General Chiropractic Council

Regulating Healthcare Professionals

The GCC response to the Department for Health and Social Care consultation on reforming professional regulation of healthcare professionals in the UK.

June 2021

About the General Chiropractic Council

‘The General Chiropractic Council is the UK regulator for the chiropractic profession’

The General Chiropractic Council (GCC) is an independent statutory body established under the Chiropractors Act (1994). Its purpose is to regulate the chiropractic profession and protect the health and safety of the public by setting and maintaining the highest standards of practice.

The title of 'chiropractor' is protected by law. It is a criminal offence for anyone to describe themselves as a chiropractor without being registered with the General Chiropractic Council.

Before registration, the GCC checks to ensure all chiropractors, including those from outside the UK, are properly qualified and fit to practise. The GCC also approves and monitors programmes offered by education providers responsible for the training of chiropractors in the UK.

Through all these activities, the GCC helps to support and raise public confidence in the profession and its place within the wider healthcare system.

Why regulatory reform of healthcare professionals is needed?

The UK model of regulation for health and care professionals is rigid, complex and needs to change to better protect patients, support health services and help our healthcare workforce meet future challenges. To achieve this, regulators need to be faster, fairer, more flexible in protecting patients and in minimising costs to registrants. As the Department for Health and Social Care's own consultation acknowledges, the case for reforming professional healthcare regulation has been made.

The General Chiropractic Council (GCC) has long been advocating the need for reform; providing regulators with the necessary powers to ensure the 'protection of patient' duties can be properly fulfilled. Currently, under many of the rules in place, regulators are unable to fulfil this duty and lack the ability and flexibility to make changes.

In the past, the GCC has sought the support of the Department of Health and Social Care to enable the legislative changes needed to improve our operations. This has proven difficult, not least to the potential of reform to the whole system, as proposed within this consultation. While this has been (and undoubtably will continue to be) a frustrating journey, it is now possible to see the potential benefits of the suggested reforms, and the positive impact they may have on the regulation of the chiropractic profession, its patients, and the public.

That said, it will be vital that these proposals are enacted. Regrettably, the history of professional health and care regulatory reform is one of stuttering progress with the necessary wholesale changes undelivered. The GCC cannot emphasise enough the importance of demonstrable and swift progress that needs to be made to modernise our health and care regulatory landscape.

Regarding this DHSC consultation, the GCC is largely supportive of the proposals, taken as an overall package, and believe they substantially improve on the powers currently granted. In some areas we make observations and suggestions for improvement with a view to being helpful and based on our significant experience.

Nick Jones
Chief Executive and Registrar
General Chiropractic Council

Our Response to the Consultation

Part One: Governance and Operating Framework

Question One: Do you agree or disagree that regulators should be under a duty to co-operate with the organisations set out above?

The GCC agrees with the proposal.

The system of health and care within the UK is complex, as is regulation. Whilst we each have defined duties, we all operate within the system and the duty of cooperation is vital to ensure the best possible outcomes for patients and the public. We fully support the proposal, as in practice, that is how we work. It is important that barriers to effective cooperation are removed or managed within an assessment of balance of risks. Good leadership and a culture of openness and transparency lead to effective cooperation.

Question Two: Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and these related duties?

The GCC agrees with the proposal.

Transparency is vital in ensuring public confidence in the regulation of health and care professionals. Our work is carried out in public – for examples meetings of Council and regulatory hearings. We back this up by making our platforms and information as accessible as possible; we publish information about our main activities in order to be held to account; we try to consult with others openly and publicly about any material changes proposed to the way we carry out our work. Our starting point is how best we can be transparent as to our activities not whether we should be transparent. Given the duty, where it is necessary to protect information, for a given period or permanently we expect that we will be clear as to the basis for doing so.

Question Three: Do you agree or disagree that regulators should be required to assess the impact of proposed changes to their rules, processes and systems before they are introduced?

The GCC agrees with this proposal.

This is good regulatory practice. We undertake impact assessments currently. Amongst other things, the GCC Strategy commits to taking right touch action where we investigate and act.

Question Four: Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators?

The GCC agrees with the proposal.

The principal concern of any board or, in our case, Council should be the exercise of good governance. Considering evidence from a range of sources, such as effectiveness reviews of governance, external audit, assessments of performance by the PSA and so on, we might conclude our governance is effective. No doubt others can point to similar records. It is conceivable that performance will remain effective within a unitary board arrangement, albeit that is not assured. In other words, the 'structure' of the board is not the critical factor in its effectiveness.

The issue of registrant representation on the board is an important one. Good governance requires candidates to be appointed on merit. A registrant can bring qualities, skills and experience to a board. This Council sees such representation as important as regards transparency and access to expertise relating to the profession and would wish to maintain a level of registrant involvement (subject to the meeting of appointment criteria).

It is also the case that the profession has grave concerns as to what it sees insofar as the proposal representing a diminution of access to expertise (and 'context') by the board in its decision-making. Any reassurances provided by the extant Council may be perceived by the profession as unhelpful given inevitable changes to membership over time.

We suggest that consideration be given to an alternative to 'may' – for example, 'normally expect' and that proposed rules should make it clear the arrangements for ensuring a registrant voice in Council decision-making.

Question Five: Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval?

The GCC agrees with this proposal.

Currently the impediment to us is less with seeking Privy Council approval, more to do with the inflexibility and inability to establish rules. An organisation such as a professional health and care regulator, reliant on fee income, must be able to set those fees (enabling it to meet its statutory duties) with as little to fetter it as possible. With those freedoms come great responsibilities, largely dealt with by the duty of transparency and, when it comes to rule-setting, a duty to consult.

Question Six: Do you agree or disagree that regulators should be able to set a longer-term approach to fees?

The GCC agrees with this proposal.

The GCC notes the suggestion of establishing a longer-term fee-setting strategy providing certainty to registrants and the regulator. This is welcome and, alongside the points above, create a mature and respectful environment in which charging takes place.

Question Seven: Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation?

The GCC agrees with the proposal.

Each regulator will be best placed to determine the committee and governance structure, which is necessary for it to discharge its responsibilities, and this may vary depending on the size of the organisation and the context within which it operates. Regulatory reform is required to free regulators from prescriptive legislation and therefore it would seem counterproductive to prescribe what committees an organisation must have to function.

Question Eight: Do you agree or disagree that regulators should be able to charge for services undertaken on a cost recovery basis, and that this should extend to services undertaken outside of the geographical region in which they normally operate?

The GCC agrees with this proposal.

Again, taking into account transparency and proportionality, such a mechanism creates a culture of fairness, with costs falling on those incurring them – for example an educational institution. As the UK is seen internationally as a trusted source of accreditation or expertise it also makes sense for regulators to charge for services outside of the UK, especially as the safeguards relating to cost-recovery only are likely to be in place.

Question Nine: Do you agree or disagree that regulators should have the power to delegate the performance of a function to a third party including another regulator? Please give a reason for your answer.

The GCC agrees with this proposal.

This is a very welcome proposal. We see opportunities here for a Council to explore and agree changes in how it carries out activities that could generate effectiveness and efficiency benefits all round. The Council cannot delegate responsibility, so arrangements for performance management and accountability will need to be exacting. The creative application of this power may serve to obviate the need for large-scale structural change of the regulatory landscape – where the benefits of such change can often be a long time coming at best, or illusory at worst.

Question Ten: Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above?

The GCC agrees with this proposal.

Collectively we are bound by safeguards such as GDPR. Within such an environment the regulatory system can only be effective if a presumption of data sharing between bodies is enabled. We see this proposal as necessary and unexceptionable.

Question 11: Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which it operates?

The GCC agrees with this proposal.

It is a necessary component of transparency and accountability that a regulator reports to each country's Parliament.

Question 12: Do you agree or disagree that the Privy Council's default powers should apply to the GDC and GPhC?

The GCC agrees with this proposal.

As far as possible a consistent legal framework should apply consistently to all regulators.

Part Two: Education and Training

Question 13: Do you agree or disagree that all regulators should have the power to set:

- standards for the outcomes of education and training which leads to registration or annotation of the register for individual learners;
- standards for providers who deliver courses or programmes of training which lead to registration;
- standards for specific courses or programmes of training which lead to registration;
- additional standards for providers who deliver post-registration courses of programmes of training which lead to annotation of the register; and
- additional standards for specific courses or programmes of training which lead to annotation of the register?

The GCC agrees with this proposal.

The GCC agrees that all regulators should have the full range of powers listed in order for all to have broadly similar powers to set standards for programmes and providers. The new powers present the potential for us to explore opportunities relating to post graduate training and specialisms and are welcomed.

Question 14: Do you agree or disagree that all regulators should have the power to approve, refuse, re-approve and withdraw approval of education and training providers, qualifications, courses or programmes of training which lead to registration or annotation of the register?

The GCC agrees with this proposal.

The GCC agrees that all regulators should have these powers and enable us to carry out robust quality assurance of programmes. We agree it is right for regulators to have the power to approve, refuse, re-approve and withdraw approval of education and training providers, qualifications, courses or programmes of training.

The issue of annotations has to be date not been explored but is welcomed and would potentially give greater clarity to the public around additional skills, knowledge and experience of registrants. We recognise the value and benefit to patients and the public in being able to identify healthcare professionals who best meet their needs. Our current powers are restricted to the approval of undergraduate programmes and we welcome the opportunity to explore the approval of post graduate programmes.

Question 15: Do you agree that all regulators should have the power to issue warnings and impose conditions?

The GCC agrees with the proposal.

This would bring all regulators in line with each other and is a necessary part of quality assuring programmes, giving us all these options and powers. It would also give the public reassurance that programmes are monitored and that standards continue to be met. We recognise that guidance would need to be set in order to implement a fair and transparent process.

Question 16: Do you agree or disagree with the proposal that education and training providers have a right to submit observations and that this should be taken into account in the decision-making process?

The GCC agrees with the proposal.

The GCC believes that this should and is part of the approvals process and that all evidence and information should be taken into account in the decision-making process. We currently operate such a collaborative process.

Question 17: Do you agree that:

- education and training providers should have the right to appeal approval decisions;
- that this appeal right should not apply when conditions are attached to an approval;
- that regulators should be required to set out the grounds for appeals and appeals processes in rules?

The GCC agrees with the proposal.

The GCC believes that there should be a right to appeal as set out in the proposals. This is reasonable and brings transparency to the process and mirrors the right of appeal of registrants to appeal decisions that affect their registration.

We also agree with the proposal that this should only apply to approval decisions and not to the imposition of conditions. These, as the consultation outlines, can be demonstrated as being met through the process that seeks to determine approval or withdrawal, and therefore we do not think an appeal process would be a proportionate regulatory response.

Finally, we do agree that regulators should clearly outline in rules the grounds of appeal and the appeal process as this would aid transparency and provide clarity for education and training providers.

Question 18: Do you agree or disagree that regulators should retain all existing approval and standard setting powers?

The GCC agrees with the proposal.

The GCC agrees that regulators should retain all existing approval and standards setting powers and allow them to continue to exercise these powers. We do not have any extended powers as described in the consultation.

Question 19: Do you agree or disagree that all regulators should have the power to set and administer exams or other assessments for applications to join the register or to have annotations on the register?

The GCC agrees with this proposal.

While it is not something that to date the GCC has considered it would provide flexibility to set requirements for entry to or annotation of the register, including being able to specify if there are examinations or other assessments, in addition to those taken, to acquire relevant qualifications, which must be passed prior to registration or annotation of the register. To date, not having the powers, has never been an issue. We do see this power as a useful one – particularly in relation to the Test of Competence.

Question 20: Do you agree or disagree that this power to set and administer exams or other assessments should not apply to approved courses or programmes of training which lead to registration or annotation of the register?

The GCC disagrees with the proposal.

While this is an additional power that may not be needed currently if we are to future proof our legislation this could be included and allow regulators to consider all routes to registration or annotation of the register.

Question 21: Do you agree or disagree that regulators should be able to assess education and training providers, courses or programmes of training conducted in a range of ways?

The GCC agrees with the proposal.

The GCC believes that regulators should be able to carry out assessments in a variety of ways and indeed, already do this and the pandemic has proven that this works for regulators.

Question 22: Do you agree or disagree that the GMC's duty to award CCTs should be replaced with a power to make rules setting out the procedure in relation to, and evidence required in support of, CCTs?

The GCC does not have a view on whether the GMC's duty to award CCTs should be replaced with a power to make rules setting out the procedure in relation to, and evidence required in support of, CCTs.

Question 23. Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements?

The GCC agrees with the proposal.

This would bring much needed flexibility to our requirements and allow us at last to fully review our CPD requirements and determine what is fit for purpose for the profession and to protect the public and meet their expectations. CPD ensures registrants demonstrate to regulators that they continue to be up to date and fit to practise in an ever-changing healthcare landscape.

The GCC thinks it is appropriate that the regulators should be required to set out in rules and guidance how the continuing professional development and revaluation requirements are to be operated.

Part Three: Registration

Question 24. Do you agree or disagree that the regulators should hold a single register which can be divided into parts for each profession they regulate?

The GCC agrees with the proposal.

The GCC believes that regulators should hold a single register, which will avoid confusion for patients and the public. This is consistent with the approach we already operate.

Question 25: Do you agree or disagree that all regulators should be required to publish the following information about their registrants:

- Name and Profession
- Qualification (this will only be published if the regulator holds this information. For historical reasons not all regulators hold this information about all of their registrants)
- Registration number or personal identification number (PIN)
- Registration status (any measures in relation to fitness to practise on a registrant's registration should be published in accordance with the rules/policy made by a regulator)
- Registration history

The GCC agrees with the proposal.

The GCC agrees with the list of proposed publishable material but would suggest clarifying the term 'Registration history' which is vague with potential for misunderstanding. If this is intended to relate to past disciplinary matters, then it would be clearer to refer to it as such.

Question 26: Do you agree or disagree that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data?

The GCC agrees with the proposal.

This power is essential for regulators to undertake their role effectively. In order to deliver their statutory objectives regulators will need to be able to collect, hold and process data including sharing it with other bodies, where necessary, for the purposes of protection of the public and this should include the objectives as outlined in current legislation. Without this power the ability of regulators to fulfil their statutory objectives and duties will be negated. This power also needs to be sufficient to support the earlier proposal about requiring information from certain bodies in question 10.

Question 27: Should they be given a discretionary power allowing them to publish specific data about their registrants?

The GCC agrees with the proposal.

Each organisation regulates different professions with unique characteristics and requirements. Having a core number of data fields to publish is useful and gives a consistent approach, but regulators also need the power to publish additional fields where these are commensurate with the profession/s they regulate.

Sufficient information needs to be published to enable stakeholders to reliably check the registration of individuals.

As outlined in the consultation document, the GCC and the General Osteopathic Council publish additional information on the register which includes the geographical location and practice details of our registrants. For those regulators such as ourselves who regulate independent practitioners the ability to publish this information is an important safeguard as it allows members of the public to verify that the practitioner is a registered healthcare professional.

Therefore, we support the proposal that regulators be given a discretionary power allowing them to publish specific data about their registrants.

Question 28: Do you agree or disagree that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection?

The GCC agrees with the proposal.

The GCC agrees that regulators should have the power to annotate their register, but only where it is required to protect patients and the public.

Annotations on the register have the potential to provide helpful information to the public which supports public protection, such as clarifying an individual's scope of practice.

We note from the consultation that this proposal is accompanied by the suggestion that the regulator sets out an annotation policy which explains their approach to making annotations and we consider that to be a sensible safeguarding measure.

Therefore, we support the proposal that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection.

Question 29: Do you agree or disagree that all of the regulators should be given a permanent emergency registration power as set out above?

The GCC agrees with the proposal.

While such a power is less important for the General Chiropractic Council, we understand and appreciate that emergency registration powers are important for other regulators.

Question 30: Do you agree or disagree that all regulators should have the same offences in relation to protection of title and registration within their governing legislation?

The GCC agrees with this proposal.

There should be consistency across the regulators in relation to protection of title and protection of registration. We actively monitor a caseload of protection of title cases and would welcome wider powers in this area.

Question 31. Do you agree or disagree that the protection of title offences should be intent offences or do you think some offences should be non-intent offences (these are offences where an intent to commit the offence)?

The GCC agrees with this proposal that protection of title offences should be intent offences.

The GCC takes protection of title very seriously and have and will continue to take out private prosecutions against individuals who persistently breach the provisions in the Chiropractors Act. We consider that making protection of title offences intent offences mirrors the approach that we already implement by sending 'cease and desist' letters to the individual prior to commencing prosecutions.

Question 32: Do you agree or disagree with our proposal that regulators should be able to appoint a deputy registrar and/or assistant registrar, where this power does not already exist? v

The GCC agrees with the proposal.

It is important that decision making processes should not rely solely on one individual role, to ensure the regulatory function continues in the absence of that role holder. We consider this approach to be reasonable.

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Question 33: Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance?

The GCC agrees with the proposal.

The GCC strongly agrees with the proposal to remove processes from primary legislation. Over time requirements change, both legally and culturally. The General Chiropractic Council is currently unable to make changes to processes to incorporate appropriate alterations without recourse to government departments. This is time consuming for both regulators and government as well as expensive. A more proportionate approach would be to let regulators use their expertise to write processes and procedures and allow them the power to develop their own guidance documents.

Question 34: Should all registrars be given a discretion to turn down an applicant for registration or should applicants be only turned down because they have failed to meet the new criteria for registration?

The GCC agrees with this proposal.

While the GCC would welcome a discretionary power to turn down an application outside of set registration criteria, it must be restricted to reasons of protecting the public. There must also be a requirement to set out for the applicant the reasons for a refusal to register and for the applicant an ability, within rules, to appeal that decision.

Question 35: Do you agree or disagree that the GMC's provisions relating to the licence to practise should be removed from primary legislation and that any requirements to hold a licence to practise and the procedure for granting or refusing a licence to practise should instead be set out in rules and guidance? v

The GCC agrees with the proposal.

The aim of reform should be to provide regulators with a greater degree of autonomy and flexibility and this proposal would provide that to the GMC. In addition, there should be clarity to stakeholders about the distinction and purpose of registration and the licence to practise and what this enables doctors to do and whether doctors are registered or registered and licensed.

Question 36: Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them?

The GCC agrees with the proposal

The power to suspend in specific circumstances would be a useful addition to the powers available to regulators in their public protection role. In general, the process to remove a registrant is time consuming and, where serious concerns exist, the public are potentially at continued risk.

Question 37: Do you agree or disagree that the regulators should be able to set out their removal and readmittance processes to the register for administrative reasons in rules, rather than having these set out in primary legislation?

The GCC agrees with the proposal

The General Chiropractic Council already has some processes within secondary legislation, such as its initial registration, retention and re-admission processes. However, for the same reason as we would not want such processes within primary legislation, we would also prefer as much as possible was left to the discretion of the regulator to set processes and procedures within guidance. This gives regulators the agility to make changes as and when necessary and without recourse to government.

Question 38: Do you think any additional appealable decisions should be included within legislation?

The GCC agrees with the proposal.

The GCC agrees that decisions that are appealable should be listed in legislation. It is appropriate that these are listed as it gives clarity as to what can be appealed and the process for doing so. We would also suggest that the regulator should have the power to remove a registrant for failing to have adequate indemnity cover outside of an application process, and that decision should also be appealable.

Question 39: Do you agree or disagree that regulators should set out their registration appeals procedures in rules or should these be set out in their governing legislation?

The GCC agrees with the proposal.

The GCC would argue that the appeals procedures should be set out in guidance and that the process for setting the guidance should be set out in rules. Secondary legislation still requires significant time and expenditure for both regulators and DHSC to change. Should it be necessary for appeal procedures to be set out in rules we would suggest they should be a high level set of principles, allowing regulators to make appropriate guidance covering the detail.

Question 41: Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers?

The GCC agrees with the proposal.

The General Chiropractic Council does not currently have a student register and has no wish to do so, as it adds a layer of bureaucracy for students, duplicating the function of education providers. The GCC engages with chiropractic students on a number of occasions and will continue to do so but does not see what added benefit comes with student registration.

Question 42: Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish non-practising registers?

The GCC agrees with the proposal.

There is no utility in establishing non-practising registers, since this has the potential to cause confusion. Those registrants not practising, either temporarily or permanently, are no longer a risk to patients and therefore do not need to remain registered. However, we would also suggest making it simpler for registrants to relinquish their registration, when it is no longer required, would be helpful.

Part Four: Fitness to Practise

Question 43: Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation?

The GCC agrees with the proposal.

Prescriptive details on international registration should be removed, as we would for the requirements of all registration processes. Regulators must be trusted to set proportionate processes for international applicants that ensure applicants meet the same education standards as those graduating from approved UK education programmes.

Question 44: Do you agree or disagree with our proposal that regulators should be given powers to operate a three-step fitness to practise process, covering:

- 1: initial assessment
- 2: case examiner stage
- 3: fitness to practise panel stage?

The GCC agrees that the fitness to practise process should be a three-stage process. At present, the GCC's process does not contain an initial assessment stage (or anything comparable) which means all concerns raised with us must be progressed if they relate to a registered chiropractor and the concern relates to a potential breach of the Code. We are not able to apply any other criteria such as if the concern is sufficiently serious or whether we would be likely to be able to gather any evidence to support such a concern. We are also not able to close cases early in the process where the concern should not proceed further – it must be investigated regardless.

Question 44: Do you agree or disagree that:

- All regulators should be provided with two grounds for action – lack of competence, and misconduct?
- Lack of competence and misconduct are the most appropriate terminology for these grounds for action?
- Any separate grounds for action relating to health and English language should be removed from the legislation, and concerns of this kind investigated under the ground of lack of competence?
- This proposal provides sufficient scope for regulators to investigate concerns about registrants and ensure public protection?

The GCC has some concerns that someone who is impaired on the grounds of health may not wish to be labelled as incompetent. Whilst the changes proposed do not limit nor change our ability to investigate health concerns, we feel the more important question here is the impact for those facing a concern and implication that might have on their future employment. Public perception of 'incompetence' is likely to be less favourable than that of someone impaired by reason of their health. The same could be said for employer's and future career prospects.

Whatever the final position might be, what is important is the need for consistency across the regulators. What is agreed should be agreed for all.

Question 45: Do you agree or disagree that:

- all measures (warnings, conditions, suspension orders and removal orders) should be made available to both Case Examiners and Fitness to Practise panels; and
- automatic removal orders should be made available to a regulator following conviction for a listed offence?

The GCC agrees that all measures should be made available to both Case Examiners and Fitness to Practise (FtP) Panels. This will provide for maximum flexibility throughout the process and allow for cases to be concluded at the most appropriate and proportionate stage. It will also likely improve the timeliness of the process, reducing the emotional impact proceedings can have on registrants.

The GCC agrees that regulators should be given the power to automatically remove a registrant following a conviction for a listed offence. There is no benefit to be had from pursuing such a conviction through the full FtP process when the outcome is always going to be a removal order. Automatic removal is a positive inclusion, allowing quick and decisive action to protect the public from those who commit serious criminal offences.

Question 46: Do you agree or disagree with the proposed powers for reviewing measures?

The GCC agrees with the proposed powers for reviewing measures. These provisions are like the current position. In the current scheme, a Fitness to Practise panel would decide if a review were to be permitted. The proposal is likely to move the decision on whether to hold an early review to the regulator. This is welcomed.

Question 47: Do you agree or disagree with our proposal on notification provisions, including the duty to keep the person(s) who raised the concern informed at key points during the fitness to practise process?

The GCC agrees with the proposal. This is required in our current scheme and we believe it is important that the person that raised the concern is updated at key decisions/junctures.

Question 48: Do you agree or disagree with our proposal that regulators should have discretion to decide whether to investigate, and if so, how best to investigate a fitness to practise concern?

The GCC agrees with the proposal. It is essential that there is a filtering process to close complaints that are not sufficiently serious, that may be vexatious or repetitive or where there is no prospect of being able to obtain cogent evidence because the conduct complained of happened many years ago/documents no longer exist/people are not willing to cooperate or give evidence. At present, all cases proceed through to an investigation – 90% of cases considered by the Investigating Committee (equivalent stage 2) are closed. A good proportion of these could have been closed much earlier if an initial assessment stage was in place.

Of course, there should be clear tests and thresholds set out in Rules to ensure cases are not closed inappropriately but provided that occurs, initial assessment is a vital tool in ensuring only serious cases likely to amount to impairment are pursued.

Question 49: Do you agree or disagree that the current restrictions on regulators being able to consider concerns more than five years after they came to light should be removed?

The GCC agrees with the proposal: As with question 48, the time when the complaint took place is relevant, usually in relation to being able to obtain evidence but a blanket exclusion on all complaints where the conduct occurred 5 years ago or more could lead to investigation of serious concerns being prohibited, although we appreciate that could be quite a rare occurrence. Conversely, we don't wish to encourage 'defensive practice' and the time-unlimited threat of complaints. A robust initial assessment test that highlights the need for the regulator to consider the availability or ability of the regulator to obtain evidence should suffice.

Question 50: Do you think that regulators should be provided with a separate power to address non-compliance, or should non-compliance be managed using existing powers such as “adverse inferences”?

The GCC does not currently have a power to address non-compliance but we can see why such a power would be useful. Non-compliance with investigations can lead to delays and it is difficult for the regulator to judge when sufficient attempts have been made. Progressing a case too soon could prejudice the registrant but sometimes, non-engagement occurs as an attempt to frustrate the process and could create a public protection void. It is a difficult balance and an express power that was properly laid out in Rules could provide better clarity and ensure public protection was not compromised.

Question 51: Do you agree or disagree with our proposed approach for onward referral of a case at the end of the initial assessment stage?

The GCC agrees with the proposed approach. Clarity for the registrant and the regulator about how multiple concerns will be managed would be an improvement on our current processes. It also affords for better public protection by ensuring a comprehensive view of a registrant’s fitness to practise can be given to decision makers at the right time. Of course, this needs to be balanced with the need to expeditiously dispose of cases and not create delays by holding back more advanced cases, but a process laid out in Rules should address that balance and provide clarity to all parties.

Question 52: Do you agree or disagree with our proposal that regulators should be given a new power to automatically remove a registrant from the Register, if they have been convicted of a listed offence, in line with the powers set out in the Social Workers Regulations?

The GCC agrees with the proposal to introduce automatic removal where a registrant has been convicted of a listed offence. There is no benefit to be had from pursuing such a conviction through the full FtP process when the outcome is always going to be a removal order. Automatic removal is a positive inclusion, allowing for quick and decisive action to protect the public from those who commit serious criminal offences.

Question 53: Do you agree or disagree with our proposals that case examiners should:

- have the full suite of measures available to them, including removal from the register?
- make final decisions on impairment if they have sufficient written evidence and the registrant has had the opportunity to make representations?
- be able to conclude such a case through an accepted outcome, where the registrant must accept both the finding of impairment and the proposed measure?
- be able to impose a decision if a registrant does not respond to an accepted outcomes proposal within 28 days?

The GCC mostly agrees with the proposals but have some reservations.

The GCC agrees that case examiners should have the full suite of measures available to them, including removal as this allows for maximum flexibility and quicker disposal of cases.

The GCC agrees that case examiners should be able to make a final decision on impairment if they have sufficient written evidence that demonstrates a lack of insight, a risk of repetition or a lack of remediation or the registrant has accepted they are impaired (and understands what that technically means). Where they are not able to fully assess impairment, the case should be referred to an FtP Panel. There is a risk that those not represented will not fully understand the meaning of 'impairment' – that cuts both ways in that that misunderstanding could lead to inappropriate acceptance or rejection of the concept of impairment. This links to the next point.

The GCC agrees that case examiners should be able to conclude cases via accepted outcome where the registrant accepts both the findings of impairment and the proposed measure. The issue arises again that accepting or rejecting impairment may be done erroneously due to a lack of understanding of a technical concept. Additionally, the requirement to accept both the facts alleged and current impairment may limit the availability to use accepted outcomes where say most is accepted but a single element is not.

The GCC agrees that the case examiners should be able to impose an accepted outcome proposal where the registrant does not respond. Where a proposal is rejected, it should be sent to an FtP Panel for adjudication.

Question 54: Do you agree or disagree with our proposed powers for Interim Measures, set out above?

The GCC agrees with the proposals for interim measures. The GCC currently only has the power to impose an interim suspension order on the grounds of public safety. The GCC cannot impose an order on the grounds of risk to the registrant. We cannot impose an interim conditions of practice order. We also have very limited timescales in which an interim suspension order can last if imposed by the Investigating Committee. These limitations create serious deficiencies in our public protection duties.

The GCC strongly supports the ability to impose both an interim conditions of practice order and a suspension order at any stage of the FtP process for an extended length of time. We agree with the proposals for reviews of interim measures and believe they offer flexibility, protect the public and ensure the impact of the order on the registrant is routinely reviewed.

Question 55: Do you agree or disagree that regulators should be able to determine in rules the details of how the Fitness to Practise panel stage operates?

The GCC agrees with the proposals that regulators should be able to determine in Rules the details of how the FtP Panel stage will operate. This will allow for the ability to be more agile in the event that Rules require updating. Unforeseen events create difficulties when Rules cannot be updated quickly to account for rapidly changing circumstances.

Question 56: Do you agree or disagree that a registrant should have a right of appeal against a decision by a case examiner, Fitness to Practise panel or Interim Measures panel?

The GCC agrees with the proposal that registrants should have a right of appeal against a decision of a case examiner, FtP Panel or IM Panel.

There is one scenario though that may require further thought. Where a registrant has been offered an accepted outcome and has accepted that outcome (after 28 days of consideration and hopefully, legal or other advice), it would seem somewhat illogical to then give a right of appeal and could frustrate the process. We note there is no right of appeal for accepted disposal outcomes at Social Work England and accepted undertakings at the General Dental Council. We appreciate that there is currently no right of appeal at the initial consideration (IC /CE stage) more broadly across the regulators and that this is a policy shift but thought should be given to this specific scenario where an outcome is accepted and agreed with consent.

Ultimately, a right of appeal is fundamental for accountability and fairness, ensuring that where independent decision makers may have erred, that mistake can be corrected. It also assists with learning and guidance for future cases and facilitates certainty.

Question 57: Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland?

The GCC agrees with the proposal.

A right of appeal to an appropriate court is a fundamental part of fairness and accountability.

Question 58: Do you agree or disagree that regulators should be able to set out in Rules their own restoration to the register processes in relation to fitness to practise cases?

The GCC agrees with this proposal and it is an existing power.

Question 59: Do you agree or disagree that a registrant should have a further onward right of appeal against a decision not to permit restoration to the register?

The GCC agrees with the proposals that registrants should have a right of appeal against a decision not to permit restoration to the register. This is fundamental for accountability and fairness, ensuring that where independent decision makers may have erred, that mistake can be corrected. It also assists with learning and guidance for future cases and facilitates certainty.

Question 60: Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland?

The GCC agrees with the proposal.

A right of appeal to an appropriate court is a fundamental part of fairness and accountability.

Question 61: Do you agree or disagree that the proposed Registrar Review power provides sufficient oversight of decisions made by case examiners (including accepted outcome decisions) to protect the public?

The GCC agrees with this proposal.

A Registrar's review is proportionate, transparent and effective provided it is accompanied with clear procedures and guidance. The grounds laid out at 359 are clear and accompanying guidance can expand on those grounds/factors.

At present, once a case has passed the Investigating Committee, we have no power to send the case back for reconsideration. This is very limiting and unfair to registrants where new information indicates that the allegations may no longer be capable of proof. Instead, we must proceed to a hearing, that has little merit. This is costly both in resources and the impact on the registrant.

Question 62: Under our proposals, the PSA will not have a right to refer decisions made by case examiners (including accepted outcome decisions) to court, but they will have the right to request a registrar review as detailed above. Do you agree or disagree with this proposed mechanism?

The GCC agrees with this proposal.

There will be transparency of decision making in that the PSA (or any other person) will be able to request a review where the decision may not be sufficient to protect the public. The introduction of a Registrar's review power will increase scrutiny and transparency not just for the PSA but by any other interested party. Practically, this approach is less costly for both the PSA and the regulator, less time consuming and should reach a faster resolution than an appeal to the High Court.

The proposal is better for all involved, particularly the registrant who may be left uncertain of their future for an extended period of time whilst an appeal is considered. Notwithstanding the need for certain grounds to be clearly met, patients are often frustrated when they feel their concerns have not been properly considered. The introduction of the Registrar's review will also provide further opportunity for reconsideration where patients may have new information which may have led to a different decision.

The proposal via Registrar's review will ensure public protection is upheld, increase accountability in decision making and enhance scrutiny without the need for formal expansion of s.29 powers.

Question 63: Do you have any further comments on our proposed model for fitness to practise?

The GCC's statutory scheme is dated, faulty and in need of urgent overhaul to rectify gaps it creates in public protection and in some instances, injustice to registrants. These proposals would radically change the landscape of chiropractic fitness to practise procedures and we fully support their introduction at the earliest opportunity.

Part Five: Regulation of Physician Associates and Anaesthesia Associates

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Question 64: Do you agree or disagree with the proposed approach to the regulation of PAs and AAs?

The GCC agrees with the proposal.

The consultation document sets out the Government thinking and concludes that PAs and AAs should be under statutory regulation, via the GMC, to ensure highest standards of practice. The GCC supports that approach.

Question 65: In relation to PAs and AAs, do you agree or disagree that the GMC should be given a power to approve high level curricula and set and administer exams?

The GCC supports the GMC preference for a power to approve high level curricula and set and administer exams. This approach would be consistent with operational approaches already established by GMC.

Question 66: Do you agree or disagree with the transitional arrangements for PAs and AAs set out above?

The GCC agrees with the transitional arrangements for PAs and AAs, as outlined in the consultation document, as the approach provides sufficient time for the professionals to register with the GMC and ensures that, in the future, the titles PA and AA will become appropriately protected.

Question 67: Do you agree or disagree that PAs and AAs should be required to demonstrate that they remain fit to practise to maintain their registration?

The GCC agrees with this proposal as it will align PAs and AAs with other healthcare professionals and ensures consistency.

Part Six: Next steps for the reform of professional regulation

No Questions

Part Seven: Changes to the international registration processes operated by the GDC and NMC

No Questions

Part Eight: The regulators and public body status

No Questions

Part Nine: Impact assessment and equalities impact assessment

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Question 68: Do you agree or disagree with the benefits identified in the table above? Please set out why you've selected your answer and any alternative benefits you consider to be relevant and any evidence to support your views.

The GCC agrees with the benefits identified within the consultation document.

As a regulator working within prescriptive, outdated legislation we welcome the opportunity to modernise and streamline our processes, and the benefits this will bring to our regulatory approach for patients and registrants.

Question 69: Do you agree or disagree with the costs identified in the table above? Please set out why you've chosen your answer and any alternative impacts you consider to be relevant and any evidence to support your views.

The GCC agrees with the costs identified in the table.

It would be helpful to clarify what is meant by the 'transitional costs involved in implementing changes' but assume this relates to potential costs arising from disruption to existing business as usual activities.

Question 70: Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the general equality duty that is set out in the Equality Act 2010, or by Section 75 of the Northern Ireland Act 1998?

- Yes – positively
- Yes - negatively
- No
- Don't know

Please provide further information to support your answer.

The GCC considers that the regulatory reform proposals would ensure a more proportionate and effective regulatory framework that would not impact adversely on individuals with protected characteristics.

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