



Woburn House, 20 Tavistock Square, LONDON, WC1H 9HD
Tel: +44 (0)20 7419 5494 Fax: +44 (0)20 7380 1482
Email: admin@dentalschoolscouncil.ac.uk

Dental Schools Council response to the Law Commission Consultation on the Regulation of the Health Professions May 2012

The Dental Schools Council represents the interests and ambitions of UK Dental Schools as they relate to the generation of national health, wealth and knowledge acquisition through research and the profession of dentistry. The following response offers a dental school view on the proposals put forward in the Law Commission Consultation on the Regulation of the Health Professions, with reference to the relevant parts, proposals and questions in the consultation document.

The structure of reform and Accountability (With reference to part 2 of the consultation)

We support the principle of a single Act of Parliament to provide the legal framework for all the health and social care regulators and replace all the existing governing statutes and orders. We believe the common legislative framework will help deliver greater consistency and improvements across healthcare regulation. We also welcome the intention that, within this framework, the regulator will be given greater autonomy, which is essential if they are to be enabled to respond to the specific needs of a particular profession. The default powers for the Government to intervene will ensure a safety net.

We support the provision of powers to allow the regulator to amend rules without direct oversight of the PC or Government (**Proposal 2-3**). However, oversight is needed, and this could be the role of the CHRE.

We agree that the regulator should be required to consult (**Proposal 2-7**) – however when concerning matters of educational delivery the regulator should be required to also consult educational and training providers, including the Schools and PG Deans (and, in the future, LETBS).

Main duty and general functions of the regulators (With reference to part 3 of the consultation)

Notwithstanding the importance of the GDC's role to protect the public, promote and maintain health, we believe that the GDC also has a central responsibility to maintain confidence in the dental

Chair:

Professor P M Speight BDS, PhD, FDSRCPS, FDSRCS(Eng),
FDSRCS(Edin), FRCPath
Dean, School of Clinical Dentistry, The University of Sheffield

Executive Secretary and Treasurer:

Professor F Fortune CBE, BDS MBBS MRCP, FRCP, FDS
RCSeng, FGDP, PhD, DipEd teachers Med/Dent
Director, Institute of Dentistry, Queen Mary University of London

profession, including through close working with dental educators, care providers and employers. For this reason, in response to **Question 3-1** we recommend that the statute specify the paramount duty of the regulators and the CHRE is to: (2) protect, promote and maintain the health, safety and well-being of the public and maintain confidence in the profession, by ensuring proper standards for safe and effective practice.

The governance arrangements of the regulators, including the size and composition of Councils (With reference to part 4 of the consultation)

The Dental Schools Council recently responded to the Department of Health on the GMC and GDC constitutions, with a focus on the size and composition of council. In our response we highlighted our concern that, at least in the case of the GDC, a smaller council would be ineffective to represent the relatively recently increased diversity of registered dental professions, including dentists, nurses, technicians, therapists and academics, with the requisite knowledge and expertise, and that this would limit Council's ability to be responsive to developments in health, dentistry and dental education.

In relation to **Question 4-6** we recommend that (3) the regulators are given general powers to set the size and composition of their Councils and the Government be given default powers to intervene if this is necessary in the public interest.

The registration and renewal of registration of professionals, student registers, registration appeals

(With reference to part 5 of the consultation)

We note **Provisional Proposal 5-2**: *The regulators should have the ability but not a duty to appoint a Registrar.*

It would be impossible and ineffective to set up a register without a registrar; we would strongly recommend that the legal requirement for the appointment of a registrar is continued. This provides the transparency and accountability for maintaining the register.

We note **Provisional Proposal 5-3**: *The statute should specify which registers must be established by the regulators, including any different parts and specialist lists. The Government would be given a regulation-making power to add, remove or alter the parts of the register and specialist lists.*

We agree that there should be consistency, as set by the Government, around the parts of the register and specialist lists to be established or maintained, and we recognise that this will require flexibility between the different healthcare professions. We also believe that protected titles are not clear enough to the public. They could be reformed and greatly simplified into tiers of specialism.

We note **Provisional Proposal 5-4**: *The Government should be given a regulation-making power to introduce compulsory student registration in relation to any of the regulated professions.*

On the related **Question 5-5**, we recognise that student registration and the wider issue of how best to embed professionalism in pre-registration education and training is an area of interest for all the health professional regulators and for HEIs. Selection into dental school implies selection to the dental profession, and we are encouraged by the proposal for a common approach to student registration. Student registration would require the regulator to take more responsibility for fitness to practise for all

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dental professionals in training, which would be more helpful than the current arrangements. However we recognise that it may not be possible for the regulator to address all student issues in a timely manner and that this may make it very difficult for HEIs to manage on going cases without disadvantaging students. There is also potential for conflict between the role of the regulator in managing a case (for example, if a student were to be suspended) and the statutory obligations of the University to allow them to proceed with their academic studies pending an outcome. We would wish to explore an accord with the regulator whereby there is student registration, but the HEIs administer fitness to practice issues in a timely manner, but along agreed principles.

With regards **Questions 5-6 and 5-7**, it is unclear to us how a list of voluntary registrants for professions who are not currently regulated would work. This would require a lot of resource to maintain the high standards of regulated professions, yet the registrant fees could not be guaranteed.

With regards **Question 5-8**, we recommend that lists of non-practising registers are abolished; these add to confusion, and they do not reflect an individual's appropriate competence, fitness to practise or ongoing CPD as is the purpose of all other registration lists. A professional who is non-practising for a length of time should be required to demonstrate their competence and fitness to practise at the point of returning to registration. For all others, we believe the non-practising register does nothing to enhance or add to public safety.

We note and support **Provisional Proposals 5-9 to 5-14**: *The regulators will be required to register applicants on a full, conditional or temporary basis. In addition, the regulators will be given powers to introduce provisional registration if they wish to do so.*

We are actively exploring, with the Department of Health and the GDC, the notion of a provisional registration category for dentists.

How the regulators oversee the quality of pre-registration and post-registration education and training

(With reference to part 6 of the consultation)

The Dental Schools Council welcomes the provisional proposals on the regulators' oversight of the quality of both pre-registration and post-registration education and training (Question 6-2).

In reference to **Questions 6-5 and 6-6**, the potential extension of the powers of the regulators into areas that are currently the responsibility of universities such as assessment and selection needs to be treated with caution. It is right that the regulator sets the standards for registration and seeks assurance that these standards are being met, and it is acknowledged that a national assessment is an example of a tool that regulators may look to for this assurance. However, undergraduate dental education is more than just a means of achieving registration; it aims to provide dental students with opportunities to demonstrate excellence in a range of clinical and academic domains as well as competence in those core skills and competencies required for registration. National assessment could not demonstrate the breadth of these skills and competencies in the same way as the overall programme of assessments delivered by dental schools. We support the continued review of all aspects relating to the selection, education, training and assessment through inspections of universities and other education providers,

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through which the GDC can continue to seek the reassurances that the selection process used by schools are appropriate, fair and transparent. We have noted the anomaly however that such a regulatory oversight does not apply to registrants who have been trained by educational providers overseas. A particular concern is registration of EEA dentists who have the right to the register, but escape any regulatory oversight or requirement to sit an examination.

In reference to **Provisional Proposal 6-10**: *The statute should provide for two separate types of guidance: tier one guidance which must be complied with unless there are good reasons for not doing so, and tier two guidance which must be taken into account and given due weight. The regulators would be required to state in the document whether it is tier one guidance or tier two guidance.*

We do not think that the proposals need to go any further in encouraging a more streamlined and coordinated approach to regulation in the areas of education, conduct and practice. However two tiers of guidance would add confusion. Either key guidance is established and how this is delivered is up to the provider – or the guidance is explicit (where currently it is not).

Fitness to Practise investigation

(With reference to part 8 of the consultation)

The DSC supports the approach taken within the section but would once again wish to highlight the Universities' roles in undertaking fitness to practise investigations of those students registered on their professional programmes.

Overlap issues; duty to co-operate and collaborate with relevant organisations and with other regulatory systems

(With reference to part 12 of the consultation)

We fully support the proposals for the statute to impose both general (**Provisional Proposal 12-6**) and specific (**Provisional Proposal 12-8**) duties to cooperate. We believe that cooperation with relevant organisations including those involved in the education and training of registrants is a core part of the regulators' role. In response to **Question 12-7** we would suggest that it may be helpful for the statute to give examples of the types of arrangements that could be made under provisional proposal 12.6, however these should be illustrative rather than mandatory.

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