



Royal College of
General Practitioners

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Opening Comment

The Royal College of General Practitioners (RCGP) welcomes the opportunity to respond to this consultation on regulating healthcare professionals, protecting the public. The RCGP is the largest membership organisation in the UK solely for GPs. Founded in 1952, it has over 54,000 members who are committed to improving patient care, developing their own skills, and promoting general practice as a discipline. The RCGP is an independent professional body with expertise in patient-centred generalist clinical care.

Clearly defined, proportionate and independent professional regulation is vital in order to protect patients, clinicians, and public confidence in the healthcare system. However, excessively bureaucratic regulation can be a barrier to the effectiveness of healthcare systems, limiting clinical flexibility and confidence, while increasing non-clinical workload which takes doctors and other staff away from delivering patient care. As outline in the RCGP's 2020 report, *General practice in the post Covid world: Challenges and opportunities for general practice*, we need to shift the dial towards greater trust in professionals.

The RCGP supports the core principles of this consultation, establishing a more consistent regulatory environment, which facilitates proportionate and independent regulation, while enabling clinicians to deliver the care patients need. Such changes will be far reaching, and it is important that they are implemented in line with the principles of the government's Better Regulation Framework, which the RCGP supports.

Governance and Operating Framework

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.

Agree

We welcome the proposals to implement supplementary duties to complement the statutory objectives, which help ensure that the regulatory system is proportionate and strikes the correct balance between protecting patients and enabling clinicians to do the jobs they have been trained for.

The proposal for a duty to cooperate is sensible, and we would hope and expect that all regulators routinely take a cooperative approach to working with key strategic partners. We suggest, however, that the wording should be clarified to refer to organisations directly involved in delivering regulation, employment, education and training, and provision of health and care services, as any number of organisations, or charities or campaign groups might be "concerned" with these issues.

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.

Agree.

As with the duty to cooperate, a transparency duty is to be welcomed, and should already be a core principle for regulators and their staff, in line with the Nolan Principles of openness and honesty. In particular, annual reporting and public board meetings should be assumed to be the norm for regulators

However, the proposed duty to hold hearings in public potentially risks undermining the professional practice of individuals who may be cleared of wrongdoing. We would therefore favour the publication of summary outcomes, along with full details where the individual is found to have acted improperly, rather than full public hearings.

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

Agree.

GPs and other clinicians are highly trained experts, who can be trusted to deliver high-quality care to patients. While patients must be protected by effective regulation, excessive or overly restrictive regulation may mean clinicians do not have the time to provide care to patients, thereby doing more harm than good. Excessive bureaucracy is also a key driver for staff to leave the profession, which further damages the quality of care available.

Implementing impact assessment will help address this issue, by ensuring that regulatory bureaucracy does not spiral out of proportion to the risk. This duty should be explicitly linked to the proposal to consult on significant changes to rules and standards under the transparency duty.

To further mitigate excessive regulation, an additional duty should be established which requires regulators to pursue and maintain a proportionate and risk-based regulatory environment, which enables highly trained clinicians to do their jobs effectively.

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.

Partly agree.

We note that the proposals allow for current and former registrants to be appointed to the board. We welcome this flexibility, however we believe this requirement should be strengthened, so that boards are required to include at least one current registrant. This will ensure that the board has a wide range of experience and expertise represented which can be drawn upon and can fully understand the implications of any decisions on regulated professions.

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

Agree.

It is appropriate that a regulator can manage its own finances, including fee structures independently, and that this is consistent across regulators. Given that regulation is a requirement of professional practice, any fee changes should be consulted on meaningfully, with primacy given to the views of regulated professionals.

An additional duty should be put in place to require regulators to pursue value for money in their operations, in order to minimise the cost to regulated professionals.

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.

Agree

A long-term approach offers certainty for both the regulator and for professionals, allowing both parties to plan for the future. However, it is important that it remains possible to adjust fees in light of changing circumstances. We would suggest there should be checks every 3 years to ensure that the assumptions underlying the fees remain valid and the resultant fees appropriate. A long-term approach to fees would not preclude short-term changes, where these are necessary, and where they are agreed in consultation with registrants.

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.

Agree.

As long as regulators' objectives and duties are clearly laid out, and include duties to pursue proportionate, risk-based regulation and value for money, they should be free to develop appropriate structures to best meet those objectives, in consultation with registrants.

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.

Agree.

Given that registration with a regulator is a requirement of professional practice, the cost to regulated professionals should be minimised as far as possible.

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.

Agree.

As long as all regulators have a consistent set of objectives and duties (including the additional duties proposed above relating to risk-based regulation and value-for-money), delegation of powers should be allowed. However, it is vital that any delegation be fully and meaningfully consulted on with registrants of all professions involved, as this could represent a significant change to the way in which a profession is regulated, and clear accountability must be maintained.

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.

Partly agree.

It is clearly appropriate that regulators be able to hold and manage data in order to fulfil statutory objectives such as to "promote, protect and maintain the health, safety and wellbeing of the public". However, the proposal here is considerably broader, allowing a regulator, for example, to require data from a professional body on unregulated groups such as medical students, in order to fulfil the statutory objective of promoting professional standards. This would run counter to the proposed duty to pursue proportionate regulation. We suggest that this power should be made more specific (for example, giving regulators power to request data in relation to all three statutory

objectives, but only to require it where it is needed to fulfil the first duty public protection), and that a range of data protection safeguards should be established.

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.

Agree.

Production of an annual report to the parliaments of each country in which a regulator operates would improve transparency and oversight, which is particularly important if more of the structures and operation of regulators is taken out of legislation and passed to the regulator.

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.

This falls outside of the remit of the RCGP.

Education and Training

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.

Mostly agree.

The RCGP agrees that regulators should have the power to set standards and approve curricula, education, and assessment processes. However, it is vital that the roles of the RCGP and other Colleges in defining the content of specialty training, and of HEIs in delivering education and training is not undermined.

Regulatory standards should also be aligned with the proposed duty for proportionate, risk-based regulation set out above, and represent a minimum acceptable threshold, with providers, course and learners supported to exceed these minimum standards.

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.

Agree.

The RCGP supports the proposals to standardise regulatory powers to approve, issue warnings and impose conditions in regard to education providers, qualifications, courses, and programmes of training which lead to registration or annotation of the register, including approval and conditions. This will minimise potential for confusion or complexity and enable regulators to take the most efficient approach to regulation. However, as has been highlighted above, these powers should only be exercised within a framework of proportionate, risk-based regulation.

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

Agree.

See question 14.

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.

Agree.

Given the possibility that a regulator might not have all the relevant information, it would be unreasonable to deny education and training providers the right to put forward their case. While managing submissions from education and training providers may increase the burden on a regulator, the costs of this would be borne by the provider in a cost-recovery basis as discussed above, so the impact on regulated professionals would be minimal.

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.

Agree

We are happy that HEIs should have the right to appeal, and that this right should not apply to conditions of approval. However, any conditions should be time limited, and should clearly detail how the HEI can demonstrate that they have been met, to ensure that HEIs are not put at a disadvantaged over the long term.

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

Agree.

The current approach to setting standards appears to function appropriately, so we see no immediate need to remove existing powers, although standards should represent a minimum threshold, as laid out in question 13.

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.

Agree.

The RCGP agrees that regulators should have the power to set standards and determine the requirements for registration or annotation. As noted in paragraph 123 of the consultation, several regulators, including the GMC, already set and administer exams such as the MLA and PLAB, which may be required for registration/annotation of the

register, but which are not directly related to the standards of medical practice which are the responsibilities of Medical Royal Colleges. It is appropriate that these powers be maintained and standardised, so that regulators have the flexibility to ensure registrants meet requirements.

There may be circumstances where a regulator wishes to delegate power to administer exams another regulator, for example where a single exam can lead to an annotation on multiple registers, or where equivalent language requirements are in place across multiple regulators. This should be enabled through the delegation power (question 9).

As noted in response to question 13, the RCGP and other Colleges must retain their role in defining the content and assessment of specialty training.

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.

Agree.

As noted above, while it is the role of regulators to set out the requirements and standards for exams and assessment for approved courses leading to registration, the content and delivery of these exams must remain with the training body, which has the necessary expertise to for this. In the case of post-registration medical specialty training, this would be the relevant Medical Royal College (for example, RCGP for GP Speciality Training), while for pre-registration education (such as medical degrees), this body would be the HEI.

Were regulators to set or administer these exams, as well as approving the programmes of training, they would be effectively duplicating regulatory activity, and would undermine the independence of HEIs and Medical Royal Colleges.

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.

Agree.

As long as the regulator is meeting their statutory objectives and duties, the methods by which those duties are executed should be the decision of the regulator.

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.

Agree.

The RCGP's overriding priority is to uphold the highest standards in general practice. The current CCT requirements are part of a wider set of measures which together ensure that only doctors with appropriate training can work in general practice. We would not want to see changes to CCT requirements which erode these standards, or which create a more complex environment in which it is unclear which doctors can work in primary care. However, as long as a clear distinction is maintained between the roles of different doctors, and regulator works in line the objectives and duties laid out in this consultation (including the additional duties relating to risk-based regulation and value-for-money, proposed in this response), we are confident that the highest standards will be maintained.

Giving the GMC flexibility to set out CCT processes or equivalents in rules (rather than laying them out in legislation) could enable this process to be streamlined, making it easier for GPs to make the transition from training to independent work.

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.

The RCGPs formal position on revalidation is currently under review by Council. However, as noted in our opening statement, we strongly support a lighter touch and higher trust regulatory environment which enables GPs to focus on delivering the highest possible standards of care.

Moving the requirements for revalidation into rules and guidance may make it easier for regulators to deliver that high trust environment, and for registrants to understand and meet any requirements.

Registration

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.

Agree.

The RCGP has long argued that the specialist and GP registers should be merged, a position supported by the BMA and the GMC.¹ This proposal would enable such a merger, which recognises the advanced skills of both GPs and other specialists on an equal basis.

Beyond this, as long as it remains possible to quickly and easily differentiate between the scope of practice of different professionals who share a regulator, for example doctors and physician associates, the RCGP does not take a view on whether this should be achieved through a single, annotated register, or multiple registers.

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.

Partly agree.

The information proposed is appropriate to ensure that employers and the public can verify that a given clinician is practicing safely and appropriately, and in line with any conditions of registration. However, any publication of conditions of registration must be approached sensitively, in order to avoid undermining the professional practice of individual clinicians or prejudicing the outcome of individual complain processes. Where a clinician is cleared of any wrong-doing, or wins an appeal, details of the complaint, and any interim measures or overturned conditions should not be published. Government or the PSA should therefore provide guidance to regulators on how and when to published conditions of registration, with which regulator rules should be aligned.

¹ RCGP/BMA/GMC, *General Practitioners: Specialists in General Practice* (Joint statement, September 2019)

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.

Agree.

It is clearly necessary that regulators collect, hold and process data, in line with the requirements of data protection legislation. However, any information collected, held, or processed should represent the minimum necessary information to meet the statutory requirements of the regulator. No registrant should be required to provide information which is not necessary for the fulfilment of the regulator's statutory objectives.

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

Agree.

The consultation proposes that regulators may publish additional information "where it is consistent with a regulator's statutory objectives", however there are many areas of work which are consistent with, but not necessary for, the fulfilment of statutory objectives. We therefore suggest that the language here be tightened, limiting this power to only those situations where it is strictly necessary to fulfil the objectives of the regulator, in line with the proposed duty of proportionality. Where data relates to complaints or conditions of registration which are not upheld, this should not be published, as doing so may undermine a clinician's professional practice.

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.

Agree.

Annotation of registers is an important tool, which allows for clarity on the scope of practice of individual clinicians. As with other parts of regulation, annotation should follow the principle of proportionality laid out above. It may be appropriate to charge a one-off administrative fee in order to add an annotation, however this should not increase the recurrent costs of regulation and must not be applied retrospectively. Additionally, where an annotation reflects a change in administrative systems, rather than a change in the underlying information held by a regulator (such as moving from separate GP and Specialist registers to a single annotated register) this should not lead to an additional cost to the professional.

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.

Agree.

Emergency registration powers already exist for the GMC and have proven valuable during the pandemic. Standardising this power across regulators allows for a more rapid response to a future emergency. As the Secretary of State retains the power to both notify registrars of an emergency, and end the emergency period, emergency registration is inherently temporary and system oversight is maintained ensuring public protection.

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?

Agree.

Protection of title and registration is important in ensuring public trust and confidence in regulated professions.

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.

This falls outside of the remit of the RCGP.

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.

Agree.

It is good practice to ensure that there is sufficient personnel in place to deliver a continuous service in the event that one person is not able to fulfil their duties (for example due to long-term illness, or because of a personal conflict of interest).

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.

Agree

It is vital that registrants and the public can have clarity on the processes of regulators, to ensure fair and equitable treatment. However, enshrining these processes in legislation is complex and burdensome, so laying them out in published rules and guidance is an appropriate way forward. We believe that the legislation which sets out core criteria applicants must meet should include demonstrating fitness to practice.

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.

Registrars should not have a discretionary power to deny registration, as this allows for arbitrary and unfair treatment.

Criteria for registration should encompass the range of potential applicants, and decisions should be made on the basis of these criteria. If, as in the example provided in the consultation, a long break in practice with no evidence of continuing competence is deemed to be grounds to deny registration, then it should be clear from the rules and guidance that demonstration of continuing competence is a requirement for registration in such circumstances.

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.

The licence to practice retains an important role in protecting the public, by differentiating doctors who wish to remain in good standing, but no longer provide patient care (e.g. clinical educators).

As long as it remains possible to make this distinction (whether through a standalone licence, or through annotation on the register), and as long as the system for managing this remains clear and reliable, this system may reasonably be managed through rules and guidance, which can more easily adapt to future changes.

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.

Agree.

Providing regulators with a suspension option allows regulators to take a less adversarial approach towards addressing non-compliance, which will help ensure issues are resolved more rapidly, without the long-term implications of removal from the register. Equally, suspension powers could allow individuals to pause their practice and return via a more streamlined process and could make managing lapsed registration easier.

However, we note that the proposed grounds for suspension are also listed as proposed grounds for removal. It is vital that there is clear guidance as to when different sanctions may be applied (in line with the principle of proportionate regulation), and a process for escalating sanctions where necessary. There must also be exceptions (laid out in guidance), which allow a regulator discretion not to exercise these powers.

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.

Partly agree.

As long as processes are in line with the principle of proportionality set out above, and are clearly published in rules, there is no need for processes to be included in legislation. However, it is important that clarity is provided as to when a registrant would be suspended, and when they would be removed.

The RCGP believes that restriction of practice or removal from the register due to health concerns should not be a purely administrative process, as suggested in paragraph 209. As detailed in response to question 44, health concerns should continue to be managed separately from other concerns around fitness to practice.

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

If appeals processes are to be set out in legislation, then it is appropriate that legislation specifies which decisions are appealable.

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.

Agree.

Registration procedures do not need to be detailed in legislation and may appropriately be included in rules.

To ensure that processes are fair and consistent, government or the PSA should publish high-level good practice guidance, with which regulators' rules should be aligned.

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.

Medical students are preparing to join a highly trusted profession, and particularly in the later stages of a medical degree, will be in patient facing situations, where high standards of safety must be maintained. It is therefore appropriate that students meet the standards of professionalism set out by the Medical Schools Council and the GMC, including in "Achieving good medical practice: guidance for medical students". However, we would not support the establishment of student registers for undergraduate medical students, as these standards should be maintained by medical schools. Similar standards of professionalism would be appropriate for students in other regulated roles.

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.

As noted in response to question 35, the registration of non-practising professionals is an important element of regulatory activity, for example to ensure that clinical educators are able to remain in good standing with their regulator, subject to a light-touch level of regulatory burden, proportionate to their role.

At present, for GPs this is managed via the licence to practise, however an annotation to the register or separate, non-practicing register could fulfil the same function. As long as it is possible to clearly and easily determine who is or is not practicing, the RCGP does not take a view as to whether regulators should have the power to establish non-practicing registers.

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.

Agree.

Regulators should be able to set out in rules appropriate requirements for all registrants, regardless of their nationality or primary medical qualification.

Fitness to Practice

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.

Agree.

This is the process currently in use by the GMC and allows for a more constructive approach to dealing with concerns.

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.

Disagree.

While it is appropriate to manage English language concerns through the lack of competence grounds, we do not believe that it is appropriate for health concerns to be grouped under 'lack of competence'. This language carries with it negative, pejorative connotations and given that ill-health is not the fault of the individual, grouping these issues alongside incompetence seems inappropriate and could cause unnecessary stress or upset. A separate health grounds should be maintained to protect individual clinicians.

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.

Agree.

Giving both Case Examiners and panels access to all measures will ensure that an decisions as to whether to accept a Case Examiner outcome, or proceed to panel are not determined by the potential options on offer, but on a view of the merits of the case.

Doctors and other regulated professionals have a duty of care to their patients and occupy positions which afford significant opportunity to abuse that duty of care. In order to ensure public protection, it is appropriate that conviction for a listed offence (murder, sexual offences, and blackmail) leads to automatic removal from professional registers.

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

Agree.

It is appropriate that measures should be reviewable before expiry. However, where it is felt that measures should be extended or strengthened, this must be subject to the usual case examiner or panel processes and be appealable.

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.

Agree.

Individuals who raised the concern should be kept informed of progress, where doing so will not prejudice the progress of the case.

Alongside the details included in paragraph 288, the notification should cover the right to be represented and to make submissions or representations in person to a case examiner.

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.

Agree.

It is sensible that regulators should have discretion to decide whether and how to investigate fitness to practice concerns, as long as these decisions are not arbitrary.

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.

There are strong arguments both for and against this proposal. While the current five-year rule provides an arbitrary cut-off, the time since a complaint occurred is an important consideration when assessing fitness to practice concerns. For example, it may be hard for patients or clinician to accurately recall events which occurred several years ago, meaning it is more difficult to achieve a fair and appropriate outcome. However, there are clearly situations where older concerns should be considered, such as where the complaint is of a particularly serious nature, or where older concerns may point to a pattern of behaviour. We would therefore suggest that time since a concern arose

continues to be considered as part of an initial assessment or decision to investigate, even if the five-year cut off is removed.

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.

The GMC's current, separate power for dealing with non-compliance should be maintained, as non-compliance is not evidence that a registrant's fitness to practice is impaired.

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.

Agree.

It is appropriate that processes for onward referral are laid out in rules.

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.

Agree.

See question 45.

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.

Partly agree.

The RCGP supports the accepted outcomes process as a less adversarial alternative to fitness to practice panels and believes that case examiners should be able to make final decisions, using the full suite of measures, where these are accepted by the registrant.

However, we do not believe that case examiners should be able to impose the full suite of measures in the event of non-response by a registrant. In these circumstances and

given the possibility that there may be legitimate reasons for non-response, the case examiner should be able to impose only interim measures, with the case being referred to a full panel.

In particular, it should not be possible for a case examiner to impose full removal from the register. Interim measures would be sufficient to ensure public protection, while referral to a panel in the event of non-response will help ensure that permanent measures are fair and proportionate, even in the event of non-response.

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

Partly agree.

The basic principles of interim measures as restrictions to manage risk while fitness to practice is under review, rather than findings of impairment, are sensible. However, under the system as proposed, in the event that a registrant does not accept the IM proposed by a case examiner, there would be no protection against risk to the public or the registrant until an interim measures panel had met.

Given that these measures are inherently temporary, and are not findings of impairment, it would seem reasonable for a case examiner to be able to impose interim measures, in the event that final accepted outcomes cannot be reached. This would ensure public protection while the case is under review by a fitness to practice panel. A registrant would be able to appeal these interim measures through an interim measures panel.

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.

Agree.

Regulators should be free to determine how fitness to practice panels operate, and this need not be detailed in legislation.

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.

Agree.

The RCGP believes registrants should be able to appeal any and all decisions made by case examiners, fitness to practice panels or interim measures panels.

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.

This falls outside the remit of the RCGP.

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.

Agree.

Regulators should be free to determine rules for restoration to the register.

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.

Agree.

The RCGP believes registrants should be able to appeal decisions not to permit restoration to the register, except where the registrant failed to apply in accordance with the procedures set out in rules (as per question 38).

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.

This falls outside the remit of the RCGP.

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.

Agree.

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.

Agree.

The proposal for PSA to request a registrar review appears to strike an appropriate balance between regulatory independence and oversight. However, we note that the proposals do not address whether PSA referral powers would extend to interim measures set by fitness to practice or interim measures panels or not. The RCGP believes interim measures should not be subject to PSA review, as this would substantively affect how IMs are viewed by professionals.

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

Throughout this consultation, we have supported moves to lay out more processes in published rules and guidance, rather than detailing them in legislation. However, to ensure that processes are fair and consistent, government or the PSA should publish high-level guidance on good practice, with which regulators' rules should be aligned.

It is unclear where interim measures put in place by a case examiner would be referred to following registrar review. We believe the most appropriate body for such a referral would be an interim measures panel.

Regulation of Physician Associates and Anaesthesia Associates

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

Agree.

The RCGP supports proposals for the GMC to become the statutory regulator of PAs and AAs, and it is appropriate that these professions are regulated in a way which is consistent with the wider regulatory approach.

We support the GMC's decision not to allow cross-subsidies between the registration fees of doctors and those of PAs and AAs.

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.

We agree that the GMC should be given a power to approve high level curricula but disagree that the GMC should set and administer exams.

It is appropriate that the GMC has the power to set standards and approve education and training programmes. However, as is the case for GPs and other doctors regulated by the GMC, the responsibility to set and administer exams should sit with the relevant Colleges or faculties.

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

Agree.

These transitional arrangements appear appropriate and allow for a smooth transition from voluntary managed registers to formal regulation.

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.

Agree.

As noted in paragraph 400, the present arrangement for PAs on the FPA voluntary register require PAs to resit the knowledge elements of the national exam every six years. This approach is substantially different from the revalidation model for GPs and other doctors regulated by the GMC.

While the appropriate model for demonstrating continued fitness to practise will require further consideration, we are concerned that the current approach does not reflect the fact that PAs may work in increasingly specified roles, such as within primary care, and

that it may be a barrier for those PAs. For the purpose of protecting the public and professionals, future revalidation approaches should be built around demonstrating fitness to practise within a certain setting or role, rather than across the full range of potential roles which PAs or AAs may occupy. This should be determined in consultation with relevant Colleges and Faculties.

Impact Assessment and Equalities Impact Assessment

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.

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.

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?