247,925</b>

#### (b) Average number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows:

	<b>Staff</b>	<b>Others</b>	<b>Total</b>
Directly employed	2		2
Employed through others	2	7	9
<b>Total</b>	<b>4</b>	<b>7</b>	<b>11</b>

#### 4 Accommodation & managed services cost

**£**

Accommodation & managed services cost	18,882*
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\* The Department of Health provides this service to OHPA. It excludes Finance and HR.

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## 5 Other expenditure

	£
Website design and hosting	35,700
Recruitment cost	133,732
Business process review	100,950
Branding	30,000
Consultancy fees	6,566
Audit fees	5,000
Other administration costs	34,486
	<hr/>
	<b>346,434</b>

## 6 Cost of capital

	£
Notional cost of capital	-

## 7 Property, plant and equipment

	£
Property, plant and equipment	-

There were no non-current assets purchased during the period.

**8 Cash and cash equivalent**

	<b>£</b>
Balance as at 25 January 2010	-
Net change in cash and cash equivalent balances	312,920
<b>Balance as at 31 March 2010</b>	<b>312,920</b>

The following balances as at 31 March were held at:

Commercial banks	312,920
<b>Balance as at 31 March 2010</b>	<b>312,920</b>

**9 Trade Payables and other current liabilities**

Amounts falling due within one year	<b>£</b>
Trade Payables	13,199
HMRC	14,680
Accruals	78,171
	<b>106,050</b>
<b>Due to Department of Health</b>	<b>208,339</b>

---

## 10 Income and Expenditure reserve

	£
Net Expenditure	(613,241)
Grant in aid	613,241
	-

## 11 Trade receivables and prepayments

	£
Prepayments	1,469

## 12 Post balance sheet events

In accordance with the requirements for IAS10, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General.

On 26 July 2010, the Under Secretary of State from the Department of Health announced in a Written Ministerial Statement that the Government is not so far persuaded that the creation of OHPA is the most appropriate and proportionate way of delivering fitness to practise adjudications for doctors. A consultation paper, *Fitness to Practise Adjudication for Health Professionals: Assessing different mechanisms for delivery*, was published on 7 August, the consultation period concluding on 11 October.

In light of this event the board of OHPA has reviewed the appropriateness of the preparation of the financial statements on a 'going concern' basis.

The board notes that, even if the Government were to decide not to proceed with the OHPA programme, legislation would be required before OHPA could be abolished and statutory responsibilities ceased or transferred. Any such legislation, if passed, is unlikely to receive Royal Assent before July 2011. In the interim period the board is satisfied that sufficient funding is

and will be in place to enable OHPA to continue to meet its obligations as they fall due.

Given the initial view taken by the Government and the necessary lack of clarity regarding the implications for OHPA, the board has concluded that there exists a material uncertainty that casts some doubt upon OHPA's ability to continue as a going concern. Nevertheless, after making enquiries and considering the circumstances described above, together with the outcome of their discussions with the Department, the board has every expectation that OHPA will have sufficient resources to continue in operational existence for the foreseeable future. For these reasons, the board continues to adopt the going concern basis in preparing the report and financial statements.

## 13 Related party transactions

OHPA is funded by the Department of Health through grant in aid. The Department of Health is regarded as a related party. During the period, the OHPA had various material transactions with the Department of Health, all of which were conducted at arm's length prices.

None of OHPA's board members undertook any material transactions with OHPA during the period, except for remuneration paid for their services and, in the case of non-executive members, reimbursement of home to office travel expenses.

#### **14 Financial instruments**

As the cash requirements of OHPA for the 2009/10 financial year were met through grant in aid provided by the Department of Health, OHPA is not exposed to credit, liquidity or market risk.

**Liquidity risk:** No significant exposure given that OHPA's net resource requirement for the financial year is financed through grant in aid.

**Interest rate risk:** OHPA has no exposure to interest rate risk as it does not have any financial liabilities and financial assets that are held in a variable rate bank deposit account.

**Foreign currency risk:** OHPA has no dealings in foreign currency and is not subject to currency fluctuation risk.

**Receivables:** For the period, OHPA was fully funded by grant in aid. Since this is a transition period account, OHPA is not exposed to any credit risk.

**Payables:** Liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. If trade terms are not specified, payment is made no later than 30 days from receipt of invoice. OHPA is not exposed to concentrations of credit risk to a single payable or group of payables.

#### **15 IFRSs, amendments and interpretations in issue but not yet effective, or adopted**

**IAS8**, accounting policies, changes in accounting estimates and errors, requires disclosures in respect of new IFRSs, amendments and interpretations that are or will be applicable after the reporting period. There are a number of IFRSs, amendments and interpretations that have been issued by the International Accounting Standards Board that are effective for financial statements after this reporting period. The following have been considered as relevant and have not been adopted early by OHPA:

#### **IFRS 9 financial instruments**

A new standard intended to replace IAS 39. The effective date is for accounting periods beginning on, or after, 1 January 2013.

#### **IAS 7 statements of cash flow**

Amendments to the existing standard. The effective date is for accounting periods beginning on, or after, 1 January 2010.

#### **IAS 17 leases**

Amendments to the existing standard. The effective date is for accounting periods beginning on, or after, 1 January 2010.

#### **IAS 24 related party disclosures**

Amendments to the existing standard. The effective date is for accounting periods beginning on, or after, 1 January 2011.

#### **IAS 36 impairment of assets**

Amendments to the existing standard. The effective date is for accounting periods beginning on, or after, 1 January 2010.

None of these new or amended standards and interpretations is likely to be applicable or is anticipated to have a future material impact on the financial statements of OHPA.

In addition, the following are changes to the FReM, which will be applicable for accounting periods beginning on 1 April 2010:

#### **Chapter 8 impairments**

Adaption of IAS 36 impairment of assets.

#### **Chapter 11 income and expenditure**

Removal of cost of capital charging.

None of the changes to the FReM is anticipated to have a future material impact on the financial statements of OHPA.

## Annex: Accounts Direction

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1. Under paragraphs 19(1), (2) and (3) of Schedule 6 to the Health and Social Care Act 2008 ("the 2008 Act"), the Secretary of State has the power to determine the form of accounts that the Office of the Health Professions Adjudicator ("OHPA") must keep, the form of the annual accounts in respect of each financial year that the OHPA must prepare, and the time period after the end of the financial year to which the accounts relate within which the OHPA must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General.
2. This letter constitutes the Secretary of State's determination of these matters, and has effect from the date of this letter.
3. In preparing its accounts the OHPA must take into consideration the accounting principles and disclosure requirements of the Financial Reporting Manual.
4. The OHPA's annual accounts must:
  - give a true and fair view of the state of affairs as at year end and of the income and expenditure, total recognised gains and losses, and cash flows of the OHPA for the financial year then ended; and
  - provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities that govern them.
5. The time period after the end of the financial year to which the OHPA's annual accounts relate within which OHPA must send copies of the annual accounts to the Secretary of State and Comptroller and Auditor General is seven months for the first year end and two months thereafter.
6. This note is to be reproduced as an appendix to the published accounts.

28 July 2010





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ISBN 978-0-10-296921-4



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