

Response to the Department of Health and Social Care consultation on changes to the General Dental Council and the Nursing and Midwifery Council's international registration legislation

May 2022

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
 - Oversee the ten health and care professional regulators and report annually to Parliament on their performance
 - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice.

2. General comments

- 2.1 We welcome the opportunity to respond to the Department of Health and Social Care's consultation on changes to the General Dental Council and the Nursing and Midwifery Council's international registration legislation. We are aware that the current legislation of the GDC and NMC is creating barriers to registration for international applicants, and, in the case of the GDC, a backlog of applications.
- 2.2 We support changes to the legislation of both regulators to facilitate the efficient processing of international applicants while maintaining public protection. Once granted greater flexibility, we would expect both regulators to consult fully on any process changes they intend to make. Any new system must be fair and transparent, uphold public confidence, and fulfil the overarching objective of public protection.

3. Consultation Questions

Q1. Do you agree or disagree with the department's aim of ensuring that the GDC and NMC have flexibility to amend their processes for

assessing international applications, to support the development of processes which are proportionate and streamlined, while protecting public safety?

- Agree
- 3.1 We agree that action is required to make the process for assessing international applicants to the GDC and NMC Registers more flexible. Overseas registrants make an invaluable contribution to the health and care workforce and it is important that there are efficient and effective processes in place to enable them to work in the UK.
- 3.2 We are aware that the current GDC and NMC legislation sets out the process for registering non-EEA applicants in prescriptive detail which is hampering the regulators' ability to process applicants and, in the case of the GDC, causing a backlog of applications. We strongly support action to remedy this situation.

Q2. Do you agree or disagree with providing the GDC with flexibility to apply a range of assessment options in determining whether international dentist applicants have the necessary knowledge, skills and experience for practice in the UK?

- Agree
- 3.3 We agree that the GDC should have the flexibility to determine whether international applicants have the necessary knowledge, skills and experience by whatever robust process it deems most appropriate. However, were the GDC to move away from the current system whereby non-EEA applicants sit the Overseas Registration Exam (ORE) this would represent a significant change of process. We would therefore expect the GDC to ensure that any new process was fair and transparent, and sufficiently rigorous to uphold standards and protect the public.

Q3. Do you agree or disagree with removing the requirement that Overseas Registration Exams or other assessments are held by a dental authority or a group of dental authorities from the GDC's legislation?

- Agree
- 3.4 We agree that the GDC should have more flexibility with regards to the bodies or groups permitted to administer the ORE or other assessments. Removing this requirement should allow the GDC to use a greater range of providers and therefore process more applicants, thus reducing the current backlog. If the GDC draws on a greater range of bodies or groups, it will need to ensure it has appropriate processes in place to assure the quality of the examination or other form of assessment and maintain public protection.

Q4. Do you agree or disagree that any new dentist registration routes that the GDC develops may include, but will not be limited to, recognition of overseas diplomas?

- Agree

- 3.5 However, the GDC will need to have a robust way of ensuring that any diplomas it may recognise only allow onto the Register those dentists who have the appropriate knowledge, skills and experience to practise in the UK.

Q5. Do you agree or disagree with providing the GDC with a power to charge fees on a cost recovery basis for activities that underpin routes to international registration, such as quality assuring, or accrediting international qualifications?

- Agree

- 3.6 As a point of principle we believe that UK/EEA qualified registrants' fees should not be used to cross subsidise the cost of registering overseas applicants. Therefore we support the proposal that activities conducted by the GDC in respect of international registration should be charged on a cost recovery basis.

Q6. Do you agree or disagree with providing the GDC with greater flexibility to set out its registration requirements for international dentists in rules set by the regulator rather than in its legislation?

- Agree

- 3.7 We agree that the details of the registration requirements for international applicants should be set out in rules rather than legislation. This would be in line with the principles of the current reform programme as set out in the DHSC consultation document 'Regulating healthcare professionals, protecting the public'.¹ Any such rules would need to be consulted on by the GDC and we would expect them to give due consideration to the feedback received to ensure that new rules were fair and transparent and protect the public.

Q7. Do you agree or disagree with The General Dental Council (Overseas Registration Examination Regulations) Order of Council 2015 remaining in force for 12 months after the draft international registration Order comes into force?

- neither agree nor disagree

- 3.8 This seems a sensible proposal but we do not have a view on the exact time period required between the new order coming into force and the previous order being revoked.

Q8. Do you agree or disagree with extending the 5 year period during which ORE candidates must pass Part 2 of the ORE following their first attempt at Part 1, where restrictions relating to the COVID-19 pandemic have prevented them from taking the exam?

- Agree

¹ Department of Health and Social Care, 2021, 'Regulating healthcare professionals, protecting the public':

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/978833/Regulating_healthcare_professionals_protecting_the_public.pdf

3.9 We agree with this proposal. We have been aware of the difficulties posed to applicants as a result of the suspension of the ORE during the pandemic. It is clearly inequitable that candidates should be timed out from taking part 2 of the exam due to circumstances beyond their control. The extension of the time between taking parts 1 and 2 of the ORE for those affected by the pandemic is therefore welcome.

3.10 However, we would expect the GDC to take appropriate steps to ensure that any risks posed by the extended time period between taking parts 1 and 2 of the exam are mitigated, and that the public can be assured that the exam process remains sufficiently robust to protect the public.

Q9. Do you agree or disagree with providing those candidates whose 5 year period was due to end within 3 months of April 2020 and who had secured a place on that month's ORE sitting with an extension of 12 months to provide them with sufficient time to secure a place on a subsequent ORE sitting?

- Agree

Q10. Do you agree or disagree with the removal of the ORE exam fee from the GDC's legislation, enabling the GDC to set any overseas assessment fees on a cost recovery basis?

- Agree

3.11 As per our response to question 5, we do not believe that UK/EEA qualified registrants' fees should be used to cross subsidise the cost of registering overseas applicants. Therefore we support the proposal that the GDC is able to set the ORE fee at a level that enables it to recover its costs. Further, removing the level of the fee from legislation will enable the GDC to update it in line with inflation and other costs as appropriate.

Q11. Do you agree or disagree with providing the GDC with flexibility to apply a range of assessment options in determining whether international DCP applicants have the necessary knowledge, skills and experience for practice in the UK?

- Agree

3.12 We agree that the GDC should be afforded the same flexibility to set requirements for DCP applicants as it is seeking for dentists.

3.13 In our role as the oversight body of the GDC we have been made aware of concerns that overseas qualified DCPs (and overseas dentists applying as DCPs) do not have to sit a practical exam, and therefore the process for assessing their skills may not be sufficiently robust. The increased flexibility proposed would therefore allow the GDC to set a practical test for DCPs if considered necessary.

Q12. Do you agree or disagree with providing the GDC with a power to charge fees on a cost recovery basis for activities that underpin routes to international DCP registration, such as quality assuring, or accrediting international DCP qualifications?

- Agree

3.14 As outlined in response to previous questions, we believe that all activities relating to international registration should be charged on a cost recovery basis, to avoid cross subsidy by other registrants.

Q13. Do you agree or disagree with the requirement that international applicants to the dental care professionals register must hold a DCP, rather than dentist, qualification?

- neither agree nor disagree

3.15 The current situation, whereby overseas applicants with a primary qualification in dentistry are able to register in the UK as DCPs, but UK qualified applicants are not, is clearly inequitable. We support there being parity between UK qualified and overseas qualified dentists and our understanding is that the current legislation prevents UK qualified dentists from having their knowledge, skills and experience assessed for registration as a DCP.

3.16 We are also aware that concerns have been raised in the sector about the GDC's process for registering overseas qualified dentists as DCPs. The British Association of Dental Therapists (BADT) raised this with us last year, highlighting that the DCP registration process allows for non-EU/EEA qualified dentists to register as DCPs without any assessment of practical skills. An overseas qualified dentist could therefore fail the ORE but still register as a dental therapist which would allow them to undertake complex procedures such as removing tooth tissue during the preparation of dental restorations.

3.17 We considered these concerns as part of our assessment of the GDC's performance and concluded that there was no evidence the process for registering DCPs was negatively impacting on patient safety. This was informed by the fact that there have been no fitness to practise cases concerning the removal of tissue and/or preparation of restorations and no issues of compliance with CPD requirements.

3.18 If an applicant (qualified either within or outside the UK) is able to demonstrate the knowledge, skills and experience required to practise safely and effectively as a DCP, and wishes to do so, is not clear why this should be prohibited. Further, the powers provided for under the draft order would allow the GDC to introduce competence tests for overseas DCP applicants, which could allay the concerns raised by stakeholders that the registration process for overseas DCP applicants is insufficiently robust.

3.19 The reforms outlined in the consultation document are aimed at increasing the flexibility of entry routes to the register, and the proposal to restrict DCP registration would appear to be at odds with that ambition. It may therefore be useful to explore further the reasons why UK qualified applicants are barred from this route before determining the best way of equalising the system for all applicants.

Q14. Do you agree or disagree with providing the GDC with greater flexibility to set out its registration requirements for international dental care professionals in rules set by the regulator rather than in its legislation?

- Agree

- 3.20 As outlined in response to question 6, we agree that registration requirements are best set out in rules rather than legislation. This allows regulators the flexibility to change and amend rules where required (having consulted with stakeholders) and is in line with the principles of the Government's current reform programme.

Q15. Do you agree or disagree with amending the Nursing and Midwifery Order to encompass a range of international registration routes, such as quality assurance of international qualifications, to be used in addition to the NMC's test of competence?

- Agree
- 3.21 We agree that the NMC should have the flexibility to develop other routes to registration for international applicants. Whilst we understand that the NMC plans to continue to apply its test of competence as the primary assessment route for international applicants, we note that the rules would allow the NMC to recognise programmes of education delivered outside the UK as well as undertake qualification comparability exercises.
- 3.22 The NMC will need to have robust ways of assuring the quality of any new international registration routes to ensure that those joining the register will be safe and effective practitioners. Should the NMC decide to pursue new routes to registration, such as recognising international qualifications, it will be important for the regulator to be able to determine both that the qualification is of the sufficient standard but also that the applicant is up to date with their practice. We would also expect the NMC to conduct an Equality Impact Assessment to ensure that the equality and diversity implications of any new registration routes were fully considered.

Q16. Do you agree or disagree with removing the duty on the NMC to determine procedures to assess whether a qualification is of a comparable standard and publish a list of such qualifications from the Nursing and Midwifery Order?

- Agree
- 3.23 We support this proposal which should afford the NMC greater flexibility to develop its approaches in this area. However, if the NMC no longer intends to publish a list of qualifications it considers to be of a comparable standard it must ensure that the requirements for registration remain fully transparent.

Q17. Do you agree or disagree with amending rule 6 of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 to change the NMC's requirements in relation to third party declarations in support of good health and good character?

- Agree

- 3.24 We agree that rule 6 should be amended to make the requirements in relation to good health and character clearer and support more efficient processing of applications.

Q18. Do you agree or disagree with the potential costs and benefits of these proposals detailed in the 'Costs and benefits' section? Please give a reason for your answer, including any alternative costs and benefits you consider to be relevant and any evidence to support your views

- neither agree nor disagree

- 3.25 The consultation document states that the Department has undertaken 'an initial assessment of the potential costs and benefits of the regulators' current plans for using this increased flexibility', and that this consultation will 'provide further evidence' to inform an impact assessment. Without more detailed information on the costs and benefits of these changes, and sight of the impact assessment, it is difficult to make an informed assessment of the changes. The (limited) assessment provided appears reasonable.

Q19. Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the public sector equality duty that is set out in the Equality Act 2010 or by Section 75 of the Northern Ireland Act 1998 or on family formation, family life and relationships?

- Don't know

- 3.26 The consultation document makes reference to the Equality Impact Assessment being developed by the Department, however this does not appear to be provided. The document outlines some initial potential impacts, but without further data or discussion of the factors identified it is challenging to provide an informed response to this question. As the Department has identified, these changes are likely to impact people with a range of protected characteristics. We would hope that the increased flexibility afforded to regulators will help make the processes more streamlined and efficient, therefore positively impacting on all applicants. We look forward to seeing how the responses to this consultation inform the Department's understanding of the potential impact of the proposals, especially once it has a greater understanding of how the regulators intend to use the increased flexibility.

Q20. Do you agree or disagree that the legislative amendments set out in the draft Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2022 support streamlined and proportionate international registration processes for the GDC and the NMC?

- Agree

Q21. Do you have any further comments on the draft Order itself?

- No

4. Further information

- 4.1 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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