

Summary of Response:

Regulating anaesthesia associates and physician associates

Response of the General Chiropractic Council to the Department of Health and Social Care consultation on Regulating anaesthesia associates and physician associates in the UK.

May 2023



Summary

The General Chiropractic Council (GCC) welcomes the publication of the government's analysis of the 2021 consultation on reform of professional regulation and is pleased to provide its response to '[Regulating anaesthesia associates and physician associates](#)'.

The consultation is focussed on bringing the two professions into regulation by the General Medical Council. It is the government's express intention that

"the resultant legislation will provide a template for the subsequent regulatory legislative reforms."

This response by the GCC to the proposals is drafted on the basis of how the changes would operate if applied to the GCC.

Approaches to healthcare regulation have changed since the [Chiropractors Act 1994](#) was enacted and so we welcome reform. We have been calling for changes to be made to our outdated legislation and rules for many years. We also know that the healthcare system will continue to evolve, including in ways which cannot be anticipated.

We welcome and support the overall approach taken: the replacement of detailed, prescriptive legislation with rules enabling regulators to be flexible and adapt their rules as requirements change. We are confident this will support more agile, responsive and proportionate regulation in the years ahead for the better protection of people and the promotion of safe, high-quality care. Equally, there must be sustained progress. The publication of the proposals follows many years of slow progress. With no timetable for the reform of GCC legislation the weaknesses in the current system will remain.

Of course, with the increased flexibility given to regulators comes increased responsibility. We fully support the obligation upon regulators to carefully consult on their rules as an important safeguard on the exercising of these new powers.

Fundamentally, the reforms must deliver a framework which will enable the GCC and other regulators to protect the public. In [our response to the 2021 consultation](#), we said any new legislation must equip regulators to be faster, fairer and more flexible; and enable us to:

- Adapt our regulatory approach to the needs and demand of health and care services as they evolve;
- Deliver an approach to regulation which is fair to registrants, supporting chiropractors to deliver the best possible care, and allows us to take proportionate and swift action where that is needed;
- Be accountable to patients, the public and the profession.

In much of what is proposed, the draft order meets those aims.

The proposals address many of the concerns we have with our current powers that we have told government prevents us from doing our job as effectively as we can.

The benefits of these proposals include:

- Greater flexibility in the approach we can take to ensuring the highest standards of professional development of chiropractors. The public expect us to ensure chiropractors are up to date with training and their ongoing professional development; to ensure they continue to meet all the standards necessary for registration; and that they are fit to practise. We would also like to see these powers given greater prominence in the draft order, sending a signal to the public that doing so is a regulator's core function (**question 26**).
- Enhanced case management powers, for example in ensuring panels can give clear directions. These powers are absent from our framework meaning that cases can too often be delayed or adjourned. This combined with an ability to impose costs where there has been a failure to meet those directions will incentivise both registrants and regulators to comply with directions made by a panel - bringing greater efficiency to the fitness to practise process. (**question 31**).
- The ability to take decisive action to remove any registrant convicted of a serious criminal offence without the need to go through a costly and time-consuming fitness to practise hearing (**question 24**).
- A power to resolve cases where a registrant accepts their fitness to practise is impaired without the need for a hearing, which can be costly and time-consuming and stressful for all involved. We can see that such an approach could be seen as lacking transparency, but we note and support the requirement for these decisions to be published, and think publication is an important counter-balance to cases being resolved in the absence of a public hearing (**question 13**).
- An ability to revise our fees more easily, taking an approach which is beneficial to chiropractors (for example by way of charging fees on a pro rata basis rather than needing to require payment in full before registration can be granted). Our current inability to do this is a cause of frustration for some chiropractors affected and we believe this reform will attract much support (**question 29**).
- Greater flexibility where someone misuses the title of chiropractor. Being able to do so is a vital tool in regulating to protect the public (**question 20**).

However, we have some significant concerns:

Other regulators have been beneficiaries of rule and other changes. As set out above we have experienced at first hand the adverse consequences of our outdated legislation. We feel that the proposals do not address all of our concerns and that further work is needed in some areas to ensure the reforms deliver on what is intended for the GCC and other regulators. We call for further changes relating to:

- The ability to take a more proportionate approach to the investigation of concerns. This would enable regulators to channel resources appropriately, including the closing of cases straightforwardly at an early stage - where that is the right thing to do. This benefit of reform must be delivered and as proposed we have significant concerns it will not be. Our engagement tells us this is something desired not just by the GCC, but also patients and the profession we regulate. As the government will be aware, the current obligation upon the GCC to refer all allegations to its Investigating Committee has not helped us to regulate in the way we would like. We call for a legal basis for an *initial assessment* stage in the legislation. We think this is government's aim but as currently expressed that aim is not explicit. We expand further on this important point in our response to **question 12**.
- Clarifying what happens when the health of a registrant is affecting their fitness to practise. In our view, within the definition of 'impaired fitness to practise' a reference to a *standalone* health ground is required. As the proposals stand it is conceivable that an adverse event must occur before a regulator can take action. This cannot be the intention. We believe stating that regulators are not required to wait for an adverse event in taking fitness to practise action where there are grounds in relation to health puts that risk beyond doubt (**question 1**).
- Clarity as to regulators' powers of review of interim measures. The GCC takes its duties around interim suspensions very seriously and would emphasise (from experience) our powers in this area must be unambiguous. It is proposed we are given powers to carry out a review, but not by who [a case examiner or panel?] nor the powers available to us having conducted the review. We are also concerned that a limit could be applied on the amount of time a court is able to extend an interim measure (**question 15**).
- Ensuring that as well as determining the standards for registration now, we think it needs to go further so we can continue to do so in the future. We think there may be unforeseeable developments in the years ahead which it is right an applicant demonstrates before being granted registration. Although the draft order gives regulators the powers to set registration procedures in rules, we also think the GCC should be able to set the *requirements* of registration in rules (**question 4**).
- Making clearer provisions around revisions and appeals. As things stand we do not believe they can or will operate effectively. In particular, we are not satisfied they give sufficient clarity on ways in which a registrant may challenge a regulator's decisions; this is unfair. We would encourage the government to engage further, in particular with regulators, to ensure the proposals here are comprehensive and workable (**question 19**).

- Making the definition of *conditions* and *suspensions*, as both *interim* and *final* measures, more precise. The definition of *final measures*, of *conditions* and *suspension* must be amended to make clear they are conditions upon, and suspension from, registration – that is, we grant registration, make conditions of registration, and suspend registration (**question 1**).
- Fee setting. Whilst we welcome the greater flexibility as to establishing fees, we would be concerned that the prescriptive requirements, including around reserves and the requirement to balance income and expenditure are unworkable and have the potential to undermine the independence of regulators upon which public confidence is built (**question 29**).

These are not abstract concerns but highlighted so that the problems of the past – whereby aspects of regulation which do not serve the interests of the public or registrants become enshrined in legislation – are not repeated. We strongly support the overall direction of the legislation and, with a willingness to revisit specific problems in the current draft, and by moving ahead without delay, we believe it could be a sound basis for healthcare regulation in the decades ahead.

We make additional points:

1. We note, as does the consultation document, that the draft order does not contain all of the governance reforms which were contemplated in the 2021 consultation. Effective arrangements for governance underpin delivery, so further work and engagement will be needed by government to ensure those are delivered.
2. We express, above, our concerns around the length of time that will pass before the benefits of reform will be enjoyed by those we regulate and the public whose interest we seek to protect. We make an additional point, noting the intention to prioritise changes to regulators based upon criteria including the size of the registrant base, the need for reform and regulators readiness to implement the changes. The GCC is realistic. It knows its registrant base is smaller than that of a number of other regulators who may therefore feature higher in government's priority list for reform. However, though we may be a small part of the healthcare system we are also an integral part. The number of registered chiropractors has grown each year since 2007, which is reflective of the view that chiropractic is increasingly perceived as offering solutions to the public health of the nation within or adjacent to the NHS.
3. We hope that the level of engagement throughout our consultation response provides clear evidence to the government of the GCC's willingness, readiness and ability to work with the Department to implement reform.

General Chiropractic Council.

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