

GENERAL OSTEOPATHIC COUNCIL CONSULTATION RESPONSE TO: REGULATING HEALTHCARE PROFESSIONALS, PROTECTING THE PUBLIC

About us

The General Osteopathic Council (GOsC) is the statutory healthcare regulator for the profession of osteopathy in the UK. Our overarching objective is public protection and this involves the pursuit of the following objectives:

- a. protecting, promoting and maintaining the health, safety and well-being of the public;
- b. promoting and maintaining public confidence in the profession of osteopathy;
and
- c. promoting and maintaining proper professional standards and conduct for members of that profession.

In meeting our objectives, we undertake the following activities:

- We keep the Register of all those permitted to practise osteopathy in the UK.
- We work with the public and osteopathic profession to promote patient safety by registering qualified professionals and we set, maintain and develop standards of osteopathic practice and conduct.
- We help patients with any concerns or complaints about an osteopath and have the power to remove from the Register any osteopaths who are unfit to practise.
- We also assure the quality of osteopathic education and ensure that osteopaths undertake continuing professional development.

As at 14 June 2021, there are 5,412 registered osteopaths on the Statutory Register of Osteopaths.

Further information about our approach to regulation and its impact is available in our [GOsC briefing](#) document and also on our website: www.osteopathy.org.uk

Our consultation response

The GOsC welcomes the opportunity to respond to the consultation 'Regulating healthcare professionals, protecting the public', which sets out the ambition of reforming the legislation of healthcare regulators.

The GOsC shares that ambition as we recognise that legislation which is inflexible, outdated and prescriptive hampers the efforts of regulators to fulfil their statutory objectives of protecting the public.

In accordance with our statutory objectives, our approach is to constructively engage with the proposals to ensure that the future regulatory system, works in partnership with patients and the professions so that it continues to have the protection of the public and patients at its heart.

We set out at pages 4 - 39 our detailed consultation responses. Public protection would be best served by the exercise of legislation which is proportionate, agile and cost effective and this is reflected in our consultation response.

We are supportive of many of the proposals which we believe will ensure the future regulatory system is enhanced, and we have also set out where we think the proposals could be further clarified or strengthened. Some examples include:

- **Governance and Operating Framework - Unitary boards:** the GOsC view is that we would continue to operate effective governance with any board model, but we feel further consideration of the board composition, and specifically the involvement of registrants, is needed to ensure the future legitimacy and therefore the impact of Councils. In our detailed response we have referenced research into the effectiveness of regulation which demonstrates that working with people and helping to raise understanding is a driver to compliance.
- **Education and Training - Continuing Professional Development and Revalidation:** the GOsC view is that Continuing Professional Development and revalidation are ways of ensuring that the register is not simply a historical record of qualifications but that registrants are required to demonstrate, in a proportionate way, that they continue to be up to date and fit to practise. This is an important tool for ensuring patient safety.
- **Registration - publication of data and annotations to Registers:** the GOsC is supportive of the proposals which enable regulators to publish data about registrants and to annotate registers with appropriate information, enabling patients to effectively identify practitioners, as this very firmly supports public protection.



- **Fitness to Practise - Registrar review powers:** the GOsC view is that we agree with this proposal but we qualify our response with the observation that we consider the appointment of an independent reviewer as being advantageous and worth further consideration. An independent reviewer is something operated in other sectors (such as accountancy regulation) and a similar model could be applied to healthcare regulation.

We have also set out where we disagree with some of the proposals and our rationale for why we have reached that view. Some examples include:

- **Education and training - power to set and administer exams or other assessments should not apply to approved courses or programmes of training:** the GOsC view is that it is important to look to the future, where there may be more diverse models of quality assurance for countries in a context where we are pursuing a more global approach to trade agreements and so we suggest such a fetter is not put into legislation.
- **Registration - suspension from the Register:** the GOsC view is that the proposal to suspend individuals for administrative reasons, risks blurring the relationship between the regulator and registrants, with regulators potentially adopting registration processes more akin to membership bodies.
- **Fitness to Practise - Grounds for action:** the GOsC view is there should be a separate 'ground for action' in relation to adverse physical and/or mental health. This should not be subsumed within either lack of competence or misconduct as it is a separate concept, albeit that there may be overlap in certain cases. We also consider there should be a separate 'ground for action' for conviction.

We look forward to working alongside colleagues from the Department of Health and Social Care, in the months to follow, on our shared ambition to enhance the regulatory landscape through legislative reform.

Questions about our consultation response can be submitted to GOsC either:

By email

For the attention of Matthew Redford, Chief Executive and Registrar
ce@osteopathy.org.uk

By Post

Matthew Redford, Chief Executive and Registrar
General Osteopathic Council
Osteopathy House
176 Tower Bridge Road
London, SE1 3LU



GOVERNANCE AND OPERATING FRAMEWORK

Duty to co-operate:

1. Do you agree or disagree that regulators should be under a duty to co-operate with the organisations set out above? Please give a reason for your answer.

GOsC agrees with the proposal.

It is our view that for regulation to be effective, and for patient protection to be at the heart of what regulators do, organisations and individuals, patients and professions need to work collaboratively towards a model of collective regulation. This approach to regulation was evident during the pandemic, when all health and social care regulators worked collaboratively with each other and with connected organisations, for patient protection in a situation that was constantly evolving.

Therefore, we support the proposal which places a duty to co-operate on regulators, effectively building on increased co-operation during the pandemic. We also consider that regulators should not be hindered in co-operating with other organisations by data protection constraints if this impacts on their public protection duties.

Objective of transparency and related duties:

2. Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and these related duties? Please give a reason for your answer.

GOsC agrees with the proposal.

This proposal articulates the approach that the GOsC has always taken, i.e. that our business should be conducted transparently. The significant majority of our business is conducted in the public domain from Council and committee meetings through to fitness to practise hearings, where appropriate.

Therefore, we support the proposal that regulators should have an objective to be transparent when carrying out their functions and related duties, as this is consistent with how we already operate and will continue to operate in the future.

However, it would be helpful to see more detail about the operation of this. For example, we are and would be, transparent about the processes that we use to operate our functions, but we would not, for example, publish information about individual registration applications or fitness to practise investigations, or the early stages of issues around educational quality assurance.

Our working assumption is that this proposal would maintain those appropriate boundaries.



Duty to assess the proportionality of changes:

3. 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? Please give a reason for your answer

GOsC agrees with the proposal.

This proposal reflects how the GOsC operates. Within our Strategic Plan 2019-2024, we set out the principles that underpin our work and the first principle is proportionality. We state that we will ensure our regulatory burden is no greater than it needs to be deliver our statutory duty, and in the development of new guidance or policies we are cognisant of the need to be proportionate.

This is also reflected in our engagement and communications with all our stakeholders including patients and professionals, how we develop our approach to regulation; through the development of rules, guidance and policy; through our equality impact assessments; and with the discussions that happen at Council and Committee level.

Therefore, we support the proposal that regulators should assess the proportionality of changes they seek to their rules, processes and systems, as this is consistent with how we already operate.

Unitary Board:

4. Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators? Please give a reason for your answer.

GOsC recognises the benefits of unitary boards in a variety of sectors. In responding to this question we wish to set out our ongoing commitment to robust governance arrangements.

The Council of the GOsC has always ensured, and will continue to ensure, its governance model delivers its statutory objectives, through developing strategic plans to achieve the organisation objectives, to monitoring and scrutinising the Executive and ensuring overall compliance with the organisational control framework.

We recognise there are different systems for Board composition and governance arrangements and each has its own strengths and weaknesses. We have carefully considered the proposal to introduce a unitary board, and the arrangements for the composition of the unitary board through that lens.

We have concluded that we would continue to operate effectively with a unitary board model, although we do have some observations about the proposal, around

the board composition and registrant involvement, and the cost/benefit analysis, which we set out below for further consideration as part of the wider consultation review.

Board composition and registrant involvement: we understand that the proposal currently suggests, as a minimum, each board must include a Non-Executive Chair, a Chief Executive and a Non-Executive Director. Non-Executive members should form the majority of the board; there should be at least one board member from each of the countries of the UK; there is no requirement to appoint registrant members to the board and there should be a maximum of 12 board members.

This approach has the potential for a significant variance in board composition across the regulators - boards may end up ranging from a minimum of 5 to a maximum of 12 members. While each body rightly regulates within its own context, the potential for such variance, we feel, may run contrary to the drive for consistency in approach across the regulatory system which is outlined in the consultation document. We wonder whether such a variance may prove confusing for external stakeholders.

Additionally, if we have understood the proposal correctly, there will be no requirement, although it is not precluded, to appoint registrants to the board.

We welcome the potential to retain registrant members as we would be concerned that without this valuable insight this may threaten the legitimacy of boards in the eyes of stakeholders, and particularly registrants, which has the potential to undermine confidence in the work of the regulator and therefore its impact¹.

Our view is that public protection is enhanced through the inclusion of registrant council members. Ensuring the registrant voice is heard at board level provides confidence to the profession, and while registrant members are not representatives, their presence is an important symbol of trust and they bring different views and perspectives which lay members cannot.

The GOsC has undertaken research into the effectiveness of regulation² and this demonstrates that explaining the 'why' is an important factor in registrants understanding regulation which in turn leads to a higher correlation of compliance – what is known as the persuasion-based pathway.

¹ For more on this please see research illustrating the approach to relational regulation. For example, [McGivern \(2015\)](#)

² [GOsC research to promote effective regulation \(2015\) and \(2020\)](#) with follow up research results published in [The Osteopath magazine, Spring 2021](#) (p8)

We express a concern that this link might be broken, and by default patient safety might be at a raised risk, without registrant members on Council to help shape and give credibility to the organisational strategy.

Cost/benefit analysis: as we have outlined the Council of the GOsC is committed to continuing to maintain good governance. With any governance change there will be a degree of disruption which is caused, and we would ask that consideration is given as to whether the benefits of the governance change outweigh the potential risks arising from any change.

Fees and Charging:

5. Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval? Please give a reason for your answer

GOsC agrees with the proposal.

There should be a consistent approach across all regulators regarding the power to set registration fees. Currently we do not have the power to set our own fees in rules without approval from Privy Council and we would welcome the opportunity to do so and to be directly accountable to registrants and stakeholders for the registration fees that we charge.

As a regulator which reduced its headline registration fee by 24% over a three year period (2012-14), and which has held registration fees at the same level since, we feel we are able to demonstrate that we have the financial responsibility and discipline to be granted this flexibility.

Therefore, we support the proposal that regulators should be able to set their own fees in rules without Privy Council approval.

6. Do you agree or disagree that regulators should be able to set a longer-term approach to fees? Please give a reason for your answer.

GOsC agrees with the proposal.

If regulators are given the powers to set their own fees in rules without Privy Council approval, we believe that there needs to be some certainty provided to registrants around the level of fees over a set period.

We believe that it would be possible for regulators to be able to set a longer-term approach to registration fees which provides clarity for registrants and which ensures the organisation remains on a financially stable footing in order to effectively carry out its regulatory functions.

In line with the earlier principle around transparency, we also agree that any changes to registration fees should be subject to appropriate consultation, such as

the consultation exercises GOsC ran in 2012, 2013 and 2014 when it reduced registration fees for three consecutive years in line with the 2011 Enabling Excellence White Paper recommendations.

Therefore, we support the proposal that regulators should be able to set a longer-term approach to registration fees.

Committees:

7. Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation? Please give a reason for your answer.

GOsC 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 in order to function.

Therefore, we support the proposal that regulators should be able to establish their own committees rather than these being set out in legislation.

Charging for services:

8. 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? Please give a reason for your answers.

GOsC agrees with this proposal.

As a principle we believe that the cost of a service should normally fall on those receiving the benefit, therefore, as an example, the cost of applying for registration should fall to the applicant, and the cost of a new application for approval of an education institution should normally be borne by the provider making the application and not on registrants.

We believe that this is a fairer system and would enable future resources to be used more appropriately. Ultimately, a decision to charge may depend on considering a variety of competing interests and such a power should be exercised fairly, proportionately and transparently. We believe that such an approach should be underpinned by clear criteria and a methodology for the application of the policy.

We welcome the power that means we would be able to charge for international work on a cost recovery basis.

Therefore, we support the proposal 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.

Powers to delegate:

9. 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.

GOsC agrees with the proposal although we are cautious about its application in practice.

We understand the rationale as laid out in the consultation document which would allow regulators the power to delegate performance of a function to a third party including another regulator, and we can understand how this might appear beneficial especially where regulators are working more closely together. In any such delegation, accountability should clearly remain with the Board or Council.

We understand that there may be barriers to this happening in practice, for example, around how VAT is applied to services provided which may make it financially prohibitive for some.

Data handling, sharing and collection:

10. Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above? Please give a reason for your answer.

GOsC agrees with the proposal.

It is our view that for regulation to be effective, and for patient protection to be at the heart of what regulators do, organisations and individuals, patients and professions need to work collaboratively towards a model of collective regulation. Regulators should therefore be able to require data from, and share data with, the groups outlined in the consultation in appropriate circumstances.

This reflects existing relationships the GOsC has with many of its stakeholders already and the proposal formalises the approach we already operate.

Therefore, we support the proposal that regulators should be able to require data from and share data with the groups listed in the consultation document.



Further reforms and details: Accountability to UK Government and Devolved Administrations:

11. Do you agree or disagree that regulators should produce an annual report to the Parliament of each UK country in which it operates? Please give a reason for your answer.

GOsC agrees with this proposal.

It is appropriate that a UK-wide regulator should have a responsibility for understanding what is happening within all countries of the UK and should be accountable and should produce an annual report to the Parliament of each UK country.

At proposal 4, the consultation sets out the requirement for boards to have representation from each of the UK countries and therefore, it follows that it is considered important enough for boards to have members sit on them from each of the counties of the UK, then regulators should produce an annual report to each UK Parliament.

Therefore, we support the proposal that regulators should produce an annual report to the Parliament of each UK country in which it operates.

Powers of the Privy Council

12. Do you agree or disagree that the Privy Council's default powers should apply to the GDC and GPhC? Please give a reason for your answer.

GOsC agrees with this proposal.

As far as possible, there should be consistency across the regulators and we see no reason for any regulator to be outside the scope of Privy Council default powers should they be failing in their statutory duties. While we would not expect the powers to be exercised, they should apply consistently to every regulator in order to ensure the protection of patients.

Therefore, we support the proposal that the Privy Council's default powers should apply to the General Dental Council (GDC) and General Pharmaceutical Council (GPhC).

EDUCATION AND TRAINING

Standards:

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?

Please give a reason for your answer.

GOsC agrees with the proposal.

We believe that there is a need for consistency, as far as possible, across the regulators recognising the different environments within which we operate.

Our view is that it is important to have an outcome focus and therefore, we are encouraged that the consultation proposals recognise the need to set standards which providers of courses or programmes of training must meet, but also that regulators would be able to set specific outcomes that students would need to meet by the end of their education and training.

However, please also see our response to question 18 in relation to specific powers retained for some regulators. We consider there should be consistency across all regulators and the exercise of these powers should be proportionate.

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? Please give a reason for your answer.

GOsC agrees with this proposal.

There should be a consistency across regulators as far as possible, and therefore we support the proposal which provides that in this area.

As outlined in the consultation, at GOsC we currently have the power to approve courses or programmes of training and we note that the extension of powers for us, which might include approval of the training provider, would present us the opportunity to consider what future opportunities exist for enhancing how we regulate this area of our activity for public protection.

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.

15. Do you agree that all regulators should have the power to issue warnings and impose conditions? Please give a reason for your answer.

GOsC agrees with the proposal.

The opportunity for regulators to be able to issue warnings and impose conditions is, in our view, a proportionate regulatory response and we would welcome this as an additional lever which could be used in appropriate circumstances enabling flexibility.

We think that there should be guidance which accompanies this regulatory approach which sets out the principles for when warnings might be issued as this would support consultation principle 2 around transparency.

Please note that paragraph 114 of the consultation document provides that:

'Regulators will be required to:

- set out in guidance the procedure for approval, refusal and withdrawal of approval of an education and training provider, qualification, course or programme of training;
- set out in guidance the procedure for imposing, modifying and removing conditions;'

If there is a power to impose conditions, it is inconsistent to require regulators to set out in guidance the procedure for imposing, modifying and removing conditions if they choose not to exercise this power.

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? Please provide a reason for your answer.

GOsC agrees with this proposal.

We feel that regulation works best when organisations work collaboratively and this means that mechanisms which encourage dialogue are appropriate.

This proposal, which allows education and training providers to have a right to submit observations and for these to be taken into account in the decision-making process is reflective of the regulatory approach that GOsC currently operates.

Therefore, we are able to support this proposal.

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?

Please provide a reason for your answer.

GOsC agrees with the proposal.

Providing a mechanism for education and training providers to appeal approval decisions would ensure consistency with the right of registrants to appeal decisions that affect their registration. We therefore consider this right of appeal entirely appropriate.

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.

Further details and reforms: Variations in regulators' approval and standard setting powers:

18. Do you agree or disagree that regulators should retain all existing approval and standard setting powers? Please provide a reason for your answer.

GOsC agrees with this proposal.

However, we also consider that there should be consistency in all regulators powers. It is appropriate for regulators to operate in a manner which reflects the relevant environment/context and is proportionate for the profession(s) and the educational institutions that they regulate.

Exam and assessment powers:

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? Please provide a reason for your answer.

GOsC agrees with this proposal.

For the purpose of consistency we believe that all regulators should have the power to set and administer exams or other assessments for applications to join the register. Registration is not just about prior qualifications and experience, but about knowledge, skills, behaviours and fitness to practise.

Each regulator has the expertise relating to the professions that it regulates and would be able to set appropriate, proportionate entry assessments as it saw fit. This approach will provide safeguards for public protection in knowing that only those who meet the entry requirements will be able to join the Register.

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? Please provide a reason for your answer.

GOsC disagrees with this proposal.

It is appropriate that the reforms should look at all potential models for entry to the register in the future and a power, but not a duty, to set such requirements would maintain flexibility and would enable future proofing of models for entry to the register should the context of training and / or models of quality assurance to approve courses or programmes of training (in the UK or outside the UK) change.

We think this is particularly important looking to the future, where there may be some more diverse models of quality assurance for countries in a context where we

are pursuing a more global approach to trade agreements which may include services, including those of health professionals.

Delegation and methods of assessment:

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? Please provide a reason for your answer.

GOSc agrees with this proposal.

Regulators should be able to operate flexibly and this means having a range of different ways of working open to them. At the GOSc we use Mott MacDonald as our quality assurance provider which ensures independence and provides a robustness and credibility to our decision-making processes.

We welcome being able to continue with this approach and indeed to be able to build on what we do through having a range of ways of working available to us.

Certificates of Completion of Training (CCTs)

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? Please give a reason for your answer.

GOSc does not have a view on whether the General Medical Council (GMC) 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. We believe that the GMC will be best placed to provide an informed response to this consultation question.

Continuing Professional Development and Revalidation

23. Do you agree or disagree that regulators should be able to set out in rules and guidance their CPD and revalidation requirements? Please give a reason for your answer.

GOSc agrees with this proposal.

Continuing Professional Development and revalidation are ways of ensuring that the register is not simply a historical record of qualifications but that registrants are required to demonstrate, in a proportionate way, that they continue to be up to date and fit to practise. This is an important tool for ensuring patient safety.

Each regulator will understand best how this applies to their registrants and the varying contexts that registrants work within and, therefore, we think it is appropriate that the regulators should be required to set out in rules and guidance



General
Osteopathic
Council

how the continuing professional development and revalidation requirements are to be operated.

We feel this would be consistent with proposals 2 and 3 which considered transparency and proportionality. Therefore, we support this proposal.

REGISTRATION

A duty to hold a single register:

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? Please give a reason for your answer.

GOsC agrees with the proposal.

GOsC currently holds a single register which is accessible for the public and which clearly demonstrates whether an individual is permitted to practise. We view the integrity of the statutory register as paramount to patient protection and ensuring that it is easily understood by patients and the public is critically important. In the future, if the need to divide the register into parts was identified, we welcome having the powers available to do so.

Therefore, as this proposal is consistent with the approach that we already operate, we would support regulators holding a single register which can be divided into parts for each profession they regulate as this supports patient and public protection.

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

- Name
- 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

Please provide a reason for your answer.

GOsC agrees with the proposal.

As outlined at proposal 2, there is a need for regulators to be transparent in their regulatory approach and we believe this should also be equally applied to information available to the public and patients about the professionals on statutory registers.

The information which is outlined in the consultation is already in the public domain for the osteopathy profession on the GOsC register and this proposal sets out a continuation of our approach.

Therefore, we support the proposal that all regulators should be required to publish the information outlined in the consultation about their registrants to enable patients, employers and other interested parties to be able to check that a professional is registered for the purposes of public protection.

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? Please give a reason for your answer.

GOsC agrees with the proposal.

In common with all health professional regulators we have the overarching objective of protection of the public.

(3B) The pursuit by the General Council of its over-arching objective involves the pursuit of the following objectives

- (a) to protect, promote and maintain the health, safety and well-being of the public;
- (b) to promote and maintain public confidence in the profession of osteopathy; and
- (c) to promote and maintain proper professional standards and conduct for members of that profession.

In order to deliver our 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 above.

Therefore, we support the proposal that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data.

27. Should they be given a discretionary power allowing them to publish specific data about their registrants? Please give a reason for your answer.

GOsC agrees with the proposal.

For the purpose of public protection, sufficient information needs to be published to enable stakeholders to reliably check the registration of individuals.

As outlined in the consultation document, the GOsC and the General Chiropractic Council (GCC) 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 practitioners who may practise independently (without employers or teams) 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. This approach supports the integrity of the register and provides confidence to patients and the public.

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

Annotation of the single register:

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? Please give a reason for your answer.

GOsC agrees with the proposal.

Annotations on the register have the potential to provide helpful information to the public which supports public protection. This includes clarifying an individual's scope of practice or as is the case for the GOsC, where an individual is non-practising and out of clinical contact but remains a registered healthcare professional. This approach supports the integrity of the register and provides confidence to patients and the public.

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.

Emergency registration:

29. Do you agree or disagree that all of the regulators should be given a permanent emergency registration power as set out above? Please give a reason for your answer.

GOsC agrees with the proposal.

As far as possible, there should be consistency across the regulators and we believe that all regulators should be given a permanent emergency registration power as outlined in the consultation document. This is because all health professionals may contribute to the national workforce in an emergency.

We feel this consistency is important so there is no confusion for the public and patients about the status of healthcare professionals. The unintended consequence of regulators not having the same power is the creation of a two-tier regulatory system, which goes against the key drivers of the reform agenda which is to provide a streamlined regulatory model.

Osteopaths are Allied Health Professionals in England and it is appropriate that the GOsC, as their regulator, has the same powers to establish an emergency register (if needed) as the regulators of other Allied Health Professionals.

Offences in relation to protection of title and registration:

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?

GOsC agrees with the proposal.

As far as possible, there should be consistency across the regulators and we believe that all regulators should have the same offences in relation to protection of title and registration within their governing legislation, in order to ensure confidence in the profession which is a core element of public protection.

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 does not have to be proven or demonstrated)? Please give a reason for your answer.

GOsC agrees with the proposal.

The GOsC takes protection of title very seriously and we have a 100% success record in taking out private prosecutions against individuals who have persistently breached section 32 of The Osteopaths Act 1993.

We consider that making protection of title offences as intent offences, this in effect mirrors the approach that we already implement which includes sending 'cease and desist' letters to the individual prior to commencing prosecutions.

Therefore, we agree that the protection of title offences should be intent offences.

The Registrar, Deputy Registrar and Assistant Registrars:

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? Please give a reason for your answer.

GOsC agrees with the proposal.

The ability to appoint a deputy registrar and/or assistant registrar who would be authorised by the Registrar to act on their behalf will help ensure the continuation of operations to ensure public protection and will ensure consistency across all regulators as far as possible. We consider this approach is reasonable.

Therefore, we support the proposal that all regulators should be able to appoint a deputy registrar and/or assistant registrar, where this power does not already exist.

Registration processes:

33. Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance? Please give a reason for your answer.

GOsC agrees with the proposal.

The current legislation within which GOsC operates is outdated and prescriptive. We would welcome the opportunity to modernise and streamline our registration approach which currently we are unable to do. We consider that this proposal is aligned with the earlier proposals – 2 and 3 – on transparency and proportionality.

We welcome the recognition within the consultation that the regulators are the experts and the gatekeepers to each profession and that the specific requirements may vary depending on the nature of the profession being regulated. Being able to set our own registration processes will allow us to continually maintain and enhance patient protection. We would do this through clearly outlining, in rules and guidance, how we will ensure the integrity of those who join the Register, and those who maintain professional registration.

We do agree that there should be some consistency in approach and, to that end, we agree with the list set out in the consultation as to the criteria that individuals should meet when making an application for registration, which will be defined in legislation.

We also agree that regulators should set out in guidance their processes for considering applications for registration. We feel this would provide clarity for those applying for registration.

Therefore, we support the proposal that regulators should be able to set out their registration processes in rules and guidance.

The General Medical Council registration processes:

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? Please give a reason for your answer.

GOsC agrees with the proposal. However, our view is that the discretion would only be necessary if the criteria did not include a particular circumstance that impacted on public protection. Public protection must be assured and regulators must have the power to ensure that the register protects the public.

We also recognise that the regulator should have a responsibility to set out clearly to the registrant both the reason for a refusal to the register and the appropriate right to appeal the decision which the Registrar has reached.

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? Please give a reason for your answer.

GOsC does not have a view on the GMC's provisions relating to the licence to practise. We believe that the GMC would be best placed to provide an informed response to this consultation question.

Removal, suspension and readmission to the register:

36. Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them? Please give a reason for your answer.

GOsC disagrees with the proposal.

The consultation document sets out four reasons why a registrant may be suspended from the register, which are separate from suspension through fitness to practise processes.

The reasons outlined in the consultation document are that the registrant has:

- failed to pay any relevant fees;
- failed to maintain an effective means of contact and contact details with the regulator;
- failed to provide any information reasonably required by the regulator pursuant to its statutory objectives and functions; or
- failure to meet revalidation and renewal requirements (where these are a requirement of a regulator).

We understand that the rationale behind the proposal for suspension from the Register in these circumstances is to make it easier and more streamlined for the registrant to return to the Register, i.e. by paying any overdue fees or completing any outstanding renewal of registration requirements.

While we agree with the overall ambition of the consultation to make the regulatory system simpler and more streamlined, we consider that this proposal unnecessarily blurs the relationship between the regulator and the regulated.

Integrity of the Register is paramount to the protection of the public and it is the responsibility of the registrant to maintain professional registration. We feel that this proposal has the unintended consequence of moving the regulatory body towards adopting processes which are more akin with membership associations, where it might be suggested that registration can be more fluid and does not carry as much significance.

Put simply, if a registrant has failed to maintain any aspect connected to their professional registration, we believe it is more appropriate for the registrant to be removed from the register rather than being suspended. This should be subject to the appropriate safeguards being in place to ensure the registrant was sent reminder notices and was provided sufficient time to resolve the particular issue. Failure to respond to those reminder notices should not lead to suspension but to removal from the Register. This reflects the seriousness of the failure to comply with professional regulatory requirements.

If granted, we do not foresee using this power.

We note the consultation document does provide separate grounds for removing an individual's name from the Register and we support that approach in favour of the proposals outlined in this section of the consultation.

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? Please give a reason for your answer.

GOsC agrees with the proposal. However, we think this proposal could be extended further and allow regulators to set out their processes in guidance.

A driver for regulatory reform is the need to remove the prescriptive nature of the existing legislation. Each regulator will operate within a different context and being able to set its own removal and readmittance processes to the register for administrative reasons in rules or guidance, rather than these being set out in primary legislation, is aligned to the principles underpinning the need for reform.

This proposal is aligned with proposal 3, being the need for a proportionate approach to regulation.

Registration appeals:

38. Do you think any additional appealable decisions should be included within legislation? Please give a reason for your answer.

GOsC believes the appealable decisions as set out in the consultation document are comprehensive and we have not identified any additional appealable decisions.

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? Please give a reason for your answer.

GOsC agrees with the proposal that registration appeals procedures be set out in rules.

Regulators should have the flexibility to set their own procedures and rules and we do not consider that these should therefore be set out in the governing legislation.

Student registers:

40. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers? Please give a reason for your answer.

GOsC agrees with the proposal.

GOsC does not hold a student register and this is not an area we wish to pursue. We think that our expertise is better suited to regulating professionals who are in practice rather than extending our scope to include the regulation of students. The student experience is best managed by their individual education provider.

Such an approach also ensures an appropriate and important integration of professionalism and competence by the educational institution. To this end, like most professional regulators, we publish student fitness to practise guidance to help institutions to make decisions about the award of a professional qualification, entitling the applicant to register with us based on both competence and professional and ethical requirements.

Registration of non-practising professionals:

41. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish non-practising registers? Please give a reason for your answer.

GOsC agrees with the proposal.

The consultation document articulates that GOsC and GCC annotate their registers with information about those registrants who are currently out of clinical contact with patients and we consider this to be an appropriate regulatory response. This enables osteopaths who are out of clinical contact with patients for reasons such as maternity leave or ill-health, to continue to remain on the register and to continue to undertake activities to ensure that they are fit to practise rather than require them to resign from the register during this period and potentially not have the opportunity to undertake such CPD requirements. This also enables us to ensure that registrants returning to practise are up to date prior to returning to practise.

Registration of internationally qualified healthcare professionals:

42. Do you agree or disagree that the prescriptive detail on international registration requirements should be removed from legislation? Please give a reason for your answer.

GOsC agrees with the proposal.

A driver for reform is the need to remove prescriptive legislation and regulators should be able to implement processes and systems which are proportionate and relevant to their context. For this reason we agree that the prescriptive detail on international registration requirements should be removed from legislation.

FITNESS TO PRACTISE

Three stage fitness to practise process:

43. 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?

Please give a reason for your answer.

GOsC agrees with the proposal.

We consider that there should be transparency and accountability at all stages of the fitness to practise process. Transparency and consistency of approach is a vital aspect of any complaint handling procedure and this is essential during the initial assessment stage, in particular, given concerns can be closed at an early stage 'in house' by the regulator.

Many regulators already have threshold criteria or acceptance criteria they utilise, however, making express provision for this would also provide a sounder legal basis while increasing transparency around the initial stages of triage and investigation. This would enable an appropriate balance between autonomy and accountability and appropriate assurances which would improve public confidence in the fitness to practise process.

The introduction of Case Examiners (to replace an Investigating Committee) would facilitate a more streamlined, timely and proportionate approach while also identifying opportunities to improve transparency and independence in decision making enhancing confidence in the fairness of the processes.

Grounds for action:

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?

Please give a reason for your answers.

GOsC disagrees with the proposal.

There should be a separate 'ground for action' in relation to adverse physical and/or mental health. This should not be subsumed within either lack of competence or misconduct as it is a separate concept, albeit that there may be overlap in certain cases.

Whilst at first glance it seems disproportionate to bring a fitness to practise investigation against a registrant on purely health grounds. However, not having health as a ground of action prevents the regulator dealing with future risk to the public where, for instance, the registrant is not demonstrating insight because of their health condition but there are currently no concerns relating to misconduct or their competence (the possible use of non-compliance to fill this lacunae, is addressed below).

Limiting grounds of action to two categories (misconduct or lack of competence) could be said to be fairer to the registrant and more accessible for the public, paradoxically it could also lead to unfairness to the Registrant through 'labelling' and also risks confusion through conflating issues / unfairness if all matters such as health, language etc must be subsumed within either category of impairment.

By way of illustration, it has been established by case law (Roomi v General Medical Council (2009)) that it is the allegation of impairment and not the separate pleaded incidents (the particulars) that constitute the allegation against the Registrant. Thus the findings made by a Fitness to Practise panel must be confined to the pleaded allegation. This would mean that Fitness to Practise panels cannot properly rely on matters to do with health unless they form part of the allegation made against a registrant.

What this would mean in practice is matters to do with health would only be relevant as mitigation following a finding of lack of competence/misconduct and impairment at the hearing. Additionally, any conditions of practice could not be formulated to assist the registrant in managing any health condition (as this would not form part of the allegations, see Levinge v Health Professions Council [2012]). To do otherwise could be procedurally unfair.

Registrants who have a health condition that impacts upon their fitness to practise should not be 'labelled' with a misconduct or competence allegation if health sits at the heart of the concerns.

For example, under the current proposals a registrant who refuses or is unable to adhere to a suitable and proportionate treatment plan proposed by the regulator to manage their health outside of the fitness to practise process would risk a 'non-compliance' finding being made against them in circumstances where health would be outwith the regulatory fitness to practise jurisdiction. This would be unfair.

Moreover, the new proposals would not provide a framework to manage health concerns that are episodic/recurring where the competence or misconduct issue has fallen away or been adjudicated upon, the regulator will have effectively then 'lost' jurisdiction. Our experience demonstrates that registrants do find structure and support through the review mechanism and are encouraged to comply with conditions.

Case Study from the General Osteopathic Council

At an interim order hearing it was heard that the registrant had a long established and well managed diagnosis of a serious mental health condition for which they were under regular supervision by their local mental health team, and living a normal life.

Their diagnosis did not affect their clinical competence as a practitioner and GOSc was fully aware of their health issues. However, they suffered a recurrence of their condition and this was reported to us via their mental health team, there was no patient complaint or any evidence of clinical incompetence, but there was an immediate concern of risk to the public due to the nature of their episode.

In addition, there should be a separate category of conviction.

This is for several reasons. If conviction was alleged as misconduct then this would require the introduction of an extra layer of decision making at the Fitness to Practise hearing (or by the case examiner). Most regulators have some provision within their rules which state that production of a certificate is conclusive evidence of the offence committed. It would be odd to include this provision where conviction is not a separate category of impairment. In addition, the proposal for automatic removal for certain convictions supports the inclusion of conviction as a category of impairment as otherwise there would be a disconnect between these provisions and the grounds of action.



Measures in relation to registrants who have been convicted of a listed offence:

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?

Please give a reason for your answers.

GOsC agrees with both the proposal of automatic removal orders for listed offences and that all measures should be made available to Fitness to Practise panels.

We reserve our position on whether it is appropriate for Case Examiners to have powers of suspension and removal. This reservation is based upon the following factors: transparency, finality of the matter (will the Registrar have the power to review?) and sufficient separation in decision making which are important to maintaining public and patient confidence.

Early review of a measure:

46. Do you agree or disagree with the proposed powers for reviewing measures?
Please give a reason for your answer.

GOsC agrees with the proposal.

Early review enables flexibility and proportionality. The purpose of measures is the least restrictive that is necessary to protect the public and is in the public interest.

Notification to registrants or person(s) who raise a concern:

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? Please give a reason for your answer.

GOsC agrees with the proposal.

Indeed regularly updating all participants in a case is a central component of the quality assurance process that underpins the Fitness to Practise process.

However, whether this level of prescriptiveness needs to appear within primary legislation is a different, related question.



There may be occasions where the Regulator may need to legitimately delay notifying the registrant that an initial assessment is underway, for example where the police are investigating an alleged offence and disclosing this to the registrant may inadvertently prejudice an ongoing police investigation.

Initial assessment stage:

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? Please give a reason for your answer.

GOsC agrees with the proposal, however, there needs to be a clear framework within which the decision is taken not to proceed with an initial investigation of a concern, including, for example, enabling a threshold criteria to be set out in rules.

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? Please give a reason for your answer.

GOsC agrees with the proposal both on principle and on practical grounds.

Firstly, where the concern raises a series of separate events which straddle the five-year 'deadline' and could require a convoluted assessments when the focus of the investigation should be on the strength of the evidence available to support the regulatory concern.

Secondly, placing a deadline of five years is arbitrary. A framework that it must be in the public interest adds nothing to the assessment. All fitness to practise concerns that are progressed should be in the public interest.

Thirdly, it sends out the wrong message to often the most vulnerable witnesses, creating a barrier against coming forward. Given the increase in historical sexual misconduct allegations that have come to light recently in the wake of the 'Me Too' movement this is a material consideration.

Non-compliance:

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”? Please give a reason for your answer.

GOsC disagrees with the proposals outlined. But we agree that regulators should not be impeded from ensuring public protection.

By way of background, in summary, the current GMC model of non-compliance does not require tribunals to determine the issue of the registrant’s fitness to practise at the non-compliance hearing. However, non-compliance hearings can lead to suspension (of up to 12 months) including conditional registration (of up to three years).

While the registrant may not be removed by a non-compliance tribunals, if they are suspended for two consecutive years they can be permanently suspended without further review. This may have a significant impact on the ability of the registrant to earn a living where no impairment has been made. We consider that non-compliance by the registrant and public protection issues can properly be dealt with through other, existing powers: such as interim orders where the registrant’s ability to practise can be restricted or suspended if the risk presented cannot be properly assessed, alleging misconduct at a substantive hearing for failing to undergo an assessment or the voluntary removal process.

Further, it would be important to ensure that such measures do not have an impact on registrants with particular protected characteristics.

We consider that the terminology employed is punitive, reflective of an adversarial approach, potentially confusing as it sits outside the fitness to practise scheme and effectively reverses the burden of proof to the registrant to demonstrate why they cannot ‘comply’.

Onward referral following initial assessment:

51. Do you agree or disagree with our proposed approach for onward referral of a case at the end of the initial assessment stage? Please give a reason for your answer.

GOsC agrees with the proposal which ensures public protection by taking action where there are fitness to practise concerns and makes this process transparent. Please see our response to question 43 above.

Automatic removal in relation to specified Criminal Offences:

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? Please give a reason for your answer.

GOsC agrees with the proposal, but see our response under categories of action that conviction should be included as a separate category of action to ensure the provisions are consistent with each other and joined up.

Case examiner stage:

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?

Please give a reason for your answers.

GOsC agrees in part that Case Examiners should have some measures of disposal available to them.

However, when determining 'impairment' and 'sanction', questions around insight, reflection and the proper evaluation of aggravating and mitigating features are not conducive to what would be in effect a paper-based activity. We suggest that some cases will not be suitable for the accepted outcome route, even where the registrant may agree to the proposed measure. Careful consideration would also need to be given to situations where the registrant is self-represented and the real prospect of being disadvantaged in providing detailed submissions.

The development of case law and practice within professional regulation has continued at pace in the past ten years and with this it has become increasingly more difficult to navigate for registrants who do not have competent, often legal

representation. From our experience at all regulators, there have been occasions where the self-represented registrant has accepted impairment at hearing but the Fitness to Practise panel has not found impairment, however, there is a real risk of injustice within the accepted outcomes framework unless proper safeguards are baked into this process.

The process would need to ensure Article 6 compliance.

The Lessons Learnt Review into the Nursing and Midwifery Council's (NMC) handling of concerns about midwives' fitness to practise at the Furness General Hospital, emphasised the importance of the patient/complainant's 'voice' in fitness to practise processes. We consider that it is vital that any 'accepted outcomes' process should seek the patient/complainant's views on the accepted outcomes proposal.

We understand the arguments regarding costs and expediency afforded by empowering the case examiner to reach a unilateral decision on the disposal of a case where the registrant does not respond.

However, our view is that where a registrant does not respond or engage, we suggest it is not appropriate for the Case Examiner to dispose of the case where their decision is to impose a substantive sanction. Many safeguards are afforded by a hearing that are not readily available to the Case Examiner. For example, at a hearing, the Fitness to Practise panel may only exercise its discretion to proceed in the absence of the registrant with 'utmost care and caution' after taking appropriate legal advice (from a legally qualified chair or legal assessor). Fairness and transparency are important parts of the process and a necessary part of ensuring confidence in the work of the regulator.

Interim Measures:

54. Do you agree or disagree with our proposed powers for Interim Measures, set out above? Please give a reason for your answer.

GOsC agrees with the proposal.

The ability to impose interim measures during a Fitness to Practise investigation is vital for public protection where the registrant presents a real continuing risk (actual or potential) to patients, colleagues or other members of the public if an interim measure is not made.



Fitness to Practise panel stage:

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? Please give a reason for your answer.

GOsC agrees with the proposal.

The overarching powers and structure should be laid out in primary legislation with the failsafe that each regulator should consult on their draft rules. Enabling regulators to determine their rules enables flexibility and avoids overly prescriptive processes. Regulators should also have a provision within rules for Fitness to Practise panels to adopt a procedure that is just and fair. The balance is to ensure transparency in the process.

Registrant appeals:

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? Please give a reason for your answer.

GOsC agrees with this proposal.

In our view this is fundamental. There must be a right of appeal to ensure proper oversight and scrutiny of panel decisions and ensure Article 6 compliance. Fairness and transparency are important components to maintain confidence in the regulator and its processes.

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? Please give a reason for your answer.

GOsC agrees with this proposal.

It is fundamental that there should be a right of appeal to the respective courts within each part of the UK. Otherwise this would not be fair impacting on the confidence in the regulator.

Restoration to the register:

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? Please give a reason for your answer.

GOsC agrees with this proposal. Enabling regulators to determine their rules enables flexibility and avoids overly prescriptive processes. Regulators should also have a

provision within rules for Fitness to Practise panels to adopt a procedure that is just and fair. The balance is to ensure transparency in the process.

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? Please give a reason for your answer.

GOsC agrees with this proposal.

In our view this is fundamental. There must be a right of appeal to ensure proper oversight and scrutiny of panel decisions and ensure Article 6 compliance.

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? Please give a reason for your answer.

GOsC agrees with this proposal.

It is fundamental that there should be a right of appeal to the respective courts within each part of the UK.

Registrar review powers:

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? Please provide any reasons for your answer.

GOsC agrees with this proposal but we qualify our response with the following observations as set out below.

Our view is that, aside from errors consented to all parties, a review could be conducted through the appointment of an independent reviewer. This could have many advantages. These include a separation between the regulator and the review undertaken which would underline independence and accountability and improve public confidence in the fitness to practise process. It would also address the concerns expressed with the Professional Standards Authority for Health and Social Care (PSA) having a right to refer decisions made by case examiners (including accepted outcome decisions) to court, including the expense and the delay in bringing an appeal to the courts. A review could be quicker and cheaper without compromising independence.

Independent reviewers are not a new concept and exist within the wider professional regulation sphere, such as the regulation of accountants and architects.

Therefore, we would suggest that, if an explicit power is given to the Registrar, then the parameters of this (for example, inviting representations from the

registrant/complainant etc) should be clearly defined within the Order with the process set out in rules to maintain the fairness and transparency of the process and therefore the confidence of all stakeholders, particularly patients and professionals. We suggest that a catch all 'necessary for the prevention of injustice' should be avoided as it creates legal uncertainty.

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? Please provide any reasons for your answer.

GOsC agrees with this proposal.

A PSA right to refer decisions made by Case Examiners could be disproportionate, lengthy and expensive. Our view is that a more pragmatic approach that has many advantages of a PSA review without the associated disadvantages, would be that a review could be conducted through the appointment of an independent reviewer.

These advantages include a separation between the regulator and the review undertaken which would underline independence and accountability and improve public confidence in the fitness to practise process. It would also address the concerns expressed with the PSA having a right to refer decisions made by case examiners (including accepted outcome decisions) to court, in particular, the expense and the delay associated with bringing an appeal to the courts. A review would be quicker and cheaper without compromising independence.

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

The purpose of the reform proposals is to create a more streamlined, effective framework through which Fitness to Practise cases can be managed. However, it is well documented that Fitness to Practise processes are extremely stressful for those individuals who are going through the process, which is why, at the GOsC, we provide complainants and registrants with access to an independent service managed through Victim Support.

At the heart of the new proposals sits a legal, adversarial model of investigation and adjudication, and we suggest that there needs to be further consideration for those registrants who are unrepresented at Fitness to Practise hearings.

We therefore suggest consideration be given to the establishment of a centralised representation unit for unrepresented registrants.



General
Osteopathic
Council

As stated elsewhere in this response, the development of case law and practice within professional regulation has continued at pace in the past ten years and shows no sign of abating with the proposed Fitness to Practise reform.

The offshoot of this is that it has become increasingly more difficult for registrants to navigate without competent, specialist legal representation.

A funded, centralised representation unit for unrepresented registrants would ensure equality of arms between the parties at all stages.

In addition, we consider that further thought needs to be given to hearing the complainant in the case and demonstrating the fairness and transparency of the process. We have suggested some options in our earlier responses.

This is an opportunity for meaningful change that would ensure fairness and justice sits at the heart of the new processes which is in the public interest.



Regulation of Physician Associates and Anaesthesia Associates

Main reforms:

64. Do you agree or disagree with the proposed approach to the regulation of PAs and AAs? Please give a reason for your answer.

GOSc agrees with the proposal.

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

Education and Training:

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? Please give a reason for your answer.

GOSc 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.

Transitional arrangements:

66. Do you agree or disagree with the transitional arrangements for PAs and AAs set out above? Please give a reason for your answer

GOSc 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.

Continued competence:

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? Please give a reason for your answer.

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

Impact Assessment and Equalities Impact Assessment

Impact assessment costs and benefits analysis:

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.

GOsC 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. We already have a reputation for our approach being innovative and we look forward to receiving the benefit of the reform in order to continue delivering patient-centred regulation.

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.

GOsC agrees with the costs identified in the table.

It would be helpful to clarify our working assumption which is that the 'transitional costs involved in implementing changes' has been left sufficiently broad so that it captures any potential costs arising from disruption to existing business as usual activities.

Equalities Impact Assessment

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

GOsC 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. However, further thought needs to be given to non-compliance proposals and protected characteristics to ensure that such proposals would not have an adverse effect on individuals with particular protected characteristics.