

## **“Promoting professionalism, reforming regulation”**

### **Academy response to the Consultation questions**

#### **1. Introduction**

The Academy of Medical Royal Colleges represents medical royal colleges and faculties across the UK. By bringing together the expertise of the medical royal colleges and faculties it drives improvement in health and patient care through education, training and quality standards.

Doctors, who are of course professionally regulated by the GMC, are individual members or fellows of our member organisations. The Academy and our member organisations also work extensively with the GMC particularly on issues relating to postgraduate medical education.

The question of the future of professional regulation is therefore of great interest to the Academy and we welcome the opportunity to respond to the consultation.

#### **2. Response to the consultation questions**

**Q1: Do you agree that the PSA should take on the role of advising the UK governments on which groups of healthcare professionals should be regulated?**

Yes, but we would expect that the PSA should fully consult appropriate stakeholders in drawing up its views and ensure those stakeholders’ views are properly reflected to Government.

**Q2: What are your views on the criteria suggested by the PSA to assess the appropriate level of regulatory oversight required of various professional groups?**

The criteria are sound.

There will be variation of activity and practice within a professional group and in different roles. Within a professional group there are likely to be some practitioners who meet all the risk criteria and others, because of their specific roles who would not. Therefore, the level of regulatory oversight required could theoretically differ between individuals within a professional group. This would seem to be fraught with difficulty and should be avoided. We would strongly urge a commitment that assessment is made on the basis of a whole professional group rather than an individual practitioner.

There may also be times when the benefits of a consistent approach across linked groups will outweigh different approaches which might emerge from a strict application of the criteria.

**Q3: Do you agree that the current statutorily regulated professions should be subject to a reassessment to determine the most appropriate level of statutory oversight? Which groups should be reassessed as a priority? Why?**

It is important to check that regulation is appropriately light touch and proportionate but spending time and effort on de- or re-regulating specific groups is likely to be contentious and may not be a priority. We believe all doctors should continue to be statutorily regulated.

**Q4: What are your views on the use of prohibition orders as an alternative to statutory regulation for some groups of professionals?**

No view

**Q5: Do you agree that there should be fewer regulatory bodies?**

Logically Yes and provided clear benefit can be shown.

**Q6: What do you think would be the advantages and disadvantages of having fewer professional regulators?**

*Benefits*

Simplification

Greater consistency in approach

Better engagement with professionals

Efficiencies in costs, back office functions etc.

*Disadvantages*

Being over large/bureaucracy

Breadth of span leading to lack of detailed understanding of particular professions

Both potentially leading to more protracted decision making and greater potential for serious errors and legal challenge.

**Q7: Do you have views on how the regulators could be configured if they are reduced in number?**

Not at this stage

**Q8: Do you agree that all regulatory bodies should be given a full range of powers for resolving fitness to practise cases?**

Yes providing there is a consistency in approach which ensures that all Fitness to Practice cases are handled professionally, efficiently and in transparent ways across the sector.

**Q9: What are your views on the role of mediation in the fitness to practise process?**

We would support the use of mediation in relevant circumstances but recognise that this may be a time consuming and expensive process with no guarantee of success.

**Q10: Do you agree that the PSA's standards should place less emphasis on the fitness to practise performance?**

Regulating poor professional performance is integral to the role of professional regulators and to ensure public protection. Whether or not the emphasis is right in the PSA standards, the impression should not be given that tackling poor professional performance is of diminished importance to either individual regulators or the PSA.

**Q11: Do you agree that the PSA should retain its powers to appeal regulators' fitness to practise decisions to the relevant court, where it is considered the original decision is not adequate to protect the public?**

Yes although this has to be used in a considered fashion.

**Q12: Do you think the regulators have a role in supporting professionalism and if so how can regulators better support registrants to meet and retain professional standards?**

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Yes. It is extremely important. Through work on education, standards and professionalism and promotion of positive working environments.

**Q13: Do you agree that the regulators should work more closely together? Why?**

Yes. To ensure a consistent approach to regulation. An inconsistent approach and particularly differential treatment of registrants is felt not to be fair and cause resentment.

One would hope that work together could produce shared approaches and avoid duplication of efforts resulting in efficiencies.

**Q14: Do you think the areas suggested above are the right ones to encourage joint working? How would those contribute to improve patient protection? Are there any other areas where joint working would be beneficial?**

Yes

Whilst there will be clear and specific differences between professions there should be scope for joint work or at least liaison on education and training issues particularly in terms of generic capabilities (which may relate to common professional standards)

**Q15: Do you agree that data sharing between healthcare regulators including systems regulators could help identify potential harm earlier?**

Yes. This is important. Experience in the medical field shows clear correlation between problems identified in medical training and service standards.

**Q16: Do you agree that the regulatory bodies should be given greater flexibility to set their own operating procedures?**

Yes, in principle. But this should not lead to great divergence and inconsistency when much of the thrust of other proposals is to promote commonality of approaches. Setting of operating procedures should be done in a transparent way and include cross sector engagement to ensure they are appropriate and proportionate.

It is important that arrangements for regulators are “future proofed” to take account of potential implications of Brexit. For the GMC, this should entail being able to develop flexible arrangements for approval of overseas doctors to join the specialist or GP registers. If there is not to be automatic recognition of overseas qualifications there is an opportunity to develop new procedures which simpler and less burdensome than current arrangements.

**Q17: Do you agree that the regulatory bodies should be more accountable to the Scottish Parliament, the National Assembly for Wales and the Northern Irish Assembly, in addition to the UK Parliament?**

Yes

**Q18: Do you agree that the councils of the regulatory bodies should be changed so that they comprise of both non-executive and executive members?**

There may be benefits but it is not necessarily the case. There are arguments for and against combined boards. We do not accept the statement in 4.19 that without Executives on the Board it is difficult for the Councils to hold the regulator to account.

Whilst we accept that registrants are not on the Council in any form of delegate role to represent or advocate for their profession we do believe that having members of the profession on a Council in

more than a token presence remains essential. It is hard to see how a regulator can operate without clear understanding of the profession regulated. That has to come, primarily though not exclusively, from those who are members of the profession. To assume that members of a profession cannot operate objectively and impartially on a regulatory body council is offensive and patronising.

**Q19: Do you think that the views of employers should be better reflected on the councils of the regulatory bodies, and how might this be achieved?**

It is important that the employer perspective is available on the Board. But in the same way that professional members are not expected to be “representatives” of the profession, there should not be an employers’ “representative”.

There are, of course, other ways to ensure that employer, and indeed professionals’, views can inform the work of a regulator.

**Q20: Should each regulatory body be asked to set out proposals about how they will ensure they produce and sustain fit to practise and fit for purpose professionals?**

Yes

**Q21: Should potential savings generated through the reforms be passed back as fee reductions, be invested upstream to support professionalism, or both? Are there other areas where potential savings should be reinvested?**

As, in the words of the consultation, we move on the “next step in the journey away from self-regulation” the rationale of why it is the profession alone that pays for its regulator becomes less apparent to professionals!

The Academy recognises that the GMC has introduced a fee reduction for registrants which is welcome. Individual registrants would probably favour fee reductions but there is probably a case for savings to also being invested in supporting professionalism. So the answer would be both.

**Q22: How will the proposed changes affect the costs or benefits for your organisation or those you represent?**

The Academy of Medical Royal Colleges and its member organisations work almost exclusively with the GMC. If the GMC expands its role or becomes part of a wider regulatory body there is a danger that, as can often happen in reorganisations, focus on the core tasks is lost. We equally would not want a dilution of the GMC’s considerable expertise in medical issues.

**Q23: How will the proposed changes contribute to improved public protection and patient safety (health benefits) and how could this be measured?**

If there are not to be benefits in terms of improved public protection and patient safety and efficiency savings this is not a task worth doing. Having said that the last of these will be easier to measure than either of the former.

As stated above we do believe there is a potential benefit of “better regulation” which means

- a simplification of the processes for the public, registrants and employers;
- greater consistency in approach leading to more equitable treatment
- greater focus on developing professionalism

all of which should provide improved public protection and patient safety.

How this can be measured in any meaningful way is hard to answer.